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PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, SECOND SESSION

SENATE—*Friday, February 21, 1992*

(Legislative day of Thursday, January 30, 1992)

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

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

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

Let us pray:

There is no power but of God. The Powers that be are ordained of God. * * They are ministers of God for good.* * *.*—Romans 13.

Almighty God, Lord of History, Ruler of the nations, in this election year, brood over our land. Save political campaigns from being like warfare in which opponents are enemies to be destroyed; in which ideas are like missiles and words like nuclear warheads or firebombs or landmines. Awaken us to the truth that God is involved in government, that indifference to spiritual values threatens the foundation upon which our political system was built; that candidates and parties forget God at the peril of their own existence.

Dear God, remind the people that our government political system is based upon their sovereignty that their failure to vote is as serious as the failure of their Senators to vote. Deliver them from lame excuses for not voting. Ruler of history deliver us all from angry scapegoating and help us all take our mandate seriously.

Save us from a political champaign that degenerates into a destructive force that ravages the land it was intended to heal, leaving it divided, decimated, destroyed, rather than healed, and whole and strong.

In the name of Jesus incarnate love. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. The Senate will be in order.

Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Also under the order there will now be a period for the transaction of morning business, not to extend beyond the hour of 9:15 a.m., with Senators permitted to speak therein.

The Senator from Rhode Island [Mr. CHAFEE] is recognized to speak for up to 10 minutes.

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first I want to thank the Chair.

U.S. OLYMPIC HOCKEY TEAM

Mr. CHAFEE. Mr. President, 2 hours from now in Meribel, France, our country and particularly Rhode Island's eyes will be focused on a group of 20 young men, some of the finest in our Nation, and of course I am referring to the U.S. Olympic Hockey team.

Today at 11 o'clock, our time, they start the semifinal game against the Unified Team from the former Soviet Union. It is our hope that their Cinderella-like ride that this team had since going to France will continue toward the ultimate goal which is a gold medal.

Mr. President, this team is being led by two outstanding Rhode Islanders. The captain of the team is Clark Donatelli, and one of the stars on it is David Emma. Just a word about both.

Clark is an outstanding forward from North Providence, RI. He attended Moses Brown School in Providence and later Boston University. This is the second time he has been on an Olympic team. He was on the team 4 years ago. His leadership abilities have been acknowledged by his teammates when they elected him captain of this year's team.

David Emma is from Cranston, RI. He is a graduate of Bishop Hendricken High School in Warwick and later starred at Boston College. David was the 1991 recipient of the Hoby Baker Award. The Hoby Baker Award in hockey is similar to the Heisman Trophy in football. In other words, it is given to the outstanding college hockey player in the Nation.

Our State of Rhode Island is nationally recognized for its youth hockey program. And indeed, Mr. President, both of these young men came up through the youth hockey programs that we have.

So I am delighted that the entire world is now able to see the outstanding results of this program, which is made possible by the tireless efforts of volunteers, the volunteer coaches, and of course the parents who get up so early in the morning to see their children have ice time, and the sponsors as well.

Clark, David, and their dedicated teammates—and I want to pay tribute to the other members of this outstanding team—will carry the dreams of their childhood and the hopes and best wishes of all Americans onto the ice at Meribel, France, today.

They are a credit to their families, to their coaches, to their teachers, and to their friends—and I might say to their home States.

Their quest for the gold has been a wonderful sight to behold, Mr. President, and it has been a source of inspiration for all of us. We wish them well today.

I wish to thank the Chair.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from North Carolina is recognized.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

LEONARD HELTON AND THE ECONOMY

Mr. SANFORD. Mr. President, I wanted to call attention to the testimony of a fine North Carolinian, Mr. Leonard Helton, given before the House Ways and Means Committee on Thursday, February 6.

Mr. Helton is a North Carolina resident, and he spoke before the committee of his personal experiences in dealing with this recession that we are in, as well as the effects of the economy on others in the American work force.

Mr. Helton is a textile worker from Gaston County, NC. He has felt firsthand the repercussions of a sagging economy in the textile and the apparel business, and he knows what he is talking about. He was invited to come to Washington to tell his story to the U.S. Congress and he agreed to accept this invitation.

What Mr. Helton wanted was to take an active role in getting the economy back on track. He pointed out the flaws of our system as he saw them. He offered changes that he felt were needed. He talked to a great many people in his local community and had a sense of what people were thinking. And he eagerly anticipated questions and discussions with the members of the congressional committee that had invited him to present his views.

What he expected from Congress was a listening ear and a helping hand, and he got neither.

Mr. Helton devoted a great deal of time to the composition of his speech. It is a very good speech. It is a very good statement.

Mr. President, I ask unanimous consent that the speech be printed in full following my remarks.

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

(See exhibit 1.)

Mr. SANFORD. He rode the train up here from Gastonia to Washington, and he waited for close to 4 hours before giving his testimony, sitting there waiting his time. One prominent person came in and was put ahead of him, which was all right with him. But when that person left, all of the members of the committee left. Only one Member of Congress was present to hear Mr. Helton's speech. When he was finished speaking, no one had anything to say to him. No questions were asked, no discussions were carried on, and no one addressed his concerns or asked him anything about his own experiences.

Well, you can understand that he left town discouraged, disgusted, and understandably, outraged. He took with him the distinct message that Congress does not care for the troubles of the average worker.

You and I know there were explanations—of course, there were—of why more people were not there, and that it came at the beginning of a recess and people were hurried. But the explanations in this case hardly seem satisfactory.

So I have submitted this copy of Mr. Leonard Helton's testimony in the RECORD in the hopes that each Member of the Congress will take time to read it and remember just who we are here to represent, and remember, as I learned long ago, the great wisdom resides in the people.

EXHIBIT 1

STATEMENT OF LEONARD LEE HELTON, SR., STANLEY, NC

Representatives: First I want to thank each of you for allowing me to come before you and tell how I feel about the economic impact on myself, my family, and coworkers.

As a textile and apparel worker for 25 years, I have seen how the textile and apparel industry has continued at a slow pace, whereby some weak textile plants have stood inactive due to slow movement of goods sold into the textile related markets. You, as congressional leaders and elected officials of the people, must do something now to alleviate this great economic problem effecting the average American worker.

We, the American work force, cannot maintain ourselves on a fixed financial budget. This is due to increased taxes and higher financial obligations that are occurring every year. We do not receive enough raises in our salaries to overcome the obstacles presently at hand. We are not assured from 1 week to the next how many hours we will work or how well our product will be sold into the American market.

You probably feel it's up to the individual employees to stand ground and do the best they can. In this regard, both employers and employees of the textile industry have been trying since 1985 to get a textile and apparel bill passed by the President. This bill has been vetoed three times by our President.

In 1985 we attempted to get the Textile and Apparel Trade Act (H.R. 1154) passed by the President. On October 4, 1988, we were 11 votes short of overriding the President's veto.

Again, in 1990, roughly 200 Members of Congress introduced the Textile, Apparel, and Footwear Trade Act of 1990 (H.R. 4496). Also, Senator Ernest Hollings (D-S.C.) introduced identical legislation (S. 2144) in the Senate. The Senate began considering the bill on Friday, July 13 and passed the bill on Tuesday, July 15 by a vote of 68 to 32. During the past 6 years, the Senate has passed similar legislation three times. The goal of the House and Senate bills is to put foreign textile and apparel imports on par with the current growth rate of the U.S. domestic textile industry. The bill would have established global import quotas for each category of textile and textile products using the 1989 level of imports as a starting position. The bill would have allowed a 1-percent increase in foreign imports per year, consistent with the current growth rate of the domestic textile market.

Also, in January 1991, there was a bill (H.R. 713). This was a bill introduced to amend the Tariff Act of 1930 to require that certain revenues attributable to tariffs levied on imports of textile machinery and parts thereof be applied to support research for the modernization of the American textile machinery industry.

Representatives, an economics professor from Belmont Abbey College, Mr. William Van Lear and I have drawn up a petition to enact job retraining and education programs in every major industry here in the United States.

The petition reads as follows:

"We believe that it can be financially and emotionally difficult for people who are unemployed or who work in declining industries to retrain, relocate and assume new jobs. Industries such as textiles, lumber, defense, steel, and coal are suffering and will continue to suffer economic hardships. Therefore, we advocate a Federal initiative, led by the Department of Labor in conjunction with Labor Departments in the States, to provide;

"(1) Grants and loans to families for retraining and education, and;

"(2) Easily accessed information for families on job availability and location.

"We propose that this program be financed by making the Federal income tax more flexible and from State income taxes."

May I inquire of you? How can an average worker purchase any "big ticket item" when he isn't assured of a steady income—this financial burden affects every American. * * * Less goods sold, less hours worked equals less basic income for the average worker. We are having a rough time of meeting our financial obligations.

This troublesome economic situation not only creates financial worries for the American worker, but it also translates into a stressful home environment. Please, be aware that economic stress effects every member of the family.

Pardon the expression, but we, the average worker, are "up to our ears" with increased taxes. If some action is not taken soon, we will see multitudes of American families go under.

Consider these figures on textile and apparel plant closings and jobs lost during the years 1989 through 1991. There were 67 plants closed and 72 thousand jobs lost over those three years. Of the 1.8 million textile workers nationwide, more than 300,000 are employed in North Carolina and 40,000 are employed in the tenth district of North Carolina alone.

I have been assured that in other related industries there are many plant closings and thousands of jobs lost during the past year alone. You may stipulate that these situations are due to modernization of plants and the technology in these plants. This may be true in a small way, but it comes full circle to the weak economic American market which continues to diminish.

An idea that would benefit the average American worker is to reduce taxation. To accomplish this, President Bush and elected officials, as yourselves, need to enact permanent reductions in Federal tax rates. Instead of a one-time year-end bonus, which is what the 300-dollar rebate plus would be, we need a permanent tax cut through reductions in income and Social Security tax rates. If their taxes were lowered on income, work would become rewarding and attractive, compared to welfare and leisure time.

Secondly, we need to lower taxes on investments. A cut in the capital gains tax would do a great deal to lay the foundation for future economic growth. Slashing the capital gains tax would encourage the kind of small business foundation that drives long-term economic growth. The large majority of new jobs in America are created by new and small businesses. The reward for the entrepreneur who initiates these companies is more often a capital gain rather than direct income. So reducing the capital gains tax will directly encourage entrepreneurs to begin new companies, thereby creating new jobs, and new products.

This would also help American industry to compete with overseas trade. Among the major industrial powers, the United States maximum rate of 33 percent of capital gains is one of the highest in the world. In Germany, South Korea, Taiwan and Hong Kong, the capital gains tax on investments held more than 1 year is zero. In Japan, the maximum rate is 1 percent of the sales price of 20 percent of the net gain.

Each time the capital gains tax has been reduced, revenues for the Federal Government have actually increased.

Representatives, I certainly hope that you, the committee, and our great President will do everything possible to alleviate this great economic challenge facing the average American worker.

May God's grace and blessing go with you in whatever decision you make.

Thank you.

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

The PRESIDENT pro tempore. The point of no quorum having been made, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, morning business is closed.

HIGHER EDUCATION AMENDMENTS

The PRESIDENT pro tempore. The Senate will now resume consideration of S. 1150, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1150) to reauthorize the Higher Education Act of 1965, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Specter/Shelby amendment No. 1691, to prohibit the Secretary of Veterans Affairs from furnishing, or from obligating funds available to the Department of Veterans Affairs to furnish, health care in Department of Veterans Affairs facilities under a rural health care sharing program to persons not eligible for such care under chapter 17 of title 38, United States Code.

Mr. HATFIELD. Mr. President, I would like to speak briefly on the Specter amendment to S. 1150. Although I am interested in the concept behind the rural health care initiative that has been proposed by Secretary Derwinski and Secretary Sullivan, I have some reservations about it being implemented without a thorough review by the Congress. I believe Federal facilities should be used to their maximum potential, particularly in times of great fiscal constraints. I am also concerned, coming from a rural State, about our ability to increase access to health care for those living in obscure areas. I do think, however, that we must be able to measure the impacts such changes will have on the many veterans across the country who need quality health care, before widespread implementation.

In my own State of Oregon, the Portland Veterans Medical Center [PVAMC] currently has sharing agreements with several community groups. Its neighbor, the Oregon Health Sciences University, is the focus of many such agreements. One of the programs shared by the two facilities allows the Portland Veterans Medical Center to perform the university's liver transplants and thus, enable the PVAMC to make this service available to veterans as well. If this sharing agreement was not in existence, liver transplants would not be available to veterans in Oregon.

It is my hope, Mr. President, that the Senate Veterans' Affairs Committee will hold hearings on this matter to evaluate its viability both within the veterans community and the health care community.

Mr. HATCH. Mr. President, I will support the amendment of my colleague from Pennsylvania because he makes the excellent point that not enough groundwork has been laid for this project. I understand the concerns that have been voiced by veterans organizations. Any action we take that directly affects the promises we have made to those who have served our country must be fully considered. I do not believe any of us in this body intend to break those promises.

However, Mr. President, the agreement between the Department of Veterans Affairs and the Department of Health and Human Services does represent a well-intentioned attempt on the part of the Bush administration to increase access to health care in rural areas.

I, for one, want to commend Secretary Sullivan and Secretary Derwinski for this innovation. It is time for some creative thinking when it comes to addressing the health care needs not just of veterans, but of all Americans. I hope the Congress will not make a habit out of stifling any idea that happens to originate in the executive branch.

The Senator from Pennsylvania made the suggestion yesterday that some hearings ought to be held on the concept of utilizing veterans facilities to help provide health care in underserved areas. I wholeheartedly endorse this idea, and I urge my colleagues on the Veterans' Affairs Committee to schedule such hearings. I hope that this amendment is not the end of this proposal. We cannot afford to ignore any ideas for better utilization of Federal health care resources.

Ms. MIKULSKI. Mr. President, I rise today in support of the amendment from the Senator from Pennsylvania. This amendment will halt any further movement of the Veterans' Administration to open its facilities to nonvets.

Mr. President, as chair of the Appropriations Subcommittee that funds the Veterans' Administration, I have worked very hard on veterans health care issues. These men and women who have fought for this country in foxholes around the world deserve the best we can provide them in health care services. And they should not have to wait in line behind anyone at a VA facility.

I have tried to make sure the Veterans' Administration focuses its efforts on quality health care. We have heard the horror stories of atrocious health care at some VA facilities, and that's why I was a major proponent of establishing a quality assurance program for every VA facility. We need to focus on more effective ways to serve our veterans and make sure each facility reaches the highest of standards.

Mr. President, I have heard from veterans throughout Maryland concerned about the precedent Secretary Derwinski's rural health initiative would set. I feel strongly that we owe them something for fighting for this country's freedom. I support the amendment of the Senator from Pennsylvania in making sure that we do not forget that commitment we have to make our veterans No. 1.

Mr. BIDEN. Mr. President, I rise to express my support for Senator SPECTER's amendment to prohibit the Department of Veterans Affairs from undertaking the rural health care initiative. As a cosponsor of Senator SHELBY's bill on this subject, I am concerned about the approach contained in the administration's initiative.

The rural health care initiative is a pilot project to allow nonveterans in certain rural areas to receive care at veterans hospitals. It was developed by the Department of Veterans Affairs and the Department of Health and Human Sevices—neither Congress nor the major veterans groups were consulted. Instead, we were advised only after the fact.

Under the rural health care initiative, the Department of Veterans Affairs would be reimbursed for any care given to a nonveteran, and Secretary Derwinski has indicated that the program would not displace any veteran seeking care.

Yet, veterans programs—most notably, the veterans health care system—were the target of significant cutbacks during the 1980's. Despite improvements over the last few years, veterans hospitals are still struggling to provide the quality health care we promised our veterans so long ago—and continue to promise our veterans today.

So, if some rural veterans facilities have the ability and resources to treat nonveterans, shouldn't we instead con-

sider the possibility of reallocating some of those resources to veterans facilities that do need the help? If this Nation is going to continue to maintain a veterans health care system, then our priority should be to help all veterans within that system first.

Doctors, nurses, and equipment are desperately needed in many veterans hospitals. The veterans hospital in my State—at Elsmere—is in dire need of more nurses, more technicians, and more medical equipment. I simply do not believe that at this time we can treat nonveterans in veterans facilities without affecting the care of veterans.

Veterans organizations and VA officials in Delaware often tell me of the outstanding volunteer work taking place at veterans hospitals around the country. These volunteers are dedicated to helping and caring for those who served our country. Many of the volunteers are veterans and their spouses who have come to help their fellow veterans. Their contributions and their dedication are well-known. Because of professional personnel shortfalls, they have become—through both their time and their money—a supplement upon which the veteran patients have come to depend. They have been picking up the slack from a decade of neglect.

As the veteran population ages, the demands on veterans hospitals will only increase in the years ahead. I am concerned that we are relying too much on volunteers as a way to save money and that with increased demands, we will not be able to live up to the commitment we made to our veterans. In addition, I am concerned that if we weaken the veterans health care system today, the all important volunteer system may be undermined in the near future.

Mr. President, I recognize that the delivery of rural health care in this country needs to be dramatically improved. There is a tremendous shortage of health care personnel in many rural areas. The Congress and the administration need to work to improve health care services for rural Americans. Indeed, we need to improve the health care system for all Americans. But, it cannot be done—and should not be done—at the expense of our longstanding promise to America's veterans.

VOTE ON AMENDMENT NO. 1691

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to vote on amendment No. 1691 on which the yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON], would vote "aye."

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. CRAIG] is necessarily absent.

The PRESIDENT pro tempore. Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 91, nays 3, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—91

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

NAYS—3

Danforth	Moynihan	Simpson

NOT VOTING—6

Boren	Cranston	Harkin
Craig	Dixon	Kerrey

So the amendment (No. 1691) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina [Mr. SANFORD] is recognized to call up an amendment.

There will be order in the Senate. Let us have order, please. May we have order?

The Senator from North Carolina [Mr. SANFORD] is recognized to call up his amendment.

AMENDMENT NO. 1695

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

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 1695.

Mr. SANFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all on p. 312, line 6 through p. 322, line 6 and insert:

"SEC. 495. STATE IDENTIFICATION PROCESS.

"(a) IN GENERAL.—Each State shall assist the Secretary to identify institutions of higher education within the State, which have engaged in practices that lead to misuse of federal student aid funds, including but not limited to—

"(1) inadequate procedures to protect students enrolled at institutions of higher education in the event of school closure;

"(2) inadequate maintenance of student or other records;

"(3) inadequate procedures for resolution and investigation of student complaints;

"(4) misleading or inappropriate advertising and promotion, or student recruitment;

"(5) facilities that fail to comply with relevant safety and health standards such as fire, building and sanitation codes;

"(6) failure to provide relevant information to students by institutions of higher education which may include—

"(A) information relating to market and job availability for students in professional and vocational programs;

"(B) information regarding courses which exceed standards for State licensure in specific occupations, where appropriate; and

"(C) information regarding course cancellation procedures and rights;

"(7) the inflation of credit or clock hours required for the completion of programs or where 600-hour courses are not appropriate in length;

"(8) occupational or vocational programs which are inadequate to permit students to meet State licensing requirements in the occupation for which training is provided;

"(9) the actions of any owner, shareholder, or person exercising control over the educational institution which may adversely affect eligibility for programs under this title; or

"(10) the absence of a fair and equitable refund policy to protect students as established in section 498.

"(b) STATE PROCEDURES.—

(1) In carrying out the purpose of this section, the State shall establish and publicize the availability of a process to permit students, faculty members and others to report complaints or instances of fraud and abuse;

"(2) The State shall notify the Secretary, in a timely manner, of any institution it has identified pursuant to this section. The Secretary shall take prompt, appropriate action based on such notification and report such action to the State; and

"(3) Each State shall designate, for purposes of this section, a single state entity or individual to be responsible for reporting information under this section to the Secretary.

"(c) In identifying institutions of higher education pursuant to this section, the State shall give priority to institutions that have:

"(1) A cohort default rate as defined in section 435(m) equal to or greater than 10 percent; and

"(A) more than two-thirds of an institution of higher education's total undergraduate students enrolled on a half-time or more basis receive assistance under this title (except subparts 4 and 6 of part A); or

"(B) two-thirds or more of an institution of higher education's education and general expenditures are derived from funds provided to students enrolled at such institution from the programs assisted under this title (ex-

cept subparts 4 and 6 of Part A and section 428B);

"(2) A limitation, suspension, or termination action by the Secretary against an institution pursuant to section 487(c)(1)(D), 487(c)(1(E) or section 487(c)(2)(A) during the preceding 5 years; or

"(3) An audit funding during the 2 most recent of an institution of higher education's conduct of the programs assisted under this title that resulted in the repayment by such institution of amounts greater than 5 percent of the funds such institution received from the programs assisted under this title for any 1 year; or

"(4) A citation of an institution of higher education by the Secretary for failure to submit audits required by this title; or

"(5) A year-to-year fluctuation of more than 25 percent in the amounts received by students in Pell grants or loans made, insured or guaranteed under sections 428 and 428A, which are not accounted for by changes in such loan programs; or

"(6) A change of ownership of the institution of higher education that results in change of control, including—

"(A) the sale of such institution or the majority of its assets;

"(B) the transfer of the controlling interest of stock of such institution or its parent corporation;

"(C) the division of one or more such institutions into two or more institutions;

"(D) the transfer of the controlling interest of stock of such institution to its parent corporation; or

"(E) the transfer of the liabilities of such institution to its parent corporation.

"(7) Except with regard to any institution that is affiliated with a State system of higher education, participation in one or more of the programs established by this title for less than 5 years; or

"(8) any other institution which the State has reason to believe is engaged in fraudulent practice."

On page 322, line 7, strike "(h)" and insert "(d)".

On page 322, line 11, strike "standards required by".

On page 322, line 23, strike "$10,000,000" and insert "$20,000,000".

On page 335, strike lines 15 and 16 and insert "from States under Section 495".

On page 336, line 8-9 strike, "State agencies designated under section 495(c)" and insert "States".

On page 333, between lines 2 and 3, insert the following:

"(7) assure that the institution of higher education has a fair and equitable refund policy.

(b) FAIR AND EQUITABLE REFUND POLICY.—

"(1) IN GENERAL.—An institution's education refund policy shall be considered to be fair and equitable for purposes of this section if the policy provides for a refund that meets—

"(A) the requirements of applicable State law;

"(B) the specific refund requirements established by an institution's nationally recognized accrediting agency and approved by the Secretary; or

"(C) the pro rata refund requirement described in paragraph (2), except that this paragraph shall not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the halfway point (in time) in the period of enrollment for which the student has been charged.

"(2) PRO RATA REFUND.—As used in this section, the term 'pro rata refund' means a refund by the institution to a student attending such institution for the first time of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last day of attendance by the student.

"(3) REFUND CREDIT.—For purposes of this section, a refund first shall be credited against any part B loan assistance and second against any grant awarded a student under this title for the period of enrollment.

The PRESIDENT pro tempore. The Chair would state that there are 2 hours for debate on this amendment, to be equally controlled and divided.

The Senator from North Carolina.

The SANFORD. Mr. President, I am pleased to say that I think we will not need most of those 2 hours. Staff worked very diligently late last night in effect, to change direction on trying to cure a problem that needs curing, and I believe we have now come up with a very satisfactory solution.

Certainly, we need to do something about the abuse of student loans. There is not any question that some institutions have exploited students who were not prepared to learn; talked them into enrolling; gave them no education and a promise of a job; took the loan money and turned it into profits and then expected these people who were so betrayed to pay the loan back. There is no wonder that we have so many defaulted loans.

How do we get at that problem? How do we take these fly-by-nights, these exploiters of young people and get rid of them? And how do we do that without damaging the purpose of having a student loan program, or without creating additional unnecessary bureaucracy for the institutions that are performing responsibly?

I think it is important for us to remember a student loan program is always going to have a fairly high default rate for the very reason that many people who are loaned this money are at the margin.

It is important to remember that a student loan program is necessary because a great many of these loans would not be made by banks. A school, looking at 10 marginal students, can make a decision on the basis of a banker and say, "We cannot take any of you." Or they can make it on the basis of an educator and say, "It is our responsibility to help these marginal students get a hold on their lives." Of course the second route is the way we should go. Still, of those 10 marginal students admitted under those circumstances, perhaps 5 of them will not make it. That goes back, I might say, Mr. President, to our failure to pay proper attention to the child at the very beginning, the preschool education. And we know now that neglect of preschool preparation of children causes dropouts, causes inadequate preparation to go on for additional education. Indeed, you might say, our failure to invest adequately in preschool education causes a great deal of the student loan defaults.

So, I do not want to suggest that there is any way in the world to eliminate all of the defaults of people who do not quite make it and then never will have enough money to pay back the loan, but we can get the deadbeats out. We can get a handle on the people who have exploited students out of their educational aid, and that is what my amendment is designed to do.

The legislation as presented in the committee bill disturbed me for a number of reasons. I expressed those reasons last night, and suggested that we could get at the problem in a more direct and intelligent way.

We have now been able to work out the problems in the original bill, and we have done so in a way that will reduce bureaucracy and redtape and that will make the best use of limited resources. The new proposal will also stand the best chance of curbing fraud and abuse in the Student Financial Aid Program. I thank the members of the staff who eagerly cooperated to make this a more workable system of dealing with the problem.

So, Mr. President, I would be perfectly willing, now, to yield back all of my time and to ask the leaders if they care to accept this or if they would like to have a rollcall vote?

Mr. FORD. Mr. President, will the Senator yield me just 30 seconds?

Mr. SANFORD. Yes.

Mr. FORD. Mr. President, I cannot help but observe that this institution is a great mix. Here we have a former president of a great university that has stayed the course. He now has an amendment, I think, that is much better than the original amendment. He is putting his background and experience into this amendment. I want to compliment him for what he has done for the Senate today and for higher education and for those students who will be looking for a loan. I wanted that to be part of the record.

The PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PELL. I thank the Senator from Kentucky for his words. I must say I agree with him. I think this proposal offered by Senator SANFORD is an excellent one. In fact, the agreement that has been arrived at is, I think, better than our original proposal.

Under the amendment offered by the Senator from North Carolina, the role of the State will be defined as that of a watchdog. We want the States to help the Secretary identify the fraudulent or misleading practices that may come to light. We do not want the States to act as a superapproval agency. We want them only to be the eyes and the ears of the Department of Education. This amendment accomplishes that

and improves the bill. I know from the viewpoint of this side of the aisle I am pleased to accept it and hope we can do so without a rollcall vote.

The PRESIDENT pro tempore. The Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, we are pleased to accept it on this side of the aisle. I would just express my appreciation to the Senator from North Carolina. Senator SANFORD has really contributed a great deal to helping us come to a compromise, which, I think, is superior to the original proposal in the bill.

Many of us support State licensing. At the same time, we recognize it should be done in a constructive manner that will not become unduly intrusive. I think the Senator's amendment addresses that interest.

I would also particularly like to thank staff on both sides of the aisle, who worked very hard to develop language that is agreeable to all. This amendment is accepted on this side.

The PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, would the Senator from Rhode Island yield me 5 minutes?

Mr. PELL. I yield as much time as he desires to the Senator from Massachusetts.

The PRESIDENT pro tempore. The Senator from Kansas controls the time.

Mrs. KASSEBAUM. I will be happy to yield the time to the Senator from Massachusetts.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I, too, want to join in expressing the appreciation of all of us to Senator SANFORD. He, as has been pointed out, was a distinguished president of a great university and has had a wide range of experience in government at the State level, the Federal level, and also at the local level. Even though he has not been a member of our committee, we have benefited greatly from his knowledge and understanding in the areas of higher education, and elementary and secondary education. I think the input he has had in this particular aspect of the legislation is invaluable.

What we have recognized in this legislation, in an attempt to ensure the basic integrity of the Federal role in education, is, first of all, that there is a role for the Federal responsibility, and there is a role for the State, and there is also a private role. The private role is with regard to accreditation and the State role is with regard to licensing institutions. The Federal role is basically to govern eligibility for the individuals who will benefit from student aid programs.

We had attempted in the legislation to strengthen those three prongs in a way that was going to preserve the integrity of the program, because, as has been pointed out during the debate, if we are expending more and more resources in paying off defaults, that means less opportunity for young Americans to take advantage of the various educational programs that are included in this program. We are diverting scarce resources, taxpayers' money, in this way.

As the Senator pointed out, this is a balance. What will undermine the whole integrity of the framework is the fly-by-night kind of proprietary institutions which bilked the Federal Government out of resources and misused and abused young Americans who were attempting to acquire skills to be able to become productive members of the economy.

Our committee over a period of time has been trying to address that particular issue respecting the different roles of the different parties. We attempted to tighten up over a year ago in this measure, and we continue in this legislation to address this issue.

Senator NUNN and his investigative committee had a series of hearings on this issue, and this legislation reflects many of the recommendations of his committee. We have been very grateful to him. But I think Senator TERRY SANFORD has appropriately reviewed the composite of these various forces and factors and has been able to weigh them from a particular viewpoint which was very, very helpful and enormously valuable to us in shaping this legislation in this area, as in other areas.

So I want to thank the Senator for all of the time and the effort and the energy that he put into this proposal. I believe it is clearly superior to the way we were moving. It demonstrates again what I think all of us understand, which is the value of these kinds of exchanges and discussion. So we are very grateful to him, and I join with our colleagues and urge the Senate to accept this amendment.

The PRESIDENT pro tempore. Has the offerer of the amendment yielded his time back?

Mr. SANFORD. I yield my time back, Mr. President.

The PRESIDENT pro tempore. Is all time yielded back?

Mrs. KASSEBAUM. All time is yielded back on this side, Mr. President.

The PRESIDENT pro tempore. All time is yielded back. The question is on agreeing to the amendment by the Senator from North Carolina [Mr. SANFORD].

The amendment (No. 1695) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1696

(Purpose: To provide for reallocation of funds under part E of title IV of the Higher Education Act of 1965)

Mr. PELL. Mr. President, on behalf of the Senator from Arkansas [Mr. PRYOR] I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] for Mr. PRYOR, proposes an amendment numbered 1696.

Mr. PELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 225, between lines 11 and 12, insert the following:

SEC. . ALLOCATION OF FUNDS.

Subsection (j) of section 462 of the Act (20 U.S.C. 1087bb(j)) is amended to read as follows:

"(j) REALLOCATION OF EXCESS ALLOCATIONS.—

"(1) IN GENERAL.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate such excess to eligible institutions which were participants in the program in fiscal year 1985 but which did not receive an allocation under subsection (a), an amount equal to those institutions' excess eligible amounts as determined under paragraph (2) multiplied by the institution's default penalty, as determined under subsection (f), except that—

"(A) if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this subparagraph; and

"(B) except that the reallocation to an institution shall not exceed such institution's eligible amount (as determined under paragraph (3) of subsection (c)).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) that institution's eligible amount (as determined under paragraph (3) of subsection (c)), divided by (ii) the sum of the eligible amounts of all institutions described in paragraph (1) (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

"(B) the amount required to be allocated to that institution under subsection (c) of section 462.

"(3) From the remainder of such excess, the Secretary shall reallocate the remainder, in accordance with regulations, to eligible institutions which did not return to the Secretary any portion of the sums allocated to such institution.".

Mr. PRYOR. Mr. President, I am pleased to be offering an amendment to the Higher Education Reauthorization Act which will address an inequity which I believe presently exists in the Perkins loan program. This inequity is depriving students of vitally needed financial aide funds at six higher edu-

cation institutions in my State and at one or more institutions in every State in the Union. This amendment will not require the allocation of any additional Federal funds above what is already specified in the bill, it does not violate the Budget Enforcement Act of 1990, and it does not take money away from the amounts schools currently expect to receive under the Perkins program. My amendment is based on the simple premise that the guests at dinner shouldn't get a second helping until everyone at the table has gotten a first serving.

Currently, most post-secondary institutions have a Perkins revolving loan fund out of which they make loans to financially needy students. The moneys loaned out of the fund are collected by the school over a period of years after the student graduates, and then loaned out to other eligible students—thus the revolving nature of the program.

Under current law, the Federal Government makes a small annual supplement, or capital contribution, to the Perkins fund of most institutions, in an effort to replace moneys dissipated by defaults and other net losses. The formula used to allocate these Federal capital contributions contains a hold harmless, however, which bases the amount of the current contribution on the amount of the contribution received by the school for the 1985–86 school year. Schools which did not receive a contribution during that year, for whatever reason, have been unable to obtain a Federal capital contribution for the past several years.

As I indicated, in my State six institutions have been excluded from receiving a Federal capital contribution because of this hold harmless. One of these schools, Henderson State University, did not receive a Federal contribution in the 1985–86 school year because its enrollment was declining at the time, and the amount of money it was collecting from students repaying their Perkins loans was more than enough to cover the demands of new students seeking Perkins loans. As a matter of fact, Henderson eventually returned almost $1.5 million in excess Perkins loan funds to the Department of Education because loan repayments were more than covering new loan demand. Now, however, enrollment is on the rise at Henderson State and Perkins loan demand has increased, but the repayment of outstanding loans is insufficient to cover the new loan demand and the school is unable to get an additional Federal capital contribution because it did not receive one during the 1985–86 base year.

This amendment will correct the problem at Henderson and at the 300 odd institutions across the country which are in similar circumstances. This amendment does not eliminate the hold harmless, and it will not reduce the amount of the Federal capital contribution currently expected by needy institutions. Instead, the amendment takes Federal capital contributions which are currently returned to the Department of Education by schools which do not need them in a given year, and redistributes them on a priority basis to those schools which currently receive no allocation because they received none in the 1985–86 base year. Currently, the Secretary of Education requires schools which do not receive a contribution to compete for these returned funds on an equal footing with schools that have already received a Federal capital contribution.

Again, my amendment is based on a fairly simple principle of equity: Those schools which are excluded from receiving a Federal capital contribution in the initial distribution of funds ought to have an opportunity to receive a portion of returned excess funds before those schools which have already received a contribution get a second crack at the money. My amendment accomplishes this goal by distributing these returned funds to the excluded schools in proportion to their relative need and with a default factor figured in which effectively rewards low default schools with larger allocations. Any funds left over after the distribution to the excluded group of schools are available for distribution to those schools which did receive initial allocations.

Mr. President, I believe this is a very reasonable proposal for bringing some equity to the distribution of Perkins Federal capital contributions without upsetting our current system for distributing these moneys or depriving schools currently in the program of the contributions they expect.

Mr. PELL. Mr. President, this amendment has been agreed to on both sides. Accordingly, I urge its adoption, and I yield back any time that I have.

Mrs. KASSEBAUM. Mr. President, the amendment has been cleared on our side, and we support it.

The PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 1696) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT—S. 2

Mr. PELL. Mr. President, I ask unanimous consent that the clerk be instructed to print additional copies of S. 2, the Neighborhood Schools Improvement Act as it was passed.

The PRESIDENT pro tempore. Is there objection? There is no objection. It is so ordered.

HIGHER EDUCATION AMENDMENTS

The Senate continued with the consideration of the bill.

Mrs. KASSEBAUM. Mr. President, I suggest the absence of a quorum for just a few moments before we go to final passage.

The PRESIDENT pro tempore. The point of no quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PELL. Mr. President, this bill that we are about to approve is excellent legislation. It continues the Federal commitment to educational opportunity and access in postsecondary education. It is a commitment unexcelled in any other nation in the world. We may sometimes fall short in fulfilling it, but there can be no doubt about our intentions. This bill is an important reaffirmation of that commitment, and it contains some remarkable achievements. Stronger student aid programs, more help for needy students, new help for hard-pressed middle-income families, a simplified application process, new and better programs for the teaching profession—these are but a few of the major achievements of this legislation.

But let me make something clear. While we have built what I believe is a strong and good foundation, we must add the full funding that will bring reality to the promises we have made. Money is the cement that will hold the bricks together and make what we have constructed sound and strong.

Before we conclude, however, I think it important that we acknowledge those who devoted extraordinary time and effort to putting this important bill together.

First, I want to thank the Senator from Massachusetts [Mr. KENNEDY] for his strong and immense help in getting this bill passed. Second, I want to thank Mark Sigurski, our legislative counsel. We are indebted to him for his hard work, his patience, and his ability to withstand our many demands. Third, I want to thank the staff of my colleagues on the Education Subcommittee and the full Labor and Human Resources Committee. In particular, I want to thank Susan Hattan and Lisa Ross from Senator KASSEBAUM's staff, Terry Hartle and Suzanne Ramos from Senator KENNEDY's staff, and Laurie Chivers from Senator HATCH's staff. They have all done well and we are in their debt.

I want to express my appreciation for the superior work done by David Evans owr staff director and by Jason Hendler, Michael Dannenberg, and Peter Gill of my staff on the Education Subcommittee. Without their efforts,

this bill would not have become a reality. But most especially, I want to thank Sarah Flanagan, the professional staff member for postsecondary education on the subcommittee staff. Her knowledge of the student aid process has been indispensable, and her hard work, attention to detail, and persistence have been invaluable, and this attention to detail and persistence was still being demonstrated as of 3 o'clock this morning as she put together the Sanford compromise.

Fifth, I want to thank the administration. They have been players from the outset, and we have taken their recommendations seriously. Secretary Alexander, Assistant Secretary Carolyn Reid-Wallace, Assistant Secretary Bob Okun, and all the involved staff are to be commended.

Finally, I want to thank my colleagues on the subcommittee, the full committee and in the Senate as a whole. We continue with passage of this legislation the strong bipartisan consensus that has dominated education in the Senate since I first served on the subcommittee over 20 years ago. Without that consensus, that bipartisan approach, we would have been unable to fashion this legislation and to pass it in such an expeditious manner.

In this regard, I would like to pay tribute to my ranking minority Members through the years who have been building bricks as we move ahead: Senator Dominick, Senator Javits, Senator Stafford, and others.

The PRESIDENT pro tempore. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I am pleased that the Senate is taking final action on S. 1150. As I noted yesterday, I believe this is a strong piece of legislation. I would just like to add that I, too, believe that bipartisanship on the issue of education has served us well. We have had many hearings on the higher education reauthorization legislation. We have spent over a year putting this together, and I think that we have really worked hard to advance some goals that we all share. My particular appreciation to the chairman of the subcommittee, Senator PELL, as well as to Senators HATCH and KENNEDY for their efforts on behalf of this bill.

Much has already been said about the importance of this legislation. I would like to mention once again my appreciation for some of the same staff members that Senator PELL mentioned, because I think we all realize we could not put legislation like this together without the support of staff.

I would particularly like to, of course, thank my own staff, Susan Hattan, Lisa Ross, and Sondra Nickel. The full list of staff follows my remarks but Laurie Chivers and Corine Larson of Senator HATCH's staff and certainly David Evans, Sarah Flanagan, and Terry Hartle on the Democratic side have been of invaluable assistance.

I also appreciate the work and assistance provided by Secretary Lamar Alexander and staff of the Department of Education.

Finally, we all owe a special debt of gratitude to Mark Sigurski of the Office of Legislative Counsel, who has spent countless hours in the drafting of this legislation.

Staff contributing to S. 1150: Susan Hattan, Lisa Ross, and Sondra Nickel with Senator KASSEBAUM; Laurie Chivers and Corine Larson with Senator HATCH; David Evans, Sarah Flanagan, Jason Hendler, and Michael Dannenberg with Senator PELL; Terry Hartle, Suzanne Ramos, Rusty Barbour, and Dan Ivey-Soto with Senator KENNEDY; Sharon Soderstrom with Senator COATS; Doris Dixon with Senator COCHRAN; Pam Kruse with Senator JEFFORDS; Kent Talbert with Senator THURMOND; Rolf Lund with Senator DURENBERGER; Adele Robinson with Senator ADAMS; Ray Ramirez with Senator BINGAMAN; Joan Gilman and Suzanne Day with Senator DODD; Bev Schroeder with Senator HARKIN; Cheryl Birdsall with Senator METZENBAUM; Anita Harewood with Senator MIKULSKI; Bob Shireman and Brian Kennedy with Senator SIMON; and Mike Epstein with Senator WELLSTONE.

Finally, I also appreciate the work and assistance provided by Secretary Lamar Alexander and staff of the Department of Education.

As mentioned by Senator PELL, Mark Sigurski, in the Office of Legislative Counsel, has provided some invaluable assistance. I think we often forget that the details of the legislation can be extremely difficult and complicated, and to have to work under such pressure requires a great deal of patience and concentration.

Mr. President, I think we are ready to go to final passage.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Mississippi [Mr. COCHRAN] is recognized.

Mr. COCHRAN. Mr. President, I am convinced that one of our greatest national assets is our college and university system. People come from all over the world to study in American universities not only because they are accessible but because in many cases they are the best in the world. I am pleased to support this legislation because it will help guarantee even greater access in the years ahead to our institutions of higher learning.

This bill was developed over a period of months with bipartisan cooperation among members of the Committee on Labor and Human Resources. I commend Senator PELL and Senator KASSEBAUM, as well as Senators KENNEDY and HATCH, for the manner in which this bill was developed.

The committee has done important work on Federal higher education programs, making them more responsive to the challenge we face.

The assurance of access to postsecondary education, and the opportunities it provides, is the most important aspect of this legislation.

Grant aid has been increased for students most in need, by increasing Pell grant maximum awards, by making the Pell grant award formula more realistic in terms of the actual costs of attending an institution of higher education, by directing the supplemental grant to the lowest income students, and by authorizing a new scholarship for students from economically disadvantaged families. This scholarship will also provide these students with an incentive to excel academically because eligibility is dependent upon a student's having completed a rigorous core curriculum in high school.

Middle-income families are provided with greater access to student aid by eliminating farm and home equity for families with incomes below $50,000 from the calculation used to determine a student's eligibility for financial assistance. Another provision of this bill will extend eligibility for supplemental loans for students to dependent students, thus increasing the options for middle-income students and their families.

Increases in Pell grant maximums will mean that the poorest students will be required to borrow less to round out their financial aid package. Increases in annual borrowing limits for federally subsidized loans will particularly help middle-income students. Loan limits have also been increased in the unsubsidized loan programs for students with greater family resources.

I am pleased that the committee was able to simplify financial aid programs for students and families by creating one need analysis system for all grant and loan programs, by ensuring a free, common Federal application form, and by streamlining both the application and reapplication process for needy students.

We have improved outreach, early intervention, and support services for low-income and educationally disadvantaged students, so that more of those students can go to college and succeed there.

Mr. President, guaranteed student loan defaults are expected to reach an alltime high of $3.6 billion this year and pose a major threat to the stability and integrity of student aid in general. Serious questions have been raised about the program's effectiveness as the primary vehicle for federally supported student assistance.

With provisions in this bill, we have attempted to assure the integrity of the student aid programs. Steps have been taken to improve the standards for institutional participation in the programs.

Accrediting agencies, the States, and the Federal Government must all do a better job in assuring program quality and institutional capability.

We have also taken steps to reduce the number and costs of loan defaults. In addition to continuing and strengthening the default control provisions of the 1989 and 1990 budget reconciliation laws, we have included new provisions to strengthen further the incentives for all parties, lenders as well as schools, to reduce defaults and improve collections on defaulted loans.

Mr. President, as a member of the Appropriations Committee, I can speak firsthand to the frustration of having to devote precious resources to default costs, rather than to expanded aid to students.

The bill establishes much needed academies for teachers and school leaders to help them do a better job in the classroom.

Alternative certification demonstration grants are authorized to allow States to experiment with bringing teachers into the classroom that may have an expertise that makes them valuable but who have not been certified by traditional certification requirements.

Mr. President, I am pleased that provisions which would have triggered a veto on this bill were withdrawn. Support for education enjoys wide bipartisan support in Congress. This is a good bill and I urge the Senate to approve it.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, I thank you very much.

May I ask one or two questions of the managers of the bill? I want to make sure that my understanding about certain aspects is correct. Is it accurate—let me put it another way. What additional budget authority does this bill propose? The figure I have is $56.9 billion.

Mrs. KASSEBAUM. That will be over 5 years.

Mr. HELMS. I understand. It is still $56.9 billion.

Mrs. KASSEBAUM. I think the cost is about $17 billion in the first year. I cannot tell you how much additional funds are involved, but it reflects, of course, the increase in student grants plus the additional authorizations which have always been higher than the appropriations. Because most of the bill is subject to appropriations, I cannot say accurately how much additional outlay it will involve.

Mr. HELMS. That leads to my next question. What would the proposed outlays be as proposed? My figure is $42.7 billion over a period of 5 years.

Mr. PELL. In direct spending, I understand there is a saving of $335 million in savings over the 5-year period.

Mr. HELMS. That is $335 million?

Mr. PELL. Million dollars. We are talking about millions, not billions.

Mr. HELMS. A million is a pittance around this place.

Mrs. KASSEBAUM. Mr. President, I just want to add that we now spend $11 billion in higher education. So, if one factors that out over 5 years, yes, that is the figure we have. So we are spending that now.

Mr. HELMS. I understand, but this bill still proposes additional spending in the $50-billion range.

Mr. President, a lot of things are painful to vote against around this place, but I think it was Davy Crockett, as a Member of the House of Representatives, who on one occasion pointed out to his colleagues that it was not their money they were spending; it was the people's money.

I will ask one further question. Is my understanding correct that the Federal debt is now approaching 4 trillion dollars?

Mr. PELL. I believe that is correct. I do not know for sure.

Mr. HELMS. The point is this, Mr. President, as of 2 days ago, February 19, the exact Federal debt, down to the penny, stood at $3,820,046,156,792.02. That debt represents the irresponsibility of the Congress of the United States for decades in spending the taxpayers' money far in excess of the Government's income.

This bill, which the Senate is about to approve overwhelmingly, proposes additional—additional—budget authority of $56.9 billion and additional outlays of $42.7 billion.

Mr. President, what are we doing to the American people when Congress engages in such reckless spending? What about the young people who in just a few years will inherit this economic nightmare? Does any other Senator share my dismay at the debt we are piling on the shoulders of Americans of all ages, and particularly the next generation of taxpayers?

The American taxpayers were forced to provide $286.02 billion during the past 12 months just to pay the interest on the existing national debt, to which this bill will add billions of dollars. According to my calculations, that comes to $5.5 billion every week—just to pay the interest alone.

I may be the only Senator voting against this bill today, but vote against it I must. And I shall continue to vote against such bloated proposals which will serve to run up the Federal debt even further.

It is the Congress of the United States that has created the economic crisis that is today on the minds of the American people. Politicians who like to point fingers should point to themselves.

I thank the Senator very much.

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

Mr. BUMPERS. Will the Senator withhold?

Mr. PELL. Yes.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS] is recognized.

Mr. BUMPERS. Mr. President, I rise to discuss the teacher training provisions of the Higher Education Act reauthorization and to reiterate assurances I received last night from the Senator from Massachusetts and the Senator from Rhode Island about the operation of the State and national teacher academies. I received assurances that the teacher academies in S. 1150 would be open to teachers of all disciplines so that a math or science teacher could attend a seminar in the humanities, or a history teacher could attend an English seminar.

I strongly supported the National Teacher Act of 1990 and was disappointed when that bill died at the end of the 101st Congress. That legislation included provisions that reflected many of my ideas about the professional development and in-service training of classroom teachers, ideas expressed in the humanities excellence and teacher education bill which I have introduced every Congress since the 98th. In my view, the teacher education provisions of S. 1150 are even stronger than those in the National Teacher Act, and I heartily endorse it.

I first testified before the Subcommittee on Education, Humanities, and the Arts regarding my humanities excellence and education bill when Senator Stafford chaired the subcommittee, and since that time I have worked with the Senator from Rhode Island and the Senator from Massachusetts to advance the idea of a comprehensive program of professional development for classroom teachers.

I am convinced that the improvement of American schools depends on recruiting and retaining a strong corps of teachers and providing the current corps of teachers the opportunity to develop and improve their teaching skills. For the last several Congresses, I have introduced legislation which would establish a comprehensive program of summer seminars in the humanities. The program I propose is, quite frankly, an expanded and slightly modified version of the summer seminar program at the National Endowment for the Humanities.

The outstanding program administered by the NEH includes dozens of seminars each summer which serve hundreds of teachers. I fight every year to increase funding for that program, but it still remains only a fraction of the size it should be. If budget constraints were not so severe, American teachers should be able to take advantage of professional development opportunities each summer.

I propose an extensive program of summer seminars in the humanities, with an authorization which would

allow at least one seminar in each State. While the subject matter of the seminars would be concentrated on the humanities, I propose that any teacher—whether a teacher of the humanities, math, science, or foreign languages—have the opportunity to attend these seminars.

I believe that, while we have begun to address the problems of math and science instruction, we have done little to improve instruction in the humanities. the indicators of this trend are many—our students perform poorly on history examinations, their reading and writing skills are weak, and their knowledge of our own political and cultural institutions is weak. And the committee report on S. 1150 indicates that the supply of humanities Ph.D.'s is dwindling. I would suggest that the limited number of young people interested in pursuing higher degrees in the humanities is a pipeline problem: Students receive inadequate or uninspired instruction in the humanities and are not interested in pursuing advanced training in those disciplines.

I am very pleased that S. 1150 includes a comprehensive program of State academies for teachers and school leaders, professional development academies, and national teacher academies. The professional development opportunities that will be provided by these academies are sorely needed, and I applaud the committee for including such a strong program in S. 1150. The teacher academies are not structured exactly like the seminars I propose in my legislation, but the intent and structure are very similar.

The teacher academies aim to improve subject matter skills for teachers in certain key areas: English, mathematics, science, history, geography, foreign languages, and civics and government. The bill specifically states that the States are to insure that 70 percent of the funds that are available for the teacher academies will be used for the enhancement of knowledge in the key academic subjects, and 20 percent of the funds will be used for enhancement of participant knowledge in areas not related to academic subjects. I certainly understand the committee's interest in improving subject matter skills and insuring that our history, science, mathematics, and other teachers are prepared to teach their subjects, but I also want to reiterate that teachers can attend seminars outside their discipline.

The bill gives the States, which will administer the State teacher academies, and the U.S. Department of Education, which will administer the national teacher academies, flexibility in choosing teachers to participate in the seminars. I received assurances from the Senator from Massachusetts and the Senator from Rhode Island that the bill intends that flexibility to allow math and science teachers, for example, to attend seminars in history, English, or civics and government. As they noted, there are real benefits to be gained from the cross-fertilization that occurs when teachers receive instruction outside their discipline and learn beside teachers of other disciplines.

S. 1150 includes a special provision allowing proposals for academies that would provide for training in two or more academic subjects at a single site. I would urge that cross-disciplinary training not only be allowed but that it be encouraged. This is one more way to improve humanities instruction and reach more teachers.

I hope this bill will move quickly through conference, and I will work to see that the Teacher Academy Program is funded in this fiscal year. It has been said several times during consideration of this legislation that we cannot afford to delay action on this bill, and I agree that our current teacher corps cannot be neglected any longer. Our schools, our children, and our future depend on them. I will work to see that the Teacher Academy Program is funded and I will monitor its administration to insure that enrollment in the seminars across disciplines is allowed.

Mr. President, I would like to take a few more minutes to comment on the other teacher training provisions of S. 1150 which are aimed at recruiting highly qualified individuals to teaching and training new teachers. I am particularly pleased that the Teacher Corps Program has been reinstituted.

The concept of providing scholarship assistance to teacher candidates in return for service in schools that have shortages of teachers or shortages in certain subject areas is a concept that has worked very well in other disciplines. For example, we have improved health care delivery in underserved areas through the national Health Service Corps, and the model will serve us well in the education area. Not only will teacher shortages be addressed, but teacher candidates will receive important teacher training through the Teacher Corps Program.

The committee has also been thoughtful in drafting provisions to improve the recruitment of minority teachers. It is wise to encourage the activities of local and State educational agencies, higher education institutions with substantial concentrations of minority students, and consortia of higher education institutions to improve minority teacher recruitment. The shortage of minority teachers must be addressed. The public school enrollment is almost one-third minority, yet the teaching force is only a 10th minority. There is a clear need for teachers who can serve as role models for young minority students, and this bill begins to address that need.

The teacher recruitment and training provisions are very important, and I am pleased that the committee has done such an outstanding job on that part of the bill. These provisions are particularly important because of estimates that about 2.5 million public and private school teachers may have to be hired in the 1990's.

Mr. President, I am pleased to lend my support to S. 1150 and I will work for funding and implementation of the teacher training programs.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, we have finished consideration of one of the most important pieces of legislation to come before Congress in this session. The Higher Education Reauthorization Act represents our investment in the future productivity of this Nation. This bill will provide millions of students with the financial support necessary to pursue a college education and achieve their greatest potential.

One of the central goals of this legislation was to increase access to higher education for all Americans. We have accomplished this by authorizing a long-overdue increase in the Pell Grant Program, the cornerstone of the Federal Student Aid Program and by raising limits on college loans. Both of these changes will help hard-working middle-income families keep up with the rising cost of tuition. With support from the Federal Government, these families will be able to realize their dream of providing a college education to their children.

Another key provision is the establishment of the ACCESS Program. This program focuses on helping disadvantaged students overcome obstacles to finishing high school and entering college. With the help of early invention programs and the promise of a scholarship, many needy youth who might otherwise drop out of school will now be able to pursue a college education. As the "I Have a Dream" initiative has proved so dramatically, students who know that a college education is within their reach financially are more likely to be motivated to finish high school and perform well.

Another key accomplishment of this legislation is the simplification of the student aid application process. By establishing a single needs formula and mandating a simplified single application form, we have taken much of the confusion out of the student aid application process. These changes, in combination with automatic eligibility for the neediest students, will make it much easier for students to obtain the financial aid they are entitled to receive.

Finally, we have made significant progress toward ending fraud and abuse in the Student Loan Program. We have tightened the approval process that schools must go through in order to

gain entry into the Federal Student Aid Program and we have implemented several of the recommendations in Senator NUNN's excellent report on curbing fraud and abuse. These changes will help us guarantee that Federal funds are providing students with a beneficial education.

We are particularly pleased that we have been able to complete work on this monumental legislation in a bipartisan fashion in less than 1 day on the Senate floor. It is vitally important to all Americans that this reauthorization bill be completed and enacted into law at the earliest opportunity. As I stated yesterday, Senator BRADLEY, Senator BENTSEN, Senator SIMON, Senator DURENBERGER, and I have been working intensively over the last several days to put together an amendment to provide direct loans to students for higher education and we made great progress in reaching an accord on this important new direction for student loans. All of us are deeply committed to seeing a direct loan demonstration program enacted into law this year. At this point, however, it was not possible to obtain bipartisan agreement on a demonstration program and rather than delay final passage of the higher education bill we decided to seek to move the direct lending initiative on another vehicle at the earliest possible opportunity. Again I am very pleased that we have been able to move this bill so promptly.

Senator MITCHELL indicated yesterday he had expected this important measure to consume up to 4 days of floor time. The fact that we were able to take care of so many amendments by bipartisan agreement undoubtedly has resulted in a much stronger bill than if we had stayed on the floor dealing with contentious issues for 4 days.

The reauthorization of the Higher Education Act has given us the opportunity to greatly strengthen our current higher education system. By increasing the Pell grant, raising loan limits, and simplifying the application process, we have greatly expanded access to a college education for millions of American students. The student aid investment which we are making today will help our hard working families realize their dream of fully educating their children and helping them achieve their greatest potential. And this investment will be repaid many times over in the future productivity and competitiveness of this Nation.

Mr. President, at this point, I would like to thank the staffers who helped us reach this point: Senator PELL: David Evans, Sarah Flanagan, Michael Dannenberg, and Jason Hendler; Senator KASSEBAUM: Susan Hattan, Lisa Ross, and Sondra Nickel; Senator HATCH: Laurie Chivers and Corine Larson; Senator METZENBAUM: Cheryl Birdsall; Senator SIMON: Bob Shireman and Brian Kennedy; Senator HARKIN: Bev Schroeder; Senator ADAMS: Adele Robinson; Senator MIKULSKI: Anita Harewood; Senator BINGAMAN: Ray Ramirez; Senator WELLSTONE: Mike Epstein; Senator JEFFORDS: Pam Kruse; Senator DODD: Joan Gilman and Suzanne Day; Senator COATS: Sharon Soderstrom; Senator THURMOND: Kent Talbert; Senator DURENBERGER: Alexander Polinsky, Rolf Lund, and Annie Silberman; Senator COCHRAN: Doris Dixon; and from my own staff: Suzanne Ramos, Rusty Barbour, Terry Hartle, Joe Murray, Tom Clyde, Daniel Ivey-Soto, and Katherine Herrera.

I would also like to pay a special tribute to Mark Sigurski of the Legislative Counsel's Office. This huge bill—750 pages—and all the amendments were drafted by Mr. Sigurski. He worked with dispatch, demonstrated great technical skill and infallible patience. All of us are in his debt for a job well done.

AMENDMENT NO. 1697

Mr. PELL. Mr. President, I send to the desk a technical amendment which has been agreed to on both sides and ask it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 1697.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 24, strike line 17 through page 25, line 20, and insert:

"SEC. 126. STUDENT LITERACY CORPS PROGRAM.

"(a) IN GENERAL.—From the amount reserved pursuant to section 131(b) for any fiscal year, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to institutions of higher education for not more than 3 years to pay for the Federal share to carry out student literacy corps programs.

"(b) SPECIAL RULE.—An institution of higher education shall only receive 1 grant under this section in each fiscal year.

"(c) CONTINUATION OF LITERACY PROGRAM.—Grants under this section are renewable upon application by the institution of higher education in accordance with section 128.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of carrying out student literacy corps programs under this subpart shall be—

"(A) up to 100 percent for an initial grant to an institution of higher education; and

"(B) up to 75 percent for a grant renewed under subsection (c).

"(2) NONFEDERAL SHARE.—The non-Federal share of carrying out student literacy corps programs under this subpart may be paid from any non-Federal sources.

"SEC. 127. USES OF FUNDS.

"(a) IN GENERAL.—Funds made available under this subpart may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the student literacy corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the student literacy corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 129.

"(b) LIMITATION.—No grant award to an institution of higher education under this subpart shall exceed $100,000.

"(1) FIRST YEAR.—No institution of higher education may expend more than $50,000 of a grant made under this subpart in the first year in which the institution receives such a grant.

Mr. PELL. Mr. President, we urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 1697) was agreed to.

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

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I would like to discuss an amendment with the distinguished Senator from Massachusetts regarding students who are enrolled in college on a part-time basis to help facilitate the President's goal of encouraging lifelong learning.

At the present time, students must be enrolled in postsecondary education on at least a half-time basis to participate in the Federal Student Aid Programs. This usually means that individuals must take at least two courses to be eligible for assistance. The administration has asked that we extend eligibility to students who study on less than a half-time basis. They note, correctly in my estimation, that the lack of financial resources makes it hard for some students who must attend college on a limited basis to meet tuition bills.

The request to extend eligibility to part-time students does have cost implications and that is a problem on this bill. I would like to ask my friend from Massachusetts if he would be willing to keep looking at this issue to see if we cannot find a way to address it.

Mr. KENNEDY. I appreciate the Senator's question. As the Senator knows, this bill extends Pell grant eligibility to students who study on less than a half-time basis. In addition, we have taken steps to ensure that part-time students receive a greater share of the funds distributed under the campus-based programs. The legislation does not expand eligibility in the Guaranteed Student Loan Program to these students as the administration has requested and it would be impossible for us to accommodate that request at present because, according to the Congressional Budget Office, our bill just meets the paygo provisions of the Budget Enforcement Act. If we adopt

the administration's request, we will be in violation of the Budget Enforcement Act. As a result, I do not see how we can address the request at this time. We may, however, be able to address that issue during conference.

I have, however, met with Secretary Alexander about this issue and have assured him that I am deeply interested in this issue and would be happy to keep working on it with him. I might add that I am grateful for the Secretary's deep interest in this issue. As Senator HATCH knows, there has been a provision in the Pell Grant Program for aid to less than part-time students that has only been funded once in the last 6 years—largely because the Department of Education opposed the provision. I am grateful for Secretary Alexander's commitment to the needs of these students.

Mr. HATCH. I wish to thank the Senator for his comments. I will look forward to working with him and with the Secretary of Education to address this issue as this bill continues to move through the legislative process.

Mr. HATFIELD. Mr. President, the Senate-passed version of the current year appropriation bill for the Department of Education includes an amendment I authored that prevents the Department from initiating or continuing proceedings that would classify as correspondence study telecommunications delivered courses of instruction offered by accredited colleges and universities that lead to recognized degrees pending reauthorization of the Higher Education Act of 1965. I offered my amendment only after consulting with the staff of the Labor and Human Resources Subcommittee on Education, Arts and the Humanities.

I offered the amendment with encouragement from Portland Community College, the American Association of Community and Junior Colleges and America's Public Television Stations because I believe that telecommunications is a highly effective, efficient and economical way to deliver quality educational services. Students enrolled in such courses should be guaranteed access to full financial aid. Hundreds of accredited higher education institutions employ telecommunications to extend the reach of their campuses. Telecommunications delivery brings the institution to the student, particularly in sparsely populated rural and remote areas of the country, including portions of Oregon, but equally in urban areas as well. Joining in support of the amendment was an ad hoc national coalition of more than 70 colleges, universities, and associations.

Subsequent to my amendment, the House Labor and Education Committee reported its version of the higher education reauthorization bill. It includes language that clarifies that telecommunications delivered courses of instruction offered by accredited institutions and leading to a recognized degree is regular, not correspondence, instruction for the purpose of calculating financial aid eligibility. I support the House language but note that the bill reported by the Labor and Human Resources Committee does not include the same or similar language.

Mr. President, with this background I would like to engage in a colloquy with the chairman of the Labor and Human Resources Committee and the chairman of the Subcommittee on Education, Arts, and the Humanities.

Am I correct in my understanding that the committee and subcommittee chairmen believe that telecommunications delivered courses of instruction offered by accredited colleges and universities and leading to a recognized degree is regular instruction for financial aid purposes?

Mr. KENNEDY. The Senator from Oregon is correct. I have previously stated that students receiving such instruction are entitled to full financial aid. I have also stated that I would work to clarify the matter during reauthorization of the Higher Education Act. I reiterate my commitment today.

The Senator from Oregon is correct that S. 1150 does not include the House committee's provision. It is not incorporated because I believe it may not go far enough to protect the opportunities of students enrolled in institutions such as community colleges. Therefore, I want to assure my distinguished colleague that I will work closely with the chairman of the Education, Arts and the Humanities Subcommittee and with the chairman of the House Education and Labor Committee during conference to be sure that the final language leaves no doubt as to the intent of Congress that students enrolled in all courses accepted for credit by institutions such as community colleges are entitled to full financial aid.

Mr. PELL. Mr. President, I, too, would like to assure the distinguished Senator from Oregon of my commitment to guarantee that students enrolled in various types of courses of instruction that lead to recognized degrees are entitled to full financial aid. This is an important national policy issue. But it is particularly important to me since the Community College of Rhode Island uses telecommunications to extend its campus to the people of my State.

I will work closely in conference with the chairmen of the Labor and Human Resources Committee and the Education and Labor Committee to ensure that the final bill clarifies the instruction status of telecommunications instruction.

Mr. HATFIELD. I thank the distinguished Senator from Massachusetts and the distinguished Senator from Rhode Island for their statements and commitments. I would welcome the opportunity to assist them in guaranteeing that telecommunications based students receive full financial aid.

Ms. MIKULSKI. Mr. President, I rise today in strong support of the Higher Education Act.

Mr. President, this bill is a chance to win one of the first battles in the war for America's future. It is a brave and firm step forward toward helping working families send their kids to college. And, Mr. President, middle-class families deserve that help.

These are hard working people who are willing to do their part. But their part may be just too hard to do right now. The middle class has no more to give. They're tuition poor and they're mortgage poor.

Let's face it, when you are making a middle level income and you are paying college tuition for three kids, you're strapped. Far too often, middle-class parents do not qualify for financial aid. Right now, the Government punishes those parents for owning a home or saving money. That is not right.

Let us give help to those who practice self help. If you get there and save your money, you deserve a break.

Everyone in America should be able to get ahead based on their own hard work and ability. The Government should help that happen.

I am sure going to try my best to see that it does.

Mr. President, I introduced a bill in the last session called the Working Families Cost Relief Act to help these families achieve their dreams. The bill we are considering today goes a long way toward reaching that goal.

We have expanded access to financial aid for those middle class families who cannot afford to send their kids to the college of their choice.

We have increased Pell grant awards.

We have simplified the financial aid forms.

And we have made it easier to get aid for families who may have all their assets tied up in a home or farm.

Senator PELL, Senator KENNEDY, and others have worked hard to bring a bill to the floor that makes it a little easier for American families to help their children achieve their dreams. I am proud to be a part of that effort.

Mr. DASCHLE. Mr. President, passage of the Reauthorization of the Higher Education Act is a critical step in ensuring that all Americans have access to higher education, regardless of their background or income level. The central role of education in an increasingly competitive global economy is crystal clear. To be part of the workforce in the year 2000, Americans must set their educational sights high and utilize flexible and innovative means to reach their goals. In the workplace of the future, a large segment of our population will have to master the math, engineering, computer, and physics applications that

only higher education can provide. We cannot allow income limitations to preclude a young person from realizing his or her potential.

S. 1150 represents the second legislative effort this body will undertake in as many months to address the educational crises facing our Nation. In January, the Senate approved S. 2, the Neighborhood Schools Improvement Act, comprehensive legislation that will foster radical change in our elementary and secondary schools and improve the education we provide to children nationwide. But S. 2 represents only the beginning in our efforts to build an education system that truly prepares our children for the future in a highly complex, technological society.

S. 1150 improves educational access for all Americans. This bill is absolutely necessary to redress the damage that a decade of attacks and underfunding by the Reagan and Bush administrations have inflicted on our students, their families, and our productivity as a nation.

This shortsighted failure to invest in better student aid, institutional support, and higher education programs, is nothing less than a blow to our national security. It is a problem that cannot be ignored and a trend that we can reverse through passage of this legislation. If we fail to do so, if we continue to undervalue the economic benefits of education and training for all citizens, what hope do we have for a strong, viable economy in the year 2000 and beyond?

As I have said many times before, it is time for a reinvestment in education today as we have invested in bombers, missile systems and aircraft carriers in the past. We must recognize that our supercomputers and satellites are empty without qualified graduates to guide them. We must recognize the importance of this legislation to our future productivity and viability as a nation.

Thus, I rise in strong support of S. 1150 and its long-overdue improvements in Federal support for higher education and expansions in student aid. The legislation we consider today will provide low- and middle-income families the educational assistance they were too often denied in the 1980's. There are many important provisions in S. 1150 that achieve this goal: the increase in Pell grant levels, the increased availability of grants and loans, the simplification of student aid, and the investment in the infrastructure of our colleges and universities. I will not address each here.

However, I would like to point out that this legislation is particularly important to farmers and families who may own a family or farm house, but have insufficient income to pay for their children's education. Because of equity calculations that include the farm or the house, these families have been shut out of both grant and loan programs that had been designed to include them in years past. S. 1150 exempts from those calculations a family's farm or principal residence for families with incomes under $50,000. This provision, in combination with others in the bill, will provide desperately needed student aid to a great number of deserving families in South Dakota and across the country. I am pleased to have cosponsored similar legislation in the past and look forward to enacting this measure in short order.

One provision I would like to express concern about is the title V program funding for State Academies for Educators, formerly known as the LEAD Program. S. 1150 contains an authorization level of only $132 million for this program, which has proven to be a very useful and important program in my State. The comparable House provision authorizes $400 million for what is essentially the same program. I have been advised of the committee's willingness to move toward the House figure for this program, and I would urge them at this time to consider accepting the House figure in total. I have heard more positive comments about this program than almost any other Federal higher education program we fund. Educators, administrators and teachers alike understand the value of this program, and it should be funded at a viable level.

In conclusion, Mr. President, I would like to congratulate the bill's sponsors for their hard work in bringing this bill to the floor, and I urge my colleagues to vote in favor of the legislation.

Mr. HATCH. Mr. President, I join in the remarks of the distinguished Senator from Massachusetts. This is an important bill. I want to personally pay tribute to the chairman and the ranking minority member of this subcommittee for the energetic and good work they have done on this bill. It has been very difficult to put together in a way that is acceptable to a vast majority of the Members of this body. So I am very happy with the cooperative effort of this body of consider this bill to resolve a variety of very, very tough issues. I think the speed with which we have passed this bill speaks well for the Education Subcommittee and its staff. It has been a bipartisan effort for the most part, as I think most our education bills have been, and it is one I think the administration can support.

We are also in an excellent position now as we move toward conference on this bill. That is important, too. It is a good bill and one that will benefit students all over the country, and certainly in my home State of Utah, while ensuring tax dollars are put to their best use.

Again I would like to thank Senators KASSEBAUM, KENNEDY, PELL, Secretary Alexander, and their staffs for their cooperation and leadership in this matter, and I personally would like to thank the members of my staff who have worked so long and diligently on this matter, and express to them how much I appreciate the long hours and the great efforts that they have made in helping to bring about this bill.

Mr. President, I think we are ready for final passage.

FREEDOM OF SPEECH ON COLLEGE CAMPUSES

Mr. CRAIG. Would the chairman yield to enter into a colloquy concerning the subject of freedom of speech on college campuses?

Mr. KENNEDY. I yield to the Senator from Idaho for that purpose.

Mr. CRAIG. As my colleague knows, I have introduced legislation aimed at preventing Federal education funds from being used to suppress student speech. I appreciated having the chairman's cooperation during the debate on S. 2, when the first half of my bill was accepted by the Senate as an amendment. That amendment expressed the sense of Congress in opposition to restrictions on student freedom of speech.

I had intended to offer the remaining portion of my bill—the enforcement section—as an amendment to the higher education reauthorization bill. However, it is my understanding that the committee has decided to hold a hearing on the subject of university codes of conduct or other similar restrictions on students. Is that true?

Mr. KENNEDY. The Senator is correct. Given the alarming number of incidents of racial and sexual harassment that have occurred over the past few years at our Nation's colleges and universities, the committee has decided to hold a hearing to examine the extent of the problem and various approaches these institutions have taken to combat offensive conduct.

The committee is particularly concerned that institutions of higher education be able to maintain an atmosphere which advances knowledge, assists in the search for truth, and fosters an environment conducive to teaching, learning, and reasoned discourse.

Mr. CRAIG. And is it true that the committee expects to hold this hearing before the end of the school year—that is, in April or May of this year, and allow the minority to name a fair portion of the witnesses?

Mr. KENNEDY. The Senator is correct.

Mr. CRAIG. I thank the chairman and commend him for pursuing this very troubling issue. Since information resulting from the hearing may suggest changes needed in my freedom of speech on campus bill, I think it would be premature for me to offer the enforcement section of the bill as an amendment at this time. I am withholding the amendment and look for-

ward to working with the chairman and members of his committee toward this important and timely hearing.

DEFERMENTS FOR DENTAL RESIDENTS

Mr. THURMOND. I understand that S. 1150, the Higher Education Amendment of 1991 includes changes in deferments for medical residents.

Mr. KENNEDY. The Senator is correct.

Mr. THURMOND. Under current law and regulations, for purposes of obtaining a deferment during a residency, a distinction is made between dental residents on the one hand, and medical residents on the other. Dental residents who are classified by their institutions as students, can obtain an in-school deferment for certain title IV student loans during the length of their residency. The reasons for treating them as students are that many dental residents pay tuition during their residencies and receive little or no stipend.

In a recent sampling of 13 States, it was found that 70 percent of the dental residents either: First, pay tuition and receive no stipend; or second, pay tuition and receive a small stipend. Tuition averaged $10,000 per year for the 1990–91 academic year and the net stipend available to first year residents after payment of tuition averaged $8,291. Due to these costs and because dental residency training is not required for licensure in most States, only about 60 percent of graduating students do residency training. Most of the residency programs are 2 years or less in length.

Is it the Senator's understanding that S. 1150 does not change current law or regulations with regard to dental residents' eligibility for in-school deferments?

Mr. KENNEDY. The Senator is correct. No change concerning dental residents' eligibility for an in-school deferment under title IV student loan programs has been made.

Mr. THURMOND. I appreciate the Senator's clarification.

SHORT-TERM PROGRAMS

Mr. KOHL. Mr. President, I would like to take this opportunity to express my concerns regarding discontinuing Federal financial aid for short-term programs, such as truck driver training programs, beautician colleges, and so on. Throughout the process of reauthorizing the Higher Education Act, there has been a great deal of concern and interest placed on improving the Federal financial aid opportunities for lower and middle-income students and their families. I praise the chairman of the Education Subcommittee, Senator PELL, and the chair of the full Labor Committee, Senator KENNEDY, as well as the Senators from Kansas and Utah for their diligent work in this respect and for their work on the bill in total.

While I am appreciative of the lengths to which the committee has gone to extend financial aid to the lower and middle-income populations, I am concerned about excluding short-term programs. Mr. President, lower and middle-income students are exactly the populations served by short-term programs. Short-term programs serve at-risk students who need the help more than many of the students who attend longer programs. Short-term programs offer training and retraining for the unemployed and underemployed, thereby providing that person with an employable skill which translates into a paying job.

I realize that provisions to exclude short-term programs from Federal financial aid are meant to avoid the fraud and abuse that can occur in such programs. And that is an effort I endorse. However, I argue that we cannot and should not punish those who are providing needed services to needy populations just because of a few bad apples. In addition, most of the schools which are guilty of fraud and abuse of the financial aid system have already gone out of business and the few that remain will be put out of business by reforms already enacted.

Others argue that short-term programs generally have high default rates. While this may be true, Mr. President, I have found that the default rates of various technical colleges are equally high. This may suggest that the default rates are a result of the population these schools are serving rather than the schools. Also, I need to again point out that the existing reforms regarding excessive default rates, in addition to the more stringent measures in this bill will substantially address the issues of willful fraud and abuse. If a school has a default rate in excess of 25 percent, they are not eligible for Federal financial aid. Before we totally turn our backs on these types of programs, we ought to make sure that we have addressed the myriad of problems in the collection process itself and that States have enforced stringent licensing and regulatory requirements. If there is anything short of denying aid to students of these programs, I think that ought to be pursued.

Mr. President, I simply ask that this issue be more fully explored by the House of Representatives and the conference committee on this legislation. The reality is that we do need truck drivers and beauticians. We need clerical workers and travel agents, welders, and air-conditioning repairpersons. We need food service and hospitality personnel and airline technicians. Mr. President, I think we need to fund short-term programs in a manner that assures integrity and sound financial management, but also ensures access to these programs by low-income students. I look forward to working with my colleagues to strike that balance.

PARTNERSHIP FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

Mr. KOHL. Mr. President, I rise briefly to thank my colleagues for the partnership for economic development and urban community services provisions included in this bill.

The grants awarded through this program will enable institutions to become stronger partners in community planning and strategy implementation.

Particularly for those universities in inner city urban areas, crime has become a serious threat. Often it is a mirror of more enigmatic problems of poverty, unemployment, and substance abuse. Increasingly, colleges and universities are seeking to become part of the solution to those problems, offering their resources to the community in an effort to protect their mutual interests. This grant program will help them in that effort.

Last October, Jim Sankovtiz, vice president for governmental and community affairs at Marquette University testified before the House Committee on Banking, Finance, and Urban Affairs. His statement, which follows my remarks, speaks eloquently of the challenges facing college campuses in metropolitan areas.

Rev. Albert J. DiUlio, president of Marquette, has gone beyond the simplistic response of increasing campus security. He has sought not to build a wall around the university, but to tear down the walls within the community. He has gone out to the Milwaukee business and political communities, committed the university to millions of dollars in community rehabilitation and redevelopment and has been joined by several corporations in his quest.

The community partnership provisions in the higher education reauthorization provide an opportunity for Federal support of Marquette's efforts in Milwaukee. I want to thank my colleague from Oregon, Senator HATFIELD, for his vision and leadership in this regard. I look forward to working with him and others to secure this authorization and to vigorously pursue funding for the grant program.

I ask unanimous consent that Jim Sankovitz's testimony, a summary of the Marquette plan, as well as the texts of the Milwaukee Journal and Sentinel editorials and articles 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:

TESTIMONY OF JAMES L. SANKOVITZ, VICE PRESIDENT FOR GOVERNMENTAL AND COMMUNITY AFFAIRS, MARQUETTE UNIVERSITY, OCTOBER 28, 1991

Mr. Chairman and Members of the Subcommittee. My name is James L. Sankovitz, vice president for governmental and community affairs at Marquette University, in Milwaukee, WI. I appreciate very much your invitation to testify before you this morning on the topic of the future of this Nation's

urban institutions of higher education. I am particularly pleased to participate with representatives of UAB, for which we have a great deal of respect and which we believe shares a mutual concern for the type of campus we jointly represent. Whether state supported or independently-sponsored, the collegiate campuses located in urban settings throughout this Nation face unusually complicated futures not because of their fundamental mission, but for reasons of location and metropolitan expectations.

Marquette's involvement in this hearing and in similar meetings and discussions the past several months is a direct result of our seeking Congressional attention for the future of campuses facing unusual challenges because of their physical environment and academic mission. A snapshot description of urban campuses would include, in most cases, fairly large to quite sizable enterprises carrying on a widely ranging variety of campus as well as community-related activities, providing services to a host of agencies and populations much more diverse than most collegiate campuses. At the same time, most of these institutions are surrounded by neighborhoods which not only relate to the business of metropolitan centers but also are physically much in decline. Marquette is located in a typical setting. It has some not well-defined boundaries that spill over into pockets of socially and economically needy people, the majority of whom need help because they are relatively poor, represent the very young or much older populations more so than do their suburban counterparts, and contain dense concentrations of minority citizens. It is a downtown campus.

It is in these typical settings that colleges and universities have come to be regarded as holding the potential to offer more social service and community interaction than do campuses located in more remote and stable environments. So, it comes as no surprise that campuses such as Alabama-Birmingham and Marquette often—and with increasing frequency—are called upon to focus more activity, resources and ambition on the surrounding reality. In precious few instances can this practice of higher education be described as an ivy-clad exercise. The fundamental mission of higher education of these campuses is every bit as much focused on teaching, scholarly investigation and institutional service as are other campuses not as intensely conscious of the surrounding community, but the urban campus routinely caters to the immediate and practical issues that dictate day-to-day life.

A quick way to illustrate this somewhat different mission is to cite a very positive factor. Most medical centers thrive in urban settings because a related good is adequate patient access. That is true for Alabama-Birmingham's medical activities as it is for Marquette's dental program, particularly as both operate extensive clinical programs.

However, while such outreach and natural relationships of campus to community have thrived in some education and health care delivery contexts, the same is not so abundantly true for other academic disciplines. Would the same be so for our sociologists, linguists, philosophers, physical scientists and the like—those teachers and students who, by the very nature of their pursuits, often educate or are educated in some isolation from what is happening just across the street from the campus boundary—many of the rigors of life might be addressed much more directly in the Academy's search for new knowledge and better applications.

We have known about the somewhat different conditions facing urban campuses for years and there has been substantial progress made in knitting campus potential to community needs. But the recent acceleration of decay and deterioration in our Nation's central cities prompts a very testy question. Where will the students of tomorrow elect to enroll?

Higher education has survived despite a spate of advice by well-meaning but often poorly-informed publications which annually proclaim what's the "best buy" or the "leading" or the "most stable" campus for next year's wave of new enrollees. Now, in place of the "which is best" advisements has come a different sort of counsel—what's the "safest" place?

The deterioration I mentioned as a common ingredient of the neighborhoods surrounding urban campuses often means, simply, crime infestation, drug culture, physical and financial collapse, and one set of people often preying on another set. Thus it is that urban campuses have had to create yet another service—police units, sometimes called public safety or security forces. This should not come as a surprise. After all, the collegiate campus once firmly rooted in teaching or research has, over time, come to also operate hotels, restaurants, banks, athletic facilities, consulting tanks, etc. Adding a police force isn't that much of a stretch once the pattern was established. And, students and their parents have come to expect security provisions just as much as well-equipped classrooms.

But, at what cost? Marquette employs about six dozen public safety personnel to look after the security of an 80 acre campus abutting downtown Milwaukee, at an annual operating cost of $1.5 million. That might strike some people as not a great deal of money to promise safety, especially in an annual operating budget of $135 million (which is small when compared to the scope of Alabama-Birmingham) but what would that amount buy in terms of traditional campus expenditures? About 25,000 new library books a year, or about 165 undergraduate tuitions at our present tuition rate of $9,000, or some 30 professional lines—hardly trifling for a tuition and gift-dependent campus. But, we have no alternative.

The passage last year of the Student-Right-to-Know and Campus Security Act now requires campuses to report crime. When you have a campus through which the City's downtown streets run and for which there are more nearby off-campus housing quarters than there are on campus, the crime statistics reporting systems are much more telling reports for the non-campus environment and neighborhoods than they are for the campus itself. But it is the campus that bears the brunt of defending the notoriety of incidents, especially when prospective enrollment is at stake.

Crime can happen anywhere. It was a tragic coincidence that a deranged serial murderer chose to exercise his lot close to the Marquette campus last summer, thus calling to unforgetting minds the five separate killings of Marquette students in off-campus incidents the previous six years. The Marquette campus is no less safe now than it was before that awful history, but the relationship of the University to the cruel consequences of life nearby will taint descriptions of Marquette for a long time.

These incidents have caused a reasonable longrange planning question. That is, can Marquette and the campuses like it continue to do business as usual, living side-by-side with some unattractive neighborhoods and still reach out into the community to share its educational mission with the community in general, or should it wall itself off from life?

Marquette, like a good number of other urban campuses nationwide, persists in the ambition that reaching out, sharing even more of its educational resources with the surrounding community, is the better course. We have our critics, though, who say our future is dictated by creating distance between campus and city.

There is already a goodly amount of campus/community involvement. Our students tutor youngsters in nearby schools. Our health science units daily obtain educational good from practice in clinics throughout the city. Internships provide valuable real life experience for students. Engineers create tot lots for neighborhoods and volunteer for Habitat for Humanity projects. For more intensive and lifelong experiences, students travel to Appalachia to lend healthy hands and in the intervening months collect and deliver food and clothing for daily assistance to needy neighbors.

These are not unusual examples. Most campuses operate at least some of these activities; perhaps not in as concentrated doses as might occur on the urban campus but they are there nonetheless.

The major point is, given the threatened and threatening circumstances of urban, central city neighborhoods, collegiate campuses will be asked to take on even more responsibilities in the future. And, at a time when the resources of even the most financially secure colleges and universities are stretched to the fullest, it will be much more difficult for most to do a great deal more.

What would we do if there were more resources? A few examples should suffice. We have a good legal clinic that serves the needs of citizens looking for help but can't afford regular legal advice. Put those students and faculty in neighborhood storefronts, rather than operate them on a campus that many individuals find confusing. Let the journalism students create neighborhood papers or have them turn their creativity toward local cable television opportunities to staff a neighborhood, dedicated channel. Attack the absentee landlord syndrome by creating new housing value and providing walk-to-work incentives that lead to new neighborhood investment. Put education faculty regularly and routinely in the neighborhood schools and create a regular flow of elementary, middle and high school students and teachers between the schools and the collegiate campuses. Build cogenerational housing so that one age group—old or young—doesn't suffer isolation, but builds understanding. Build better links between and among security forces and local police departments so that the much-bandied concept of "community-based policing" can have real experiment locales to perfect eradication of the "cops versus us" mentalities that sour many neighborhoods.

The list of possibilities is endless and each component is not necessarily a funding blockbuster.

These are the kinds of interactions which the federal government had in mind when the original Title XI language was added to the Higher Education Act more than a decade ago. But that became words only when the intent was not deemed sufficiently important to attract appropriations. The lack of funding for Title XI is nothing short of the adage—do as I say, not as I do.

Our message this morning is quite simple. Members of Congress are fully aware of the pressures mounting on central and inner

cities and most Members want to do something about the situation before it becomes a crisis without solution. But, time is running and Members ought to consider that not only will urban neighborhoods fail completely if no substantial relief is provided, but the urban colleges and universities that are part and parcel of this evolution just may go the same way—at least those campuses which strive to be part of the solution and not place moats around them, to separate education from the realities of life.

The early drafts of the House reauthorization of the Higher Education Act have shifted the standalone Title XI ambitions into a new, comprehensive Title I, separating the campus/community ambitions into a set of objectives which appear to contain less ambitious expectations. It would be a shame if, when there finally is growing appreciation for the unusual characteristics of urban campuses, the Congress would send a message that less significant achievement is desired.

Perhaps the Higher Education Act alone is not the appropriate route to address the urban campus problems. Perhaps it will require a meshing of ambitions as between several federal agencies, not just Education. Perhaps a consolidation of effort, if not jurisdiction, as between Education, HUD, Banking and Urban Affairs and the various research agencies is the only reasonable way to get at this problem. If that's so, so be it. The federal government has not been lacking in solving problems when there is a concerted push to solve a problem. I am prejudiced, no question. But, in my mind the shrill cry of police sirens in our neighborhoods is no less a clarion cry than Sputnik's "beep beep" of the late fifties, and we all know how the nation rallied to that threat.

The mechanics should be no problem. The problem is this: Are the urban campuses worthy of concentrated attention and funding? Are they today's counterpart to the historic land grant initiative? Do they deserve the attention given similarly to the sea grant institution ambitions? Does the Congress realize that urban campuses hold a powerful promise for solutions to the inner city problems that beset metropolitan communities throughout the nation?

Critics of what Marquette has proposed are in ample supply. We have asked to become a demonstration project campus, to use $4 million of federal funding annually over five years to build a program of urban problem-solving using a collegiate campus as the central focus and the neighborhood and downtown as equal beneficiaries. We set the dollar goal high deliberately but in accordance with what we thought was needed to create an incentive which could be used to attract and leverage the partnerships of other entities, public and private.

More recently the criticism has turned toward the exclusivity of what we sought, some people thinking it would be unseemly for just one campus to have an opportunity to address what is a national problem. If that objection is an obstacle, consider doing the same at a variety of urban campus locations and make the experiment a truly national effort. If there are ways that campus and community can be knit beneficially in Milwaukee, why not try the same approaches in, say, Watts, Chicago, Birmingham, Boston, Morningside Heights or any other urban location that has at least one urban campus that is willing to join a network of collegiate ambitions to test the usefulness of amending their educational missions to address globally the local urban problems. But, make it a legitimate process. Gather together those colleges and universities with the ability and desire to mount special urban programs, judge what are the reputable methods of such concentrations of problem-solving and create the score card that Congress will demand as part of the price to undertake the effort. If something tried in Birmingham was a splendid success but flopped terribly in Milwaukee, why? If something tried in Boston attracted matching private support and didn't in Los Angeles, again, why? If the City of New Orleans benefited from the approach in which Providence failed, again, why?

Marquette is not only eager to make the urban issues as related to higher education a quest of its own, but it is just as eager to rally others—cities and campuses—to do the same. We do that knowing full well that there have been cities, campuses and associations of like communities and institutions that have labored long and hard to create just such a Congressional sensitivity, but with less than widespread success. Perhaps our major contribution is nothing more than a fresh voice. But we'd like one thing to be known—it's high time that the urban campus obtain justified respect for what it's about and for the magnitude of what remains to be done.

We appreciate very much your invitation to express these thoughts at this hearing and hope that you will accept our contention that the Congress should address urban education more forcefully in the future as a genuinely, national issue.

PORTRAIT: A CAMPUS BATTLES TO RID ITS NEIGHBORHOOD OF CRIME

(By Katherine S. Mangan)

The Rev. Albert J. DiUlio had been president of Marquette University for only a year when reports emerged that a serial killer living within a mile of the campus had confessed to murdering and dismembering 17 men.

As fear spread through Milwaukee, Father DiUlio was determined not to allow a siege mentality to take over the campus. The murders by Jeffrey L. Dahmer, like the off-campus killings of five Marquette students over the last six years, were to Father DiUlio tragic reminders of the need to reach out to the community, not to build more walls.

So instead of pouring more money into campus security, Father DiUlio forged ahead with his ambitious proposal, called the "Marquette Plan," to help rid the declining neighborhood of crime. "I do not think walling the campus is an appropriate response for a major university," Father DiUlio says. "It reinforces the concept of universities as ivory towers." Universities that reap the benefits of urban settings have a responsibility to help communities address their problems, he believes.

LEADING ROLE IN CRIME FIGHT

The Marquette Plan calls for the 127-year-old Jesuit university to play a leading role in combating some of the root causes of crime in Milwaukee. The university would work to stimulate economic growth, refurbish dilapidated housing, and offer a wide range of social services, including legal assistance, drug and alcohol counseling, and dropout-prevention programs. Zoning laws would be reassessed to encourage long-term residence by existing community members as well as by Marquette faculty and staff members.

Marquette officials have asked the federal government for $4 million a year for the next five years to make the plan a reality. Campus officials acknowledge that their budget request may encounter resistance, and they say they're ready to turn to private sources for funds if need be.

The Milwaukee Journal, in an editorial last spring, called the Marquette Plan a welcome change for a university that had been viewed as detached from the community. "Aloofness has been an unfortunate part of Marquette's image," the editorial stated. "Often a psychological moat seemed to circle the campus—an impression deepened three years ago by the callousness that the university appeared to display toward permanent residents of the downtown YMCA when MU took over the facility for student housing."

Urban universities will have a difficult time attracting students if they cannot offer reasonable assurances that their campuses are safe, says Father DiUlio. But such assurances, he says, aren't enough.

"I believe that rather than simply informing students about rising crime rates on and near their campuses, urban universities should utilize their significant academic, human, and financial resources, in partnership with their communities, to actually reduce those rates." Father DiUlio told members of Congress during a hearing in August. "The Marquette Plan will bring students, faculty, and staff together with members of our neighborhood community in a coordinated effort to address not only the issue of crime on and near our campus, but also the root causes of that crime."

While many urban institutions have taken steps to try to improve the neighborhoods around their campuses. Marquette's plan is one of the most for reaching. "It's a very ambitious and very impressive project," says Jim Harrison, president of the Association of Urban Universities. While other urban universities have launched community-development projects. "I don't know any others that are quite this ambitious," he adds.

SEAT ON POLICE PANEL

Father DiUlio's interest in reducing crime in Milwaukee promoted the city's mayor, John O. Norquest, to ask him to head a panel last summer to study relations between the city's police department and its citizens. The commission, which reported its findings last month, grew out of anger over the way the police had handled the Dahmer case. Before Mr. Dahmer was arrested, police responded to a complaint about a disturbance at his apartment but left the area after Mr. Dahmer told them that he and a young Laotian man were homosexual lovers. Mr. Dahmer has since admitted murdering the Laotian youth.

Many critics charged that the case was indicative of the police department's tendency to ignore or minimize crimes when the victims are members of minority groups.

Among other things, the panel urged police to treat all citizens with respect and dignity, regardless of their race or sexual preference. It also called on police to make more of an effort to get to know the neighborhoods they patrol. The commission reviewed thousands of pages of testimony and transcripts from public hearings and private meetings before issuing its findings.

Playing a key role on the panel reinforced Father DiUlio's philosophy that urban universities cannot seal themselves off. He says he hopes the Marquette Plan could serve as a national model for other urban institutions in that regard.

"The Marquette Plan says a lot about urban universities in America today," says Father DiUlio, "It's taking the best that

both cities and universities have and putting them together to solve problems."

CAMPUS CIRCLE PROJECT

(1) What is the Campus Circle Project?

Campus Circle is a dynamic, comprehensive approach to meeting the challenges of our urban environment. In addition to the Marquette Neighborhood Partnership Plan, it seeks to provide:

Affordable Family Housing for neighborhood residents through rehabing existing housing and new construction

Walk-to-work and retirement housing for area employees

Off-campus student housing, both rehab and new

Acquisition, rehab and resale of properties which do not contribute to a positive neighborhood environment

Commercial development, both upgraded and new

(2) How will it work?

We will develop a Not-For-Profit corporation to use grants and low-interest, long-term loans for housing and other related activities. For example, the Not-For-Profit could act as a general partner in an affordable housing effort. Such an approach would allow the corporation to attract entities like Wisconsin Energy or Sinai-Samaritan to join Marquette.

We will also establish a For-Profit corporation to use seed capital and conventional financing for commercial development such as new businesses in our community.

(3) Will the Campus Circle Project use Marquette operating funds?

The monies to fund this project will not come from operational or annual budget funds. Designated reserve funds and other assets will provide the seed capital for the project.

(4) How much will the Campus Circle Project cost?

The Board of Trustees has authorized up to $9 million from Marquette's investment resources to fund this project. In addition, investments by other businesses in the area could be leveraged to total more than $100 million for housing and commercial development of the life of the Project.

(5) Is the Campus Circle Project part of the Sasaki Master Plan?

No, Sasaki deals with educational facilities, recreation and parking on and around the campus. This is a neighborhood initiative. There will, however, be a coordinated effort between Sasaki and Campus Circle.

(6) What's the difference between the Marquette Neighborhood Partnership Plan and Campus Circle?

The Marquette Neighborhood Partnership Plan is the $20 million federal initiative announced this part summer. It is part of the Campus Circle Project, but does not include the two additional elements of housing and commercial ventures which will be undertaken by the Not-For-Profit and For-Profit corporations.

(7) If MU does not receive the $20 million dollars from the federal government, will the University still go ahead with the Campus Circle Project?

We will proceed with the For-Profit and Not-For-Profit corporations to establish housing and commercial projects. However, The Marquette Plan is a significant component in our neighborhood's success.

(8) Is MU going to purchase more land and expand the campus?

The two corporations may acquire land to achieve their goals, but the land will not be used to expand the campus.

(9) What effect will this have on the continuing crime problems in the surrounding area?

The Campus Circle Project is a long-term effort to get at the root causes of crime. Short-term solutions are being worked on with the Milwaukee Police Department and the City. Other short-term efforts will be announced in the near future.

(10) What is the goal for completion and sequence of events?

This project will begin immediately and it will be an ongoing effort. Our first tasks are to continue the community discussions, initiate partnerships with area businesses, develop the two corporations and establish priority projects.

(11) Who is in charge of directing the project?

Marquette has engaged Patrick LeSage, a principal in the Mooney LeSage Group, Brookfield, to direct the Campus Circle Project. Pat has extensive experience in real estate and land development and in forming public/private partnerships for economic and community development.

(12) How will we know the status of the project?

Watch the Marquette Tribune and News & Views. We may also have special communiques to announce new developments.

(13) Has the Campus Circle Project been reviewed and approved by the Trustees of Marquette University?

The Board of Trustees reviewed the plan at their December 4th meeting and gave their approval to proceed with the Campus Circle Project.

(14) How has Marquette worked with the City of Milwaukee on the Campus Circle Project?

Input and support from the Mayor's office and City Departments has been invaluable during the development of the Campus Circle Project. A close working relationship has been established and will continue through implementation.

(15) What is the economic impact of Marquette University on the City of Milwaukee?

The annual impact of the University and its related activities on the local economy totals over $360 million. Marquette has 11,500 students and employs approximately 2,000.

[From the Milwaukee Journal, Nov. 14, 1991]

STAY THE COURSE ON MARQUETTE SAFETY

A brawl gets out of hand, and two Marquette University students lie in hospital beds with knife wounds. This incident is tragic—but it is no reason for panic over safety on and near the MU campus. University officials have already developed a far-sighted game plan for improving campus security; they must stay the course.

The immediate case doesn't fit the pattern that has caused concern at MU in recent years; the spillage of neighborhood crime onto student life. The brawl was between college students and could have broken out near off-campus housing just about anywhere. Alcohol appears to have played a leading role on both sides. In short, blame student misbehavior, not neighborhood ills.

Still, the episode has heightened concern about student safety. In partial response, Marquette is seeking a change in state law to certify its security department as a police force, with the power to carry guns and to make arrests. In light of increased dangers, the request ought to be honored.

The enhanced might of safety officers would entail additional responsibility on MU's part, however. To help deal with the low-income, culturally diverse neighborhood that borders the campus, sensitivity training would be in order. Also, MU must ensure that its safety force is sufficiently racially integrated.

The city, too, has a role to play—a fact it apparently recognizes. In a gesture of concern, Mayor John Norquist strolled through the Marquette area the other day with Father Albert DiUlio, MU's president. MU wants the boundary of the Police Department's 1st District moved west, so that the campus won't be so split between two districts—a sensible request that Police Chief Philip Arreola wisely intends to honor.

Marquette has already mapped out a plan for improved safety, combining nuts-and-bolts security measures with visionary effort, to improve the neighborhood. The university mustn't be spooked into abandoning that promising route to true security.

[From the Milwaukee Journal, Dec. 11, 1991]

MU, FIRMS TO JOIN FORCES IN IMPROVING NEIGHBORHOOD

(By Fran Bauer and Marilyn Marchione)

Marquette University officials were expected to announce Wednesday that they will join forces with several corporations to redevelop the campus neighborhood in an effort to make both the school and the area safer.

According to sources, a new redevelopment corporation will be formed by Marquette and its business partners, including Catholic Knights Insurance Co., SinaiSamaritan Medical Center, Wisconsin Bell and Wisconsin Electric Power Co.

The corporations and Marquette will invest an estimated $20 million to revitalize the area, according to the plan, sources said.

The new redevelopment corporation will buy and rehabilitate deteriorated housing surrounding the campus as well as some taverns that have become trouble spots for students. Once rehabilitated, the properties would be operated by a new property management firm.

The plan will be done in stages and will involve the Avenues West area, bounded by Interstate 43 and 94, N. 27th St. and W. Highland Ave.

The Marquette campus is bounded by N. 11th and N. 17th Sts. and W. Clybourn and W. Wells Sts., and is generally bisected by W. Wisconsin Ave.

As part of its long-range planning, Marquette has discussed the possibility of eventually closing W. Wisconsin Ave., through the campus and seeking ways to tie the campus more directly to downtown Milwaukee.

The plan is aimed at helping to unify the campus and address security concerns that have mushroomed as the area has grown more impoverished and crime-ridden. In the past six years, five Marquette students have been killed off campus.

"It's an exciting approach to solving a crime problem," said one businessman who was briefed on the plans.

"Rather than building walls around the campus," Marquette wants to reach out to make the entire area safer, said the businessman, who requested anonymity.

"All urban campuses in America have a crime problem, and Marquette is going to take dramatic steps" to address it in Milwaukee, the businessman said.

Patrick LeSage, a real estate and development expert, has been hired by the university to work on the project.

"They've done their homework," the businessman said.

TIE-IN WITH FACILITIES STUDY

The plans will dovetail with a facilities study by the university.

In October, a Massachusetts consultant hired by Marquette, Sasaki Associates Inc., told the university's Executive Senate that the campus needed a sense of unity and a center, rather than being comprised of a series of disjointed buildings throughout a number of city blocks in the sprawling campus.

The consultant's plan involved studying building security, green space, accessibility of facilities and ways of restoring a sense of being on a campus. The campus needs entry points that are more readily identifiable, the consultant said.

Much of the housing and commercial rehabilitation work will be done by the First Wisconsin Community Investment Corp., an arm of the First Wisconsin National Bank that was formed in 1986.

First Wisconsin is currently redeveloping the former St. Anthony's Family Hospital, at N. 27th and W. Wells Sts., into county medical health facilities and shops.

First Wisconsin's development arm has rehabilitated some housing in the neighborhood for the Good Samaritan campus of the medical center and also is to renovate apartments on W. Wells St., between N. 29th and N. 32nd Sts., as part of an extensive plan to improve the near West Side.

UNIVERSITY APPLIED FOR GRANT

Mayor John O. Norquist's staff would not comment on Marquette's plans.

City Engineer John Erickson said Wednesday that he was aware that Marquette was studying facilities plans but said he hadn't been shown the plans that the university was set to announce.

"I know in the past they've been interested in improving pedestrian access across Wisconsin Ave.," he said.

In July, Marquette applied for a $20 million, five-year federal grant to develop a project to reduce violent crime and improve the lives of residents near its campus. Congress has yet to act on the bill that would award the grant.

[From the Milwaukee Sentinal, Dec. 13, 1991]

OPENING DOORS: MARQUETTE BRINGS HOPE TO WEST SIDE

Like longtime homeowners who, faced with a neighborhood on the skids, invest time and resources in turning things around, Marquette University has launched an ambitious plan to improve the quality of life on the West Side.

Whether intentionally or not, Marquette has taken its cue from successful neighborhood associations, not only in Milwaukee but around the country.

One of the first things these groups do is to re-introduce residents to one another and convince them of their mutual interests.

As part of Marquette's plan to reduce crime, improve housing and develop new businesses in the neighborhood around the campus, university officials have already recruited corporations that have complexes or offices in the area.

They include Wisconsin Bell, Catholic Knights Insurance Society, Wisconsin Energy Corp. and Aurora Health Care, which operates Sinai Samaritan Medical Center.

By also reaching out to residents, schools and smaller businessmen with the promise of a better environment in which to live and work, Marquette is wisely putting into place the human infrastructure that will help guarantee success for what is being called the Campus Circle project.

As University President Father Albert J. DiUlio said, "We do not live in isolation."

Recognizing that talk is cheap, Marquette is opening its own checkbook, pledging $9 million in reserve and development funds to the project. The school also is seeking contributions from corporations and foundations, in addition to its previously-announced quest for $20 million in federal money to fight crime and other neighborhood problems.

Among other things, the Campus Circle plan calls for developing new neighborhood businesses and improving existing ones; building new homes and repairing existing buildings to provide affordable family housing; and buying, repairing and selling properties that hurt the neighborhood, such as those ubiquitous drug houses.

Marquette, obviously, has an important stake in this project on a sad but very personal level. Five Marquette students have been killed in separate off-campus incidents in the past six years.

To its credit, however, Marquette realizes the best way to make its streets safe again is not to double-bolt doors, but to throw them open to new and imaginative ideas.

[From the Milwaukee Journal, Dec. 15, 1991]

FINE PARTNERSHIP TO RESCUE MU'S NEIGHBORHOOD

Few problems are as debilitating as crime; yet Marquette University is refusing to succumb. Instead, that institution has been brilliantly devising strategies for fighting back. The latest is the formation of a partnership with nearby institutions for the sake of revitalizing the neighborhood and making it safer.

The consortium's plans include turning deteriorated housing and crime nests into more livable space, encouraging neighborhood-oriented businesses to move in, and marketing housing to employes and retirees of the partner institutions.

The partners—the Wisconsin Energy Corp., Wisconsin Bell, Catholic Knights Insurance Co., and SinaiSamaritan Medical Center, as well as MU—wisely realize they can't wall themselves off from their poor neighborhood. The better course is to put the institutions' resources to work to improve the area.

It's a refreshing attitude for Marquette, which in the past was too aloof from its surroundings, seeming to look to its neighborhood only for the sake of campus expansion. This estrangement can be blamed in part for the present state of affairs, with neighborhood crime spilling onto student life. But it's not too late for corrective action.

By bringing their own present and retired workers back into the area, the new partners can help make it what a close-to-downtown neighborhood ought to be: a vibrant mix of all sorts of people, from low-income to well-to-do.

True, the institutions aren't chiefly responsible for the poverty that's now wreaking so much havoc. Outside forces, including lack of jobs, are mostly to blame. Still, Marquette is showing how major institutions can counter those forces to improve a neighborhood and help themselves at the same time.

Mr. DURENBERGER. Mr. President, I rise as we conclude this debate to commend my distinguished colleagues who have assembled this bill over the last 2 years, the chairmen and ranking members of the Senate Labor Committee and its Subcommittee on Education.

We have had our differences on several of the important issues raised by this legislation. But, drafting this bill, and bringing it to the floor, has been a bipartisan endeavor. We are all indebted to our colleagues for the hours and hours of hard work that has brought us to this concluding point in the debate.

I also rise to reflect briefly on the significance of what we are doing this legislation, and to place on the record concerns I have about several important issues in higher education in this country that must remain the focus of our attention.

As I have stated many times before, I entered this debate with some deep seated biases, as one who grew up in a higher education community, as the son of two teachers, as the parent of four sons now in—or recently graduated from—college, as a private college trustee, as a member of the committee that drafted this bill, and as a Senator from a State that cares more about education than any other public service.

That interest is reflected in the very thoughtful input on this legislation I've received from thousands of Minnesotans over the past 15 months.

In hearings, forums, letters, and meetings all over the State, I've heard from both the consumers and the providers of higher education in my State. And much of what I say here today about both the value and shortcomings of this legislation, Mr. President, come from the Minnesotans I represent.

This is a highly complex subject as our chairman and ranking members know so well. They've produced a 600-page bill that does everything from expanding library technology grants to improving the quality of teacher training.

Of course, the complex subject of student financial aid is at the very core of this legislation. And, I don't think any one of us would claim to be an expert in all the nuances of the cost of attendance or expected family contribution of congressional needs analysis or many of the details and fine-print crammed into the 600-page bill we have before us.

What I do know is that this legislation represents two important realities.

First, it's never before been more important to get a high quality college education in America. Our lifetime incomes as individuals are measurably higher if we do. And, our productivity and output as a nation are absolutely dependent on the quality of education we all receive.

And, second, Mr. President, it's never before been more evident that Americans especially middle-income Americans are deeply worried that their kids won't be able to afford the same level and quality of education that many of us received, just one generation ago.

There's been a lot of talk this week—in this Chamber and in this town—about messages being send and received all across America.

One of those messages, Mr. President, is a deep-seated fear that college is again in danger of becoming the sole province of the totally subsidized poor and those few wealthy Americans who need no subsidies at all.

Just 2 months ago, a new national survey found the rising cost of higher education to be the third greatest fear of American families behind only crime and drugs and ahead of health care.

We're doing a number of things in this legislation to help address that fear. We need to, and are, increasing the maximum size and income eligibility limits for Pell grants. We need to, and are, increasing the maximum loan limits for the Stafford Program, and for other federally guaranteed student loan programs authorized by this legislation. We need to, and are, strengthening specially targeted programs aimed at low-income, at risk, and minority students. I support all those improvements in this legislation, Mr. President, and I wish fiscal realities would allow us to do more.

No one in this chamber can deny the need to place a higher priority on financing access to higher education for those who have suffered most from its rising cost.

I also appreciate the efforts of the managers of this legislation to improve the Stafford and other guaranteed student loan programs that are at the core of our Nation's commitment to higher education. I especially appreciate the efforts to make the current loan programs simpler, easier to administer, and less likely to result in default.

Having pointed out all those positive features of this legislation, Mr. President, I must admit that I am still disappointed that we are facing a 21st-century set of problems with a 1960's and 1970's set of student loan programs.

That's why, during the course of this debate, I had hoped to join with the chairman of our committee, with my distinguished colleagues from Illinois and New Jersey, to introduce an amendment offering new and better IDEA for paying for college.

Although we were not able to offer that amendment in the context of this reauthorization, I am confident that we will make significant strides in advancing the concept of income contingent direct loans through a different legislative vehicle within the next few weeks.

The amendment we are working on is based on legislation I first introduced last summer called IDEA, authored in the House of Representatives by Representative TOM PETRI from Wisconsin.

My distinguished colleague from Illinois and I then expanded on the IDEA proposed in legislation we introduced last fall. Our amendment sets up a new student loan program that has two essential features;

College loans available to students directly from the government, eliminating millions of dollars in administrative expense and red tape, and payments base on post-college income made through the IRS, potentially eliminating millions of dollars in defaults and vastly simplifying how loans get collected.

I realize these changes represent a radical departure from our current system of student loans. That's why our amendment would gradually make the IDEA loan program available, initially limiting participation to students attending a specific number of institution.

And that's why our amendment would leave in place our other current loan programs, also leaving a place the current in-school interest subsidies that lower and moderate income students now qualify for.

But, the concerns and realities about both cost and access that I mentioned just a moment ago, Mr. President, require that we do more than patch up our present programs.

To be blunt, Mr. President, I do not believe that the 21st century challenge we face in higher education can be met only by our current 1960's era system of student grants and loans: A system that's unnecessary bureaucratic and complex; a system that largely neglects the needs of middle-income students and their families; a system that spends billions of dollars a year on overhead and redtape; a system that's vulnerable to administrative and financial problems best documented by last year's collapse of the Higher Education Assistance Foundation [HEAF]; a system that's limiting institutional, career and family-related choices for a growing number of students, and a system that's burdening millions of students with inflexible loan payments and a growing level of debt that produced $3.9 billion in student loan defaults last year.

We can, and we must, do better. And, I'm looking forward to working with my colleagues in the Finance Committee to make sure we authorize and new direct income-contingent loan program in this session of Congress.

On a second issue I care deeply about, Mr. President, I am pleased, that we were able to reach agreement on my amendment to offer greater incentives and rewards for academic excellence, especially on the part of lower income students, through a merit-based $1,000 bonus scholarship for high achieving Pell grant recipients.

The $100 million authorization for excellence scholarships sends a strong signal to all Americans that we value outstanding academic achievement and we value sound preparation for college. I appreciate the chairman's willingness to accept my amendment, and I appreciate his commitment to not only expanding access to higher education for low-income students, but for also encouraging and rewarding academic excellence.

I'm also pleased, Mr. President, that we were able to reach agreement on the amendment I joined in cosponsoring with my colleague from Minnesota, Senator WELLSTONE. This amendment will protect the special case of 2-year medical programs in this country. Although there are not very many of these schools, the ones in existence provide a crucial service to the communities which their graduates serve.

One such program resides in Duluth, MN, at the Duluth campus of the University of Minnesota [UMD]. This unique medical school is making an exceptional effort to address the problem of the growing shortages of primary care doctors by specifically recruiting students who have demonstrated or expressed a special interest in family practice. The faculty at the Duluth campus is also carefully chosen for their emphasis on primary care. The 2-year program at UMD is designed as a preparatory program for students who will go on and finish medical school at the University of Minnesota.

Although the University of Minnesota also places an emphasis on rural and primary practice, students who attend the program at Duluth are even more likely to go into rural family medicine than their counterparts at the University of Minnesota; 56 percent of UMD students go into primary care medicine while 24.6 percent of University of Minnesota students eventually work in family practices. This compares to a national average of 7–8 percent of medical school students entering primary care. As these figures demonstrate, the 2-year program at Duluth is an invaluable source of primary care and rural practitioners in the State.

In the past, the Public health Service Act has supported this program and others like it. This year's reauthorization however, does not include money for these programs. The amendment at hand will reauthorize $316,203 for the continuation of this worthwhile program and others like it.

As a Minnesota representative, I am proud of the many valuable contributions my State has made to the medical community in general and especially to the problem of primary care shortages. Although Minnesota has large rural regions, many States can benefit from our unique efforts to attract and retain young primary care and rural doctors.

Finally, Mr. President, let me take a few moments to briefly discuss four important issues that I believe need to remain at the forefront of this Nation's higher education agenda, especially as we prepare to enter the 21st century. The first of those issues is making sure that we recognize and support the growing role of telecommunications technology in delivering college-level courses. That recognition is reflected, in part in the definition of correspondence schools included in the committee

substitute that excludes otherwise eligible institutions that offer associate, bachelors and graduate degrees from eligibility prohibitions otherwise placed on correspondence schools. And, I wholeheartedly associate myself with the colloquy on this subject entered into by our distinguished colleagues from Massachusetts and Oregon regarding a commitment to support current House language on courses delivered via telecommunications technology when this legislation goes to conference.

Leading educators in my own State of Minnesota have convinced me that the delivery of higher education is rapidly changing. I experienced that trend myself last year through a teleconference on student financial aid I conducted with students and financial aid directors from a dozen different schools.

We need to make sure the Federal financial aid programs keep up with and don't discourage those changes. And, we need to be particularly aware of the potential that new forms of telecommunications technology have for maintaining and improving access to quality education in rural areas and for an increasingly diverse student population that is more likely to have competing demands on their time at home and at work.

I believe a good principle to follow in meeting that challenge would be that our job is to make sure that financial aid goes to eligible students, eligible programs and eligible institutions. Outcomes ought to be used in determining the eligibility of programs and institutions. And, if those outcomes are being met, the method by which courses are offered shouldn't matter.

Second, we must continue to monitor the rising cost of educating and training physicians in this country, and make sure that the loss of interest deferment for medical students included in this bill does not discourage bright young Americans from choosing a career in primary care or rural medicine.

Again, I appreciate the changes made in the committee substitute that allow forebearance on both principal and interest payments to continue through the entire length of a medical residency. And, I believe that allowing HEAF loans to be included in loan consolidation will make debt management and cash flow much less onerous for individuals making the transition from relatively low paying residencies to higher paying practices once those residencies are completed.

But, obviously the loss of interest deferment during the first 2 years of a medical residency remains a serious concern to medical students. And, I believe we need to carefully monitor the impact of the loss of that interest subsidy on our ability to attract bright students to medicine—our ability to attract low income and minority students to medical schools, and especially our ability to attract students willing to serve in lower paying parts of the medical profession including primary care and rural practice.

A third important concern to me, Mr. President, is to make sure that Federal policy encourages growing private-sector support for scholarships, especially through community-based initiatives like the Dollars for Scholars Program based in my own State of Minnesota.

I am not one to urge a major new Federal bureaucracy designed to encourage programs of this nature which are now raising thousands of dollars in scholarships for students in more than 100 Minnesota communities. But, I believe it would be a good investment for the U.S. Department of Education to include encouragement and promotion of programs like Dollars for Scholars as part of a larger effort to expand private-sector support for scholarships that assist categories of students now underrepresented in higher education.

One final issue, Mr. President, involves the need to place much greater emphasis on quality, outcomes, and accountability in higher education. We can, and we must, be placing a higher priority as a nation on assuring broad and equal access to colleges and to other forms of higher education. But, we must also pay much more attention to what we get from a college education as customers and consumers of a product that must be of ever increasing quality and ever higher value.

My interest in quality, outcomes, and accountability in higher education, Mr. President, stems partly from my work on income-contingent loan repayment and the IDEA loan proposal that Senator SIMON and I introduced last fall. And, my interest in quality, outcomes and accountability in higher education also stems partly from the experience I've had over the last 15 years in working to fundamentally change another important public service that's in serious trouble.

Like health care, the cost of higher education in America is partly a function of demand and it's partly a function of who's responsible for paying the bills.

And, one of the most serious concerns I've heard expressed about my IDEA proposal is that, if we make it easier and less painful to pay for higher education, we'll see even more rapid increases in the cost of higher education in the future.

All of us need to be worrying more about things like cost and quality and appropriate placement and outcomes in higher education.

We do need to make higher education more accessible for every American student. And, we do need to be accommodating the changing nature of the student population and the growing importance of getting an education beyond high school and then throughout life. But, I also don't think we can indefinitely sustain a system that pays as little attention to costs and quality and outcomes as does higher education in America in the 1990's. Those of us paying the bills, both as individuals and collectively as a society, need to be asking hard questions. How can or should institutions that are eligible for Federal student aid programs be held accountable?

And, what criteria should be used? Graduation rates? Job placement rates? Job satisfaction levels? Average incomes of graduates 5 or 10 years after they leave school? And, on the other end of a college education, what should be done to better prepare students for college before they enter? Where should responsibility for that job lie? Should there be tougher entrance requirements for college, especially if society as a whole will be paying a larger part of the bill? None of these questions are easy to answer. But, they do have to be asked. All of us—as parents, students, employers—need to be putting more of our individual and collective resources into higher education in the future.

But, we also must insist even with a better IDEA for paying for college that we're getting good value for every dollar that we put in. The Federal Government has a role to play in achieving that goal. We made a start in that direction through the sections of S. 1150 that require the Secretary of Education to propose new and tougher performance standards for higher education institutions as a condition of eligibility for Federal student aid.

I also believe it would be wise to require that information on how colleges compare in meeting those standards and improving their performance be made widely available to prospective students, parents, and employers. I intend to monitor this new assignment we have given the Secretary closely, Mr. President. And, look forward to being actively involved in reviewing and implementing his recommendations once they come back to the Congress for our approval.

In addition, Mr. President, I believe we can look to the States for good ideas on how to add more accountability to the customers of higher education be they students, parent, or employers. One outstanding example of State leadership in this field is represented in the work of a task force in Minnesota appointed by Gov. Arne Carlson and chaired by Connie Levi, a distinguished former majority leader in the Minnesota Legislature and now president of the Minneapolis Area Chamber of Commerce. The Levi Commission made serving and responding to customers one of its highest recommended goals for Minnesota's system of higher education. Mr. President, I ask unanimous consent that a sum-

mary of the Levi Commission's recommendations be printed in their entirety at the conclusion of my remarks.

Mr. President, let me conclude by again recognizing the outstanding contributions made by the managers of this important piece of legislation over the past 2 years. We have made an impressive start in advancing the important contributions of higher education in this country. We also have much more yet to do.

Thank you, Mr. President. I yield the floor.

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

AT THE CROSSROADS: HIGHER EDUCATION IN MINNESOTA

(A Report of the Commission on Post-Secondary Education, January 1992)

EXECUTIVE SUMMARY

Six months ago, Governor Arne H. Carlson called together the Commission on Post-Secondary Education, chaired by Connie Levi. He charged the 20 commission members to review current resources, determine future needs and plan an integrated, efficient and effective system of post-secondary education. He further suggested that we look at issues of quality, accessibility and affordability.

To guide our thinking, we developed the following vision:

To be a world leader in high quality post-secondary education programs for the intellectual and economic advancement of the customer and all the citizens of Minnesota.

The Commission held eight meetings and members visited more than 70 campuses, where we talked to students, educators, policy makers and citizens.

Our Findings

Minnesota has a good post-secondary education system, one that has served us well in the past. But it needs significant changes if it is to continue to help us maintain our competitive advantage. This good system must become better.

Minnesota's economic survival depends on a well-educated work force, as does its quality of life.

In the future, higher education will be expected to better meet the needs of its customers with the same or fewer resources. To meet this challenge, the higher education system will need to contain costs and increase productivity.

Basic assumptions about the way higher education is structured, administered and delivered need to be re-examined. To live within its budget, higher education must focus its efforts and resources on its primary mission.

Our Recommendations

We have organized our recommendations into five areas: 1) Serving the Needs of the Customer, 2) Providing And Promoting Quality, 3) Redefining Access, 4) Leveraging Change through Funding and Other Policies and 5) Clarifying Missions and Creating Structures to Enhance Quality, Access and Customer Needs.

SERVING THE NEEDS OF THE CUSTOMER

Post-secondary education must focus on the needs of its customers, including students, employers and society as a whole. This is a revolutionary concept, because it implies that those who best know what is needed are not the providers, but the users of the products and services. Traditionally, administrators, faculty and others within the system have determined the needs. Looking at every function and process within higher education as being driven by the needs of its customers will profoundly change the way higher education defines and goes about its business.

We recommend

Each system and each campus should define its major internal and external customers, actively seek their input and design educational services and processes that meet their needs. Systems should report on these efforts to the 1993 Legislature.

The Governor should include, in his 1994-1995 biennial budget, funds to support a Minnesota Quality in Education Award similar to the national Malcolm Baldrige Award.

PROMOTING AND PROVIDING QUALITY

Quality should be determined by the customer and be stated in customer outcomes. It should not be defined by inputs, nor equated with additional dollars. Quality is not exclusivity—an open door institution can provide a quality education. Quality should be viewed not as a destination, but as a journey.

Definable outcomes should be used to measure progress. These outcomes should be based on world-class standards or benchmarks, focusing primarily on student knowledge and skills. Higher graduation rates, improved retention of students of color and higher rates of job placement are examples of possible state goals. Customer views and expectations can help to determine these goals.

We recommend

Each system, campus and program should develop quality indicators that are measurable, customer-defined and stated as outcomes. Each public system should develop the indicators by Fall 1993 and ways to assess their attainment by Fall 1994.

Development and implementation of these plans should be linked to future resource allocations. The Higher Education Coordinating Board (HECB) should review and comment on the indicators and plan for assessment and report to the Legislature before any incentive or performance funds are allocated.

Policy makers should articulate state goals for post-secondary education and direct the systems to find ways to measure and report progress toward them.

A sample of alumni and employers should be surveyed to assess the degree to which they are satisfied with the quality of their education. The survey should be designed by HECB, in cooperation with the systems. Survey results should be reported to the Governor, Legislature and the citizens of Minnesota biennially. This information also should be available to prospective students.

The HECB's program review process should require campuses to identify their customers and develop outcomes and indicators of attainment.

REDEFINING ACCESS

There are several kinds of access beyond geographic access. We also are concerned with psychological access; access to programs that meet the special needs of students, and logistical access to programs that meet the needs of the consumers and enable them to complete those programs as quickly as they are able. Financial access is also of concern. Cost-containment strategies are necessary if the dream of higher education is to remain within the economic reach of all Minnesotans.

We recommend

Financial access should be maintained with cost containment strategies, tuition levels and financial aid that will keep post-secondary education affordable for students and their parents.

Cultural access should be improved with policies and practices that help under-served populations feel at home and be successful.

Student choice should be maintained and expanded. Important options such as the private college system and reciprocity agreements with other states should be maintained. Additional choice through interstate telecommunications should be explored.

A telecommunications master plan that takes a regional approach should be developed. Planning should be coordinated by the HECB to expand and redefine geographic access through telecommunications, making efficient use of resources and coordinated planning.

Until a facilities utilization survey is completed, no new campuses or buildings should be constructed. As access is redefined, the need for additional bricks and mortar will diminish.

Campuses should remove barriers to timely completion of programs. An annual report on progress in this area should be made to students and policy makers.

LEVERAGING CHANGE THROUGH FUNDING AND OTHER POLICIES

The way resources are allocated sends a powerful message about what is valued and what will be awarded. If the goal is high-quality, accessible post-secondary education that meets the needs of the customer as efficiently as possible, then a funding formula should be devised to encourage those goals and outcomes. Other state and system policies also should encourage and reward quality and performance.

We recommend

The Governor should recommend and Legislature should allocate funds to conduct a policy audit to see if state policies are working.

The Task Force on Future Funding should develop a formula that is not based solely on enrollment. The formula should include performance and incentive funds that will reward quality outcomes and encourages innovation.

All systems should develop admission policies that encourages and reward preparation and achievement. We endorse the preparation standards developed by the University of Minnesota and the State University System as a first step. The two-year systems also should develop and publicize a set of preparation recommendations. Students meeting the preparation standards or recommendations should be granted a tuition reduction as an incentive for planning and working hard in high school.

Remedial or development education should be offered only at the two-year institutions. No college credit should be given for any remedial or development course. The cost of remedial education for recent high school graduates should not be paid with post-secondary funds. The K-12 system should provide the remediation or be charged for those costs.

Financial aid should have a component for performance as well as need, while recognizing the special needs of various groups of students. Some scholarships should be based upon academic performance or demonstrated improvement in performance.

High school graduation standards now being developed by the State Board of Edu-

cation should be more rigorous than the current standards. The 80 percent of all high school graduates who will enroll in post-secondary education courses should graduate with the knowledge and skills needed to successfully complete college-level work.

Cooperative partnerships between K-12 and post-secondary education should be developed. HECB and the Department of Education should develop a plan and process to improve communication between all levels of education.

The HECB's Parent and 8th Grade Information Campaigns should continue so secondary students, their parents and the high schools understand both the academic and financial expectations and ways to achieve them.

CLARIFYING THE MISSIONS AND CREATING A STRUCTURE TO ENHANCE QUALITY, ACCESS AND MEETING THE CUSTOMER'S NEEDS

Mission: We cannot overstate the need for clear and clearly differentiated mission statements. Individual campuses should have mission statements that recognize the unique needs of the area served and the strengths of the campus within the overall mission of its system.

Campuses must know who their customers are and what needs they must meet. No campus can or should be expected to meet all the educational needs of the citizens of Minnesota.

We recommend

The directive of the 1991 Legislature requiring systems to eliminate programs not within their mission should be retained and enforced.

Campus mission statements should be developed that allow and encourage quality-driven niches of excellence within the overall mission of the system.

Structure: Like funding, structure is a means to the goals of quality ad access. It is not an end in itself. We think a structure should encourage innovation, meet customer needs and allow for decision-making at the lowest level possible while not losing sight of the state's needs.

We suggest dividing the state into higher education regions, similar to the economic development regions. Each region would have a combination of institutions from technical to baccalaureate, and students would be better served by a better-coordinated array of curricular offerings and services. Institutions could become more efficient by sharing staff and support services. Most important, unique quality-driven niches or centers of excellence could be created in each region, based upon the strengths of the campuses with the region, regional needs or needs identified by the state.

Governance for all public institutions except the University of Minnesota could shift to a central state authority. That body would have responsibility for making overall policy, selecting senior administrative staff, making resources allocations, collecting data and evaluating the quality outcomes.

The governing body must be committed to combining centralized governance with decentralized management. It must insist on setting high standards, but resist trying to standardize what institutions do. In an era of scarce resources, the governing board must assure that there are rewards for higher productivity.

We recommend

The HECB, in consultation with the Higher Education Advisory Council, should develop a plan to create post-secondary education districts throughout the state. Each region would have a Board of Advisors appointed to represent the needs and interests of the customers. A companion Board of Providers, composed of the heads of all campuses within the district, would be created to implement the regional delivery of services.

Mr. SIMPSON. Mr. President, I rise to express my support for S. 1150—the Higher Education Reauthorization Act. Enactment of this legislation makes obtaining a postsecondary education even more accessible to every American.

I was very pleased to see the Pell grant entitlement provisions and the direct lending proposal dropped with a bipartisan consensus from the bill. I had serious concerns about the provisions which would have turned the Pell Grant Program into an entitlement over the next 5 years. While I strongly support the current Pell Grant Program, we simply cannot afford to double the cost of this program at a time when our national economy is struggling.

We must seriously address the issue of entitlement programs in this country. We have seen mandatory entitlement programs grow from 23 percent under President Kennedy's budget to an all-time high of 64 percent. That's 64 percent of the Federal budget over which we have relinquished control. For 1993 alone, entitlements will cost us $766 billion—$980.6 billion including interest. Entitlement spending limits our options for addressing important national needs by decreasing the pool of discretionary spending. It is the responsibility of the Congress to halt that trend.

I also was concerned about the proposed demonstration project for direct Government lending to institutions of higher education. The initiative, as proposed, would have put the Government in direct competition with the private sector in order to serve a limited financial objective. The Internal Revenue Service would be put in control of both the distribution and collection of student grants, thereby destabilizing secondary banking markets. Why put an agency in control of dispersing funds when it cannot address its own inability to collect defaulted student loans?

I was pleased that the managers of the bill responsibly decided to have a full hearing in the Finance Committee in a few weeks, on the proposal. I believe this proposal will then receive the full attention and scrutiny it deserves.

I would like to thank my friends Senator KASSEBAUM and Senator KENNEDY for their cooperation and assistance in the adoption of my small States teaching initiative amendment. Both floor managers did an excellent job and I deeply respect and admire their efforts to advance the goals of education in the United States. The amendment authorized $5 million in direct funds to land-grant institutions in the 10 least populated States in order to develop model programs for educational excellence, teaching training, and educational reform. I am optimistic that the funding will provide needed assistance for the development of innovative teaching techniques and materials in small States which tend to have a very hard time recruiting top quality teachers.

Once again, I look forward to enactment of this legislation and I am encouraged that many Americans—both young and old—will benefit from the education programs included in the bill.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 1150, the Higher Education Reauthorization Act. I am pleased to be cosponsor of this legislation. This legislation provides financial help for both disadvantaged and middle class families so that they may send their children to college. It also seeks to simplify the existing, cumbersome application process and to crack down on student loan defaults that drain our student financial aid resources.

This legislation provides greater assistance to lower income families by increasing the size of Pell grants from $3,600 in 1993 to $4,800 in 1998. By providing these increases in Pell grants, more access will be provided to these students to college, many of whom will be the first in their families to attend college.

This bill also makes it easier for middle class families to send their children to college by increasing the availability of grants and loans to them. In recent years, it has been difficult for middle-class families to obtain assistance in sending their children to college. With staggering increases in tuitution costs, many middle-class students have been squeezed out of an affordable higher education. This legislation makes more middle-class families eligible for Pell grants, extends the supplemental loan program and eliminates home equity from the student assistance eligibility formula for those families who earn less than $50,000 per year. These changes will make more and more New Jersey families eligible for Federal financial assistance.

The legislation also simplifies the student assistance application process. It mandates a simplified application form for middle-class families and establishes one system to determine need for all Federal assistance programs. This will spare students and families the frustration of filling out multiple forms and need analyses that often make the student assistance application process confusing and burdensome.

Furthermore, this higher education legislation contains several provisions that are designed to crack down on student loan defaults. These provisions will ensure that defaults are kept to a minimum and the money saved is put into student assistance so that more and more children can attend college.

Finally, this bill contains an amendment that I offered that would establish a Commission to study increasing tuition costs and make recommendations on how these costs can be reduced. Recently, tuition has increased faster than the Consumer Price Index [CPI] and in some years even faster than health care. My amendment also establishes a parent/student right-to-know law that will require universities and colleges to disclose to prospective students how they spend their tuition dollar. It also sets up a resource sharing grant program to provide funds to colleges and universities to pool existing resources and avoid duplication in order to hold down the long-term cost of tuition.

Mr. President, this legislation will make Federal assistance available to many more New Jersey students and make college more affordable for the average American family. I urge my colleagues to support the legislation.

Mr. GRAHAM. Mr. President, I strongly support the bill we have just overwhelmingly approved.

Student financial aid, the keystone of the Higher Education Act, is among the best investments America makes in its people. Ensuring access to higher education for all segments of society helps equalize opportunities for all people to pursue and achieve the American dream.

It is directly in the national interest that our people be trained to meet the increasing demands of the global workplace. To retain our competitive edge, we need to have a highly educated American worker.

For these reasons, I am pleased that our financial aid programs are restructured by this legislation to expand access to assistance for a greater proportion of students who simply must have that help to attend college.

The bill also includes a provision which addresses the decisions students make on the other end of college, when they are struggling to determine how to pay off the debt they have accrued while getting their degrees.

Title XII of this bill includes an important demonstration project on loan forgiveness.

Section 1221 of this legislation will provide for cancellation of Stafford loans for individuals performing a variety of traditional service jobs.

For people considering—

Teaching in geographical and subject areas where teachers are lacking;

Performing community service for poverty-level wages; or

Working as nurses in the types of medical facilities which are experiencing shortages.

I expect this program offers a tremendous incentive to enter those fields.

The average student who takes a loan for college owes $7,200 by the time of graduation. This is only an average, and it is not atypical for a student to finish even a public education owing as much as two to three times that amount.

S. 1150 makes great strides toward returning the grant/loan balance to a more reasonable ratio. Nevertheless, debt burden will continue to be a major factor in the employment decisions made by our college graduates.

This demonstration project will allow us to study whether loan forgiveness indeed eases the pressure on indebted graduates to take high-paying jobs in order to pay off their loans.

Mr. President, there is another and equally important goal which we can further by providing loan forgiveness.

During fiscal year 1991, 5.3 million student loan accounts were in default for nonpayment. These accounts totalled $12.2 billion in Federal liability.

I am a firm believer in human integrity. I believe that students who are fortunate enough to receive a guaranteed student loan from the Federal Government are thankful for that opportunity and want to repay their debt. As we all know, however, many people are simply unable to meet their current financial obligations, much less make payments on acquired debts.

What we are providing here, Mr. President, is the chance for those people who are at the end of their financial rope to meet their obligations in another, perhaps more meaningful way.

I am speaking not of people whose financial situation precludes certain career choices, but of those who can choose to work off their debt by serving their country and their community in professions we have identified as critically needy.

The end effect may well be that people who had never thought about such careers may choose them after gaining this exposure. Regardless, I submit that everyone wins.

The students are released from their financial obligations with dignity and pride.

Important services are provided to those who desperately need them.

And the cost to the Federal Government is largely offset by the fact that many of these obligations would be written off anyway.

Mr. President, I am pleased that the Senate accepted my amendment to this demonstration project which requires the Secretary of Education to identify the reasons for which people who participate in this program choose to do so. I am interested to learn their motivations, and I am certain that we can work with the information we gather to target our efforts more effectively.

I commend the authors of S. 1150 for developing an excellent bill. I was pleased to vote for its passage today, and I look forward to enactment of this important legislation.

INDIANS INTO TEACHING—AMENDMENT NO. 1671

Mr. CONRAD. Mr. President, I rise today to offer an amendment that will help American Indians enter the teaching profession.

It is frequently difficult for educational institutions on Indian reservations to retain teachers. Reservations tend to be geographically isolated. And teachers frequently lack long-term ties to the local community. Consequently, more must be done to provide reservation schools and the kids who attend them with a stable teaching and learning environment.

My amendment accomplishes this goal in three ways. First, it provides institutional support to tribal community colleges and other tribally controlled educational institutions. The Conrad amendment authorizes the Secretary of Education, through the Office of Indian Education, to award grants for the purpose of providing upper division course work, transfer programs, articulation agreements with other accredited institutions, telecommunications programs or other mechanisms which directly support the training of American Indian teachers.

Second, my amendment provides student support grants to tribal colleges so that they may provide financial and programmatic assistance to those who wish to participate in their teaching programs.

Finally, my amendment authorizes scholarships for Indian students who wish to attend teaching programs at educational institutions off the reservation.

Students who receive financial assistance under the amendment are required to serve as teachers in an Indian community for 1 year for each year they receive financial assistance under the program.

This amendment meets a real need in Indian country. It provides important institutional support that will enable tribal colleges to expand their programs. And it will not only encourage Indian students to enter the teaching profession, but it will provide them with the financial means to do so and add to educational stability in Indian communities.

Mr. President, I am pleased to note that Senator MCCAIN, the vice chairman of the Select Committee on Indian Affairs and Senator DASCHLE are cosponsors of my amendment.

I thank the Chair and yield the floor.

Mr. DECONCINI. Mr. President, I rise to thank the distinguished chairman of the Education Subcommittee, Mr. PELL, and the ranking member of the subcommittee, Mrs. KASSEBAUM for accepting three amendments which I proposed to the pending bill.

EXCLUSION OF RESTRICTED NATIVE AMERICAN-OWNED HOMES

The first amendment excludes the value of native American owned-homes which are located on Indian trust or other federally restricted lands as an asset for purposes of determining a native American student's eligibility for

Federal student aid programs. At the present time, nothing in the law allows the exclusion of the value of homes owned by native Americans which they cannot sell due to Federal restrictions against alienation of the home itself or the land upon which the home is situated.

This creates a problem for native American students seeking Federal student aid assistance. They must count homes from which they legally cannot realize an economic value as an asset and this makes them ineligible for Federal student aid. This has created an impediment to higher education opportunities for native American because they do not generally have the ability to pay for college costs out of their own pockets. My proposed amendment will remove this barrier and improve native American student access to higher education.

RECORDING OF HEARING PROCEEDINGS

The second amendment restores an institution's right to a hearing on the record, if the institution is willing to bear the costs of recording the hearing proceedings. S. 1150 eliminates the current provision in the law which requires on the record hearings for suspension, termination, or limitation proceedings. My amendment adds language which states that nothing in the act is to be construed to prohibit an institution from recording the hearing proceedings at its own costs by using any reasonable means available.

CLARIFICATION OF CASH RESERVES AND TUITION RECOVERY FUND REQUIREMENTS

The third amendment clarifies the bill's provisions which deal with the maintenance of cash reserves and tuition recovery fund programs. My language will make it clear that the Secretary shall exempt an institution from the cash reserve requirements if he determines that the institution is contributing to the tuition recovery fund in the State where it is located and authorized to operate. This clarification will ensure that institutions which are participating in State-administered tuition recovery fund programs are not also required to maintain individual cash reserves for the same purpose by the Secretary.

Mr. President, these amendments are critical to ensuring access by all segments of our communities to the Federal student aid programs. I appreciate the Education Subcommittee and the full committee's willingness to accept these important modifications to the bill. I thank the Senator from Rhode Island and the Senator from Kansas for their support and help.

Mr. McCAIN. Mr. President, I rise in strong support of S. 1150. This bill will surely be one of the most important pieces of legislation the Senate passes this year. By expanding and improving Federal programs that support America's postsecondary students and institutions, we will well serve the future vitality of our Nation.

The Reauthorization of the Higher Education Act offers the Senate a chance provide increased assistance to the neediest students at our colleges and universities, and to ensure that middle-income families have greater access to Federal financial aid programs as well. This bill admirably meets both of these objectives, and establishes a variety of new initiatives to improve the quality of education at America's public and private schools.

As one of the fastest growing States in the Nation, Federal financial aid programs are especially important to Arizona. My State currently has approximately 250,000 students in our colleges and universities, and this number is expected to increase by 33 percent by the end of this decade. In order to ensure that all the deserving students in Arizona and throughout the United States have access to the financial aid they need, I feel that preserving the resources and integrity of financial aid programs must remain a priority for this body.

One of the landmarks of S. 1150 is the significant boost it contains for Pell grants. These grants are the very foundation upon which needy students can pursue their goals in higher education. The maximum Pell grant that a student can receive is increased from $3,100 to $3,600, and increases it to $4,800 by 1998. The family income for Pell grant eligibility is raised to $40,000 under the bill.

The amount a student can borrow under the guaranteed Stafford loan program is increased by this legislation to $3,000 for first-year students; $3,500 for second-year students; and $5,500 for third- and fourth-year students. Graduate students will be able to borrow up to $9,000 per year under S. 1150.

In addition to expanding eligibility for Pell grants and increased loans, middle-income students could benefit from several other provisions of this bill. The SLS Loan Program will be opened to dependent students with a creditworthy cosigner. Families with incomes under $50,000 will no longer have the equity of their home or farm considered in their needs analysis for financial aid. Families in this income bracket who do not file an IRS Form 1040 will have all their assets excluded.

I am very pleased that S. 1150 directs the Secretary of Education to create a simplified financial aid application form and reapplication process. The often confusing complexity of the current application system is one of the most frequent complaints I heard from the many Arizona students who contacted me about this reauthorization.

This bill will directly help students in Arizona by reauthorizing the State Student Incentive Grants [SSIG] Program. The SSIG Program, which combines Federal and State funds to assist needy students, is of tremendous benefit to many lower income Arizona students. The same is true for the Perkins Loan, College Work Study, and SEOG programs, which have all been reauthorized.

The crucial mission of TRIO programs—to recruit and retain disadvantaged students into college—are fully recognized in this bill. TRIO programs are especially important to Hispanic and Native American students in my State, who continue to be underrepresented in our community colleges and universities. As passed by the Senate, S. 1150 expands and increases funding for TRIO programs such as Upward Bound, Talent Search, and Educational Opportunity Centers.

TRIO programs, in partnership with local schools and community organizations, can help increase the amount of minority young men and women who pursue a college education—and support their successful advancement toward a degree. Our Nation will be far stronger if Government, colleges, and local schools can work together to ensure that increasing numbers of disadvantaged children are focused on a steady path toward a college degree.

One of the most innovative new programs established in this legislation are State and National Teacher Academies. State academies for teachers would be designed to improve the knowledge and teaching skills of teachers, and National Teacher Academies will be established in core subject areas such as English, math, and science. Several other effective teacher support programs have been reauthorized, as well.

S. 1150 also addresses the serious problem of student loan defaults. As every Member of this body is aware, student defaults in the guaranteed loan programs totaled over $3.6 billion in 1991 alone. This is an alarming figure, and one that justifiably raises the ire of taxpayers and policymakers alike. At a time of skyrocketing Federal budget deficits, increasing financial pressures on low- and middle-income families, and urgent social needs—this massive hemorrhage of taxpayer dollars must end.

This bill will lower the threshold at which schools with excessive default rates can be dropped from student aid programs to 25 percent. S. 1150 adds to this new default ceiling with provisions to reduce defaults and ensure proper accountability among the schools and financial entities involved in student loan programs.

Mr. President, I think the Senate and all Americans can be heartened by the passage of this bill. Our colleges and universities are clearly the finest in the world, and S. 1150 will provide vital assistance to deserving students and quality educational institutions. In passing this legislation, the Congress and the American people must remain dedicated not only to emphasizing educational excellence, but also to seeking

new ways to help students and strengthen our colleges, universities, and vocational schools.

If we succeed, we will reap the benefits of an enlightened citizenry and a vibrant, highly skilled work force for decades to come. On behalf of the students and families in Arizona who are dedicated to better themselves through education and training, I look forward to helping in this effort.

I will give my full support to the passage of this bill to reauthorize the Higher Education Act. I yield the floor.

Mr. DODD. Mr. President, I rise today to express my strong support for S. 1150, the Higher Education Amendments of 1991. Mr. President, I commend the work of the managers of this legislation, Senators PELL and KASSEBAUM, who have moved this bill along in such an expeditious and bipartisan fashion.

With last month's passage of the Neighborhood Schools Improvement Act, S. 2, and our consideration of the Higher Education amendments, the Senate has taken great strides forward in addressing the educational issues confronting today's students and their families. This measure builds on the foundation of support for elementary and secondary education, contained in S. 2, to improve higher education.

The hallmark of S. 1150 is access. Access to quality higher education for all Americans, including the middle class who have been crippled during the last decade with rising costs and stagnating incomes.

Increased Access to higher education will especially help these families who have been increasingly squeezed out of Federal student aid programs. Since 1981, families have watched tuition costs climb by as much as 100 percent, while the Federal share of available financial aid has dropped from 83 to 75 percent. Moreover, since the mid-1970's, the percent of Federal aid to students in the form of grants has dropped drastically from 76 percent to 29 percent as loans have replaced grants as the major source of student aid. The cornerstone of the Higher Education Act in 1965 was increased access to postsecondary education opportunities to every student—and with this legislation we restore this Federal commitment to all students and families across our Nation.

Access is enhanced with the expansion of the Pell grant, Stafford loan and SLS loan programs to benefit low- and middle-income students alike. The maximum Pell award will be increased by this legislation redressing the grant/loan imbalance which has developed over the last decade. Additionally, the maximum income of families eligible to receive Federal aid will be increased to include more middle-income families in these programs. Further, this measure includes a proposal, similar to one I offered in my Better Access to Student Aid Act, which eliminates the consideration of home and farm equity from the calculation of student need. Expected student contribution is also reduced from 70 percent to a more reasonable level.

Access is also increased through the simplification of the student aid application process. The current methodology requires the filing of two separate, complicated forms—one for Pell grants and another for Stafford loans—this intimidating process has served to discourage many eligible families from applying for much needed assistance. S. 1150 provides for one simpler form and truly needy families will be eligible to fill out a further simplified needs test.

This bill also addresses one of the most serious problems which has plagued Federal student assistance—guaranteed student loan defaults. The very existence of the loan programs has been threatened by the problem of defaults, not only have costs skyrocketed, but public confidence has been shaken. With Federal resources so scarce, we cannot allow the loss of even one Federal dollar to fraud and abuse. In this regard, this measure contains measures to strengthen program and institutional integrity with higher standards for participating institutions and increased penalties for fraud or abuse.

This bill also enhances the special role higher education has in meeting a related educational need—the training of teachers. This bill provides real incentives for the recruitment and retention of quality teachers in classrooms around our Nation. I am especially pleased that a provision is included in this section, which I sponsored, to authorize matching Federal funding for the National Board for Professional Teaching Standards to complete its critical research and development on methods of teacher assessment. Additionally, the bill addresses the shortage of teachers in the critical fields of math, science, and foreign language; it also establishes a program to recruit minority students into the teaching field to address the acute shortage of minority teachers in many communities across the Nation.

Finally, the bill addresses an area of critical importance to our Nation's competitiveness—the study of foreign languages and culture. Mr. President, last year there were more teachers of English in the former Soviet Union than there were students of the Russian language in the United States. In this regard, S. 1150 substantially strengthens the Federal commitment to foreign language study. It includes several of my initiatives providing funding for consortia based foreign study and for the development of much needed foreign language instructional materials. Additionally, this measure includes language to clarify the ability of students to apply Federal assistance to study abroad opportunities.

Mr. President, there are several issues which have not been addressed in this legislation. In particular, many expected to see the inclusion of a direct loan demonstration program in this legislation. The creation of a direct loan program is certainly an interesting idea, as it would make a new resource available to students. I do however have some serious concerns regarding the design and long-term impact of such a program and look forward to working with Senators PELL, KENNEDY, BRADLEY, and BENTSEN when it comes before the Senate within the next few weeks.

One measure, that I was most disappointed to see removed from the bill, was the Pell grant entitlement. This provision would have assured students and families of the Federal Government's commitment to higher education for all students who qualify. I hope that the day will soon come when we as a nation recognize that education is not an expense, it is an investment.

I fully believe, Mr. President, that with this legislation we begin to move in the right direction—resources available to students are increased, access is restored to middle-income families who were to a great extent cut out of these programs during the 1980's and program integrity is enhanced. S. 1150 renews the Federal Government's strong commitment to quality higher education. In this regard, I urge my colleagues to join me in voting for passage of this critical measure.

Mr. ROCKEFELLER. Mr. President, I rise today to draw attention to a problem currently facing students in my own State of West Virginia, and to alert my colleagues that other States may soon face similar concerns. To respond to this issue, I am grateful that the leadership on both sides has accepted my amendment calling for a thorough study of this issue.

Everyone is troubled about the issue of defaults.

We are all deeply worried by stories of fraud and abuse.

However, fraudulent schools exist. The horror stories prove they exist. These schools lure students with promises of quality education and new job opportunities, push students to take out guaranteed student loans without fully explaining the financial obligations attached, and then fail to follow through on their promises of quality training and education. Fraudulent schools leave students in the lurch. The students never receive the education promised, yet they incur thousands of dollars of debt.

This is unfair to the students.

I commend the leadership for the efforts made in this bill to address the problems of fraud and abuse in the student loan programs. I fully support the

provisions to strengthen safeguards in the Higher Education Act to ensure that students are fully informed about their loan obligations. I agree that measures to strengthen the accreditation process are sorely needed. And I am confident that these reforms will dramatically reduce the problems of fraud and abuse in the Federal student financial aid programs.

But today, I rise to speak specifically about students who, under the current system, are caught in the middle.

Last summer, a West Virginia case involving student loans attracted national attention. The case, known as the Tipton case, involved about 2,000 students of a trade school in my State. The school recruited students, processed their loan applications with West Virginia banks, and then went bankrupt, leaving the students with GSL payments to make, and none of the promised training. Some of the students were midway through their courses when the school closed. They arrived for class one day to find the door padlocked.

The students never received the education promised, yet they were still responsible for their loans. Faced with the prospect of defaulting on their loans, the students filed a class-action suit, claiming that they had been misled by the school.

In a precedent-setting decision, the Federal judge called the defunct school's behavior unconscionable. I believe that we would all agree that the school victimized the students.

The decision went on to state that the students could sue under State or Federal law for protection from liability. Under consumer law in many States, including West Virginia, banks can be held liable if they are deemed as business partners to fraudulent companies.

In response to the Tipton case, West Virginia banks maintain that private lenders in the Federal GSL Program are not subject to legal action based on school misconduct. While the lenders are sympathetic to the plight of the students, they do not believe that they should be held liable for the loans. The case is under appeal.

Before going any further, I must state that I am not a judge and that I have no intention of passing judgment on this pending case. The Tipton decision must work its way through the judicial process, and my statement is not intended to cast judgment on what is already a complicated situation.

But I am concerned about the case's impact on the availability of GSL's in West Virginia and across the country.

Following the Tipton decision, West Virginia banks are fearful that they, rather than the Federal Government, will be responsible for the loans. If that happens, they warn, many banks will simply decide not to participate in the Federal Student Loan Program.

In fact, banks in my State are already starting to cut back on providing student loan services to avoid any future liability. According to a West Virginia newspaper, one bank had $41 million in outstanding student loans last year. This year, the same bank sold off all but $322,000 of the loans. Another bank once had a $20 million portfolio on student loans. Now they don't make GSL's. This trend drastically hurts access for all West Virginia students to much needed loans.

And this problem is not limited to West Virginia. The trend threatens to snowball across the country, as similar cases pending in California, Kentucky, New Jersey, and Texas develop. Given the Tipton ruling, we could see even more cases being filed.

Of course, a major concern is that the Tipton ruling will discourage banks across the country from participating in GSL's—cutting off access to student loans at a time when we need to encourage more Americans to invest in education. Clearly, Congress cannot sit by and allow student loans to disappear.

However, it is too early to predict the extent of Tipton's impact. Before developing an appropriate response, Congress needs more information on the case and its impact. With this goal in mind, I offer an amendment directing the Department of Education to conduct an indepth study of this issue and to report to Congress on their findings.

The amendment is simple. It requires the Secretary of Education to understake a study, in consultation with the Federal Trade Commission, on the following items:

Analysis of pending law;

Estimate of total borrowers filing for relief from loan repayment using fraud-based defenses;

Estimate of loan principal relieved annually through fraud-based defenses; and

Evaluation of the effects of the availability of a fraud-based defense on the accessibility of GSL's by geographical region.

The study will provide much needed information on the Tipton case and its impact on private lending institutions and students' access to GSL's. This case raises serious questions. To maintain our existing Federal student loan program, we must rely on the voluntary and active participation of banks across the country.

Access is essential, and we may need to take certain in the future to ensure that all eligible students have the opportunity to get a Federal financial aid, including guaranteed student loans. I believe that the study outlined by my amendment will help provide information needed on the critical issue.

Mr. DOMENICI. Mr. President, I am pleased the Senate has acted so quickly to reauthorize the Higher Education Act of 1965. I think we have truly put aside our differences and worked together in a bipartisan effort to get a good bill—and with good reason: Education is far too important a subject to quibble about. When we are continually bombarded with accounts of how our country is going to have a difficult time remaining competitive in a world market, it is imperative we do all we can to encourage our students to enter college where they can learn the skills they need to get a good job and compete in a world economy.

There are many provisions of this bill I am pleased with, because I believe they fulfill the greater objective of the HEA—expanding access to higher education for the many Americans who have found, more and more frequently, that the costs of attending college are getting out of their reach. Therefore, one of our primary challenges in this reauthorization was to develop different ways to improve the balance between grant and loan aid. Loans have begun to replace grant aid as a major source of student aid; consequently, many students incur considerable debt to attend college.

With the many changes to student loan programs, I think we have taken considerable steps to address this imbalance. We have, for example, increased the limit for Stafford loans to $3,000 for full-time, first-year college students, reaching a maximum of $5,500 for those who complete at least 2 years of school. We have eliminated home and farm equity for families with income levels below $50,000 per year when determining a student's financial need. And we have allowed dependent students to borrow under supplemental loans for students, regardless of income, if they can demonstrate they are creditworthy. These are all positive steps that will keep financial aid accessible to the middle class. I think we need to do what we can to make financial aid available to the students who require it, and not just to the very poor. Middle-income students often have had a very limited choice in financial aid programs. This bill expands those opportunities.

I often hear from students in New Mexico who express their frustration with the lengthy and often tedious application process for financial aid. We have addressed this issue as well by establishing a single model for determining eligibility for all student aid programs authorized under title IV of the bill. This new model relies on a simple needs test. S. 1150 also requires a simplification of the application process so that students receiving aid can apply for continued assistance without paying for a new application process.

This bill also reauthorizes a program that has proven to be a success in my home State of New Mexico—special programs for students from disadvantaged backgrounds, or TRIO. The TRIO

programs encourage students from disadvantaged backgrounds to attend college and get their degrees. Countless numbers of New Mexican students have benefitted from this program—and I want to commend the educators of New Mexico who have worked so hard to make this program a success—so I am very pleased we have continued with this noteworthy program.

I am also pleased with title V of the bill, which focuses on recruitment, retention, and development of educators. Providing access to higher education for students means nothing if good teachers aren't in the classroom to teach them. Title V recognizes as well that some of the best educators are often those who may not have a teaching certificate, and therefore authorizes a program to help States establish alternative routes to certification of teachers and principals. This will allow those who have demonstrated a high level of competence in a chosen profession to pursue a career in the education field, where their expertise is sorely needed. I am a staunch supporter of alternative certification, and I am, therefore, pleased we are taking steps to initiate these programs.

Title V also creates a program to provide annual scholarships of up to $5,000 to meet educational expenses of prospective teachers. Because we cannot always find enough good people to teach on Indian reservations in New Mexico—and Senators AKAKA and MURKOWSKI had expressed similar concerns about getting teachers for Native Alaskans and Hawaiians—I am pleased the Senate has included my amendment that would give special consideration to students who express an intent to teach these underserved groups. And because of our concerns about our students finishing at or near the bottom in international math or science tests, we have also included my language to give special consideration to students who intend to teach math or science.

Senator BINGAMAN and I have also included a provision to encourage the expansion cooperative educational programs between State education agencies and private sector establishments involved in education between the United States and Mexico. Senator BINGAMAN and I both agree that our unique relationship with our neighboring countries can play an important role in improving education, and I am pleased our amendment was accepted.

Mr. President, this bill goes a long way toward restoring the buying power of Federal student loans, and ensuring that financial aid remains accessible to all Americans who require it. The reauthorization of the Higher Education Act reconfirms our commitment to providing educational opportunities to more and more students. It is an investment in our own future.

ACCESS SCHOLARSHIP PROGRAM

Mrs. KASSEBAUM. As I mentioned in my opening statement, I believe that an extremely important feature of this bill is its attempt to address the issue of adequate preparation for higher education. Your initiative with the Access Scholarship Program is certainly an important step in this direction.

I would like to raise a couple of questions with the Senator from Massachusetts regarding that program.

Mr. KENNEDY. By all means.

Mrs. KASSEBAUM. First of all, I would like to say that basing eligibility for an access scholarship on the completion of a rigorous academic curriculum in high school is an excellent way to encourage high expectations and achievement on the part of students. I find this approach preferable, say, to basing the extra awards on test scores. At the same time, I believe that we want to encourage students not only to take demanding course but also to perform well in them. Would the Senator not agree?

Mr. KENNEDY. Absolutely. As we look toward conference, I would be happy to work with the Senator from Kansas to develop some additional language that would clarify this point.

Mrs. KASSEBAUM. I thank the Senator and would raise one more point. As currently written, a student must take the rigorous curriculum in high school and must also participate in some type of early intervention program.

I certainly believe early intervention programs are important and would hope that they will continue to grow. At the same time, I can foresee any number of circumstances which might arise where a student simply would not be able to participate. That student might be one who takes challenging courses and excels in them, yet he or she would not be eligible for an access scholarship. It seems to me that such a student is at a double disadvantage—first, by being unable to participate in an early intervention program and, second, by being ineligible for a scholarship. Would the Senator be amenable to a proposal to eliminate the additional requirement for participation in an early intervention program?

Mr. KENNEDY. The linkage between the two was included in my proposal because I feel it is critical that we encourage both challenging course work and the development of early intervention programs. At the same time, I believe the Senator makes a very good point that students should not be harmed when, through no fault of their own, they are not able to be involved with a formal early intervention program. I would certainly be willing to consider a change that would decouple the two.

Mrs. KASSEBAUM. I thank the Senator and look forward to continuing to work with him on this important effort.

Mr. KERRY. Mr. President, I want to state my strong support for the provisions in S. 1150, the Higher Education Amendments of 1991, which pertain to expanding the number and enhancing the skills of those serving in the teaching profession.

As I stated during the debate on the Neighborhood Schools Improvement Act, many of us are troubled by the fact that the public schools are struggling with a teacher shortage. All too few of the individuals enrolled in our colleges and universities, especially the brightest and most gifted students, are electing teaching careers. Consequently, many elementary and secondary school students do not receive the benefit of instruction from new teachers who have specialized training. Likewise, many of our students are not exposed to instructors who can inspire students by their own example to enjoy the rewards of study in challenging disciplines. S. 1150 addresses the teacher shortage by incorporating and reauthorizing many of the provisions of the National Teacher Act of 1990 and including important new initiatives to attract individuals to the teaching profession.

The Teacher Corps Scholarship Program will provide an important incentive to individuals to enter the teaching profession. Scholarship funds for students participating in the program also will diminish the barrier that large educational loans have represented in prohibiting entry to the teaching profession. A 3-year scholarship signals to college students that the national commitment to expanding the number of teachers is real, and need only be matched by their commitment to serve the Nation's children in the classroom in order to improve our schools.

The teacher corps provisions of S. 1150 are also important in that program participants will be placed in schools with the greatest levels of need. Schools in communities struggling with poverty, crime, violence, and drugs ought to be havens, where young people are encouraged to strive for and attain high levels of achievement. The placement of highly trained and motivated teachers in such schools represents a continued commitment to our public schoolchildren to provide opportunities for educational advancement and personal development, regardless of their circumstances.

S. 1150 also recognizes the important contributions that are made to our schools by individuals already in the teaching profession by funding establishment of academies for teachers to upgrade their skills, and by creating a program to recruit paraprofessionals or school aides to become teachers. Individuals currently in teaching have a valuable base of knowledge and should be encouraged to sharpen those skills. Others employed in our schools as instructors or aides should receive credit for in-service experience and have op-

portunities to become teachers. Their commitment to educate children is evident and must be rewarded with assistance in furthering their education or in the acquisition of appropriate certifications for teaching in their States.

We know that parents and communities stand ready to improve their schools. The teacher corps provisions in S. 1150 offer important assistance to these efforts.

Before closing, I want to commend the Senate's Committee on Labor and Human Resources and its Subcommittee on Education for their work on the entire higher education bill, and in particular their chairmen, respectively: my colleague, the senior Senator from Massachusetts [Mr. KENNEDY] and the distinguished senior Senator from Rhode Island [Mr. PELL]. They and the members of the subcommittee and full committee have crafted an excellent bill. It recognizes that America can only maintain its enviable standard of living, and spread that standard more equitably among all citizens of the Nation, if we regain and maintain our competitiveness. And, Mr. President, we can only reach the objective if we have a literate and educated population. This bill makes great strides in our essential effort to achieve this goal. I am pleased to give it my strong support and to offer commendations to all who were involved in its development.

Mr. SIMON. Mr. President, before we move to final passage of the reauthorization of the Higher Education Act, I would like to thank my staff who spent a great deal of time on this bill: Bob Shireman, my chief education adviser, Brian Kennedy, the staff director of my subcommittee, and Alice Celio and Barbara King, who helped to field so many of the calls and letters on the issues in this bill. My press office has also been especially active and effective: my press secretary David Carle, his deputy Chris Ryan, and Marcy Saack, who tirelessly responded with faxes and packets when the media needed information.

All of the staff of my colleagues on the Labor and Human Resources Committee also deserve thanks for their hard work. I think the fact that we were able to finish this bill in less than 24 hours is a testament to their skill in addressing the various concerns that have been raised over the past several months, and over the past year.

I would also like to also give special thanks to Orlo Austin, the director of financial aid at the University of Illinois at Champaign-Urbana. Orlo worked in my subcommittee office during 4 months of administrative leave from the university, and he even contributed an additional month of his time when we needed more help. When he started, the committee was in the process of pulling together the staff recommendations on the reauthorization. Orlo really hit the ground running, analyzing proposals, asking the questions that forced the real policy issues to be addressed, and developing alternatives that could come only from someone with his experience in the financial aid field. This bill is better because of his generosity.

Finally, notably absent from the floor during this debate was Kim Wallace of the majority leader's staff. We knew that the higher education bill was likely to come up on the floor this week because Kim's wife, Robin Vink, was due to have their baby on March 1. Waiting until next week to bring the bill up would have meant that Kim might be called away. Well, as fate would have it, little Harrison James, 8 pounds, 7 ounces, conspired to keep Kim from the floor and was born on Wednesday night. I wish them all the best.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany H.R. 2212, a bill respecting the extension of most-favored-nation trade treatment with the People's Republic of China, on Tuesday, February 25 at 10:30 a.m., and that the Senate proceed to vote on the adoption of the conference report at 4:30 p.m. on that day, with the Senate standing in recess for the two party conferences from 12:30 p.m. until 2:30 p.m., with the time under the control of the two leaders or their designees.

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

SCHEDULE

Mr. MITCHELL. Mr. President, we will momentarily vote on the final passage of the higher education bill. There will be no further rollcall votes today. There will be no rollcall votes on Monday.

On Tuesday, in accordance with the agreement just obtained, we will begin at 10:30 a.m. on the China MFN bill, and the vote on that bill will occur at 4:30. There will be 4 hours of debate on that conference report, two in the morning and then two following the recess for the respective party conferences.

So the next rollcall vote will be Tuesday at 4:30 on the China MFN conference report.

I commend the chairman of the Foreign Relations Committee, Senator PELL, along with Senator KENNEDY and Senator KASSEBAUM for the extraordinary diligence with which the legislation that we are about to vote on has been dealt with here in the Senate.

Originally, when we determined to call this bill up, it was expected that the bill would take 3 days. It has been done in much less than that—really, about 1 full day, beginning yesterday afternoon and concluding this morning. For that, the managers deserve great credit.

This week, the Senate has enacted two major bills—the energy bill and the higher education bill—and I think that is a most productive week. As I indicated earlier, we will be back on Tuesday with the China MFN conference report, and on that day, I will state our intentions regarding the schedule for the rest of the week, following consultation with the distinguished Republican leader.

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, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois, [Mr. DIXON], the Senator from Georgia [Mr. FOWLER], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY], are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON], would vote "aye."

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. CRAIG] is necessarily absent.

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

The result was announced—yeas 93, nays 1, as follows:

{Rollcall Vote No. 30 Leg.}

YEAS—93

Adams	Cohen	Gramm
Akaka	Conrad	Grassley
Baucus	Cranston	Hatch
Bentsen	D'Amato	Hatfield
Biden	Danforth	Heflin
Bingaman	Daschle	Hollings
Bond	DeConcini	Inouye
Bradley	Dodd	Jeffords
Breaux	Dole	Johnston
Brown	Domenici	Kassebaum
Bryan	Durenberger	Kasten
Bumpers	Exon	Kennedy
Burdick	Ford	Kerry
Burns	Garn	Kohl
Byrd	Glenn	Lautenberg
Chafee	Gore	Leahy
Coats	Gorton	Levin
Cochran	Graham	Lieberman

Lott	Pell	Shelby
Lugar	Pressler	Simon
Mack	Pryor	Simpson
McCain	Reid	Smith
McConnell	Riegle	Specter
Metzenbaum	Robb	Stevens
Mikulski	Rockefeller	Symms
Mitchell	Roth	Thurmond
Moynihan	Rudman	Wallop
Murkowski	Sanford	Warner
Nickles	Sarbanes	Wellstone
Nunn	Sasser	Wirth
Packwood	Seymour	Wofford

NAYS—1

Helms

NOT VOTING—6

Boren	Dixon	Harkin
Craig	Fowler	Kerrey

So the bill (S. 1150), as amended, was passed.

S. 1150

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 "Higher Education Amendments of 1992".

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

Sec. 1. Short title; table of contents.

TITLE I—POSTSECONDARY IMPROVEMENT AND COMMUNITY SERVICE

Sec. 101. Fund for the improvement of postsecondary education.

TITLE II—ACADEMIC LIBRARIES AND INFORMATION SERVICES

Sec. 201. Amendment to title heading.
Sec. 202. Authorization of appropriations.
Sec. 203. Library experts.
Sec. 204. College library technology and cooperation grants.
Sec. 205. Library education, research, and development.
Sec. 206. Library education and human resource development.
Sec. 207. Research and demonstration.
Sec. 208. Improving access to research library resources.
Sec. 209. College library technology and cooperation grants.

TITLE III—INSTITUTIONAL AID

Sec. 301. Findings.
Sec. 302. Hispanic-serving institutions.
Sec. 303. Duration of grants.
Sec. 304. Grants to institutions.
Sec. 305. Minimum allotment.
Sec. 306. Professional or graduate institutions.
Sec. 307. Establishment of grants.
Sec. 308. Endowment challenge grants.
Sec. 309. Application for assistance.
Sec. 310. Waiver authority.
Sec. 311. Repealers.
Sec. 312. Assistance to institutions under other programs.
Sec. 313. Authorization of appropriations.

TITLE IV—STUDENT ASSISTANCE

Sec. 401. Program authority and method of distribution.
Sec. 402. Repealers.
Sec. 403. Authorization of appropriations.
Sec. 404. Amount and duration of grants.
Sec. 405. Agreements with institutions; selection of recipients.
Sec. 406. Allocation of funds.
Sec. 407. Grants to States for State student incentives.
Sec. 408. Applications for State student incentive grant program.
Sec. 409. Early intervention program.
Sec. 410. Special programs for students from disadvantaged backgrounds.
Sec. 411. Talent search.
Sec. 412. Upward bound.
Sec. 413. Student support services.
Sec. 414. Educational opportunity centers.
Sec. 415. Staff development activities.
Sec. 416. Evaluation for program improvement.
Sec. 416A. Advanced placement test fee payment program.
Sec. 417. Special programs for students whose families are engaged in migrant and seasonal farmwork.
Sec. 418. Scholarships authorized.
Sec. 419. Allocation among States.
Sec. 420. Selection of scholars.
Sec. 421. Stipends and scholarship conditions.
Sec. 422. Construction of needs provisions.
Sec. 423. Awards ceremony.
Sec. 424. Authorization of appropriations.
Sec. 425. Payments to institutions of higher education.
Sec. 426. Veterans education outreach program.
Sec. 427. Grants to students in attendance at institutions of higher education.
Sec. 428. Advances for reserve funds of State and nonprofit private loan insurance programs.
Sec. 428A. Eligible dislocated workers educational training demonstration program.
Sec. 429. Limitations on individual federally insured loans and on Federal loan insurance.
Sec. 430. Eligibility of student borrowers and terms of federally insured student loans.
Sec. 431. Applicable interest rates.
Sec. 432. Federal payments to reduce student interest costs.
Sec. 433. Supplemental loan for students.
Sec. 434. PLUS loans.
Sec. 435. Consolidation loans.
Sec. 436. Default reduction programs.
Sec. 437. Requirements for disbursement of student loans.
Sec. 438. Default rates.
Sec. 439. Reports to credit bureaus and institutions of higher education.
Sec. 440. Legal powers and responsibilities.
Sec. 441. Student loan information by eligible lenders.
Sec. 442. Definitions for student loan insurance program.
Sec. 443. Repayment by the Secretary of loans of bankrupt, deceased or disabled borrowers.
Sec. 444. Special allowances.
Sec. 445. Student loan marketing association.
Sec. 446. Authorization of appropriations.
Sec. 447. Allocation of funds.
Sec. 448. Grants for work-study programs.
Sec. 449. Job location and development programs.
Sec. 449A. Additional funds to conduct community service work-study programs.
Sec. 450. Work study for community service-learning on behalf of low income individuals and families.
Sec. 451. Work-learning program and student mentor pilot program.
Sec. 452. Income contingent direct loan demonstration program.
Sec. 453. Authorization of appropriations.
Sec. 454. Allocation of funds.
Sec. 455. Agreements with institutions of higher education.
Sec. 456. Student loan information by eligible institutions.
Sec. 457. Terms of loans.
Sec. 458. Cancellation of loans for certain public service.
Sec. 459. Distribution of assets from student loan funds.
Sec. 460. Student aid methodology.
Sec. 461. Amount of need.
Sec. 462. Cost of attendance.
Sec. 463. Family contribution.
Sec. 464. Student aid methodology; data elements.
Sec. 465. Expected family contribution for dependent students.
Sec. 466. Expected family contribution for independent students with dependents other than a spouse.
Sec. 467. Expected family contribution for single independent students or for married independent students without other dependents.
Sec. 468. Regulations; updated tables.
Sec. 469. Simplified needs test.
Sec. 470. Discretion of student financial aid officer.
Sec. 471. Disregard of student aid in other Federal programs.
Sec. 472. Definitions; general calculation rules.
Sec. 473. Definitions.
Sec. 474. Master calendar.
Sec. 475. Forms and regulations.
Sec. 476. Student eligibility.
Sec. 477. Information dissemination activities.
Sec. 478. National student loan data system.
Sec. 479. Simplification of the lending process for borrowers.
Sec. 480. Training in financial aid and student support services.
Sec. 481. Program participation agreements.
Sec. 481A. Hazing.
Sec. 482. Assignment of identification numbers.
Sec. 483. Transfer of allotments.
Sec. 484. Criminal penalties.
Sec. 485. Advisory committee on student financial assistance.
Sec. 486. General provisions.
Sec. 487. Institutional integrity program required.
Sec. 488. Repeal of certain provisions.

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

Sec. 501. Educator recruitment, retention, and development.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

Sec. 601. Purpose.
Sec. 602. Graduate and undergraduate language and area studies.
Sec. 603. Language resource centers.
Sec. 604. Undergraduate international studies and foreign language programs.
Sec. 605. Research; studies; annual report.
Sec. 606. Periodicals and other research materials published outside the United States.
Sec. 607. Equitable distribution of funds.
Sec. 608. American overseas research centers.
Sec. 609. Authorization of appropriations for part A.
Sec. 610. Centers for international business education.
Sec. 611. Education and training programs.
Sec. 612. Authorization of appropriations for part B.
Sec. 613. Minority foreign service professional development program.
Sec. 614. Definitions.

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

Sec. 701. Repealers and redesignations.

Sec. 702. Prior rights and obligations.
Sec. 703. Improvement of academic and library facilities.
Sec. 704. Federal assistance in the form of loans.
Sec. 705. Apportionment priorities.
Sec. 706. Funding rules.
Sec. 707. Definitions.
Sec. 708. Historically Black college and university capital financing.
Sec. 709. Forgiveness of certain loans.
TITLE VIII—COOPERATIVE EDUCATION
Sec. 801. Cooperative education.
TITLE IX—GRADUATE PROGRAMS
Sec. 901. Graduate programs.
TITLE X—POSTSECONDARY IMPROVEMENT PROGRAMS
Sec. 1001. Postsecondary improvement programs.
TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE
Sec. 1101. Urban community service.
TITLE XII—GENERAL PROVISIONS AND DEMONSTRATION PROGRAMS
Sec. 1201. Definitions.
Sec. 1202. Special criteria for high-risk institutions.
Sec. 1203. National Advisory Committee on Institutional Quality and Integrity.
Sec. 1204. Demonstration programs.
TITLE XIII—EDUCATION ADMINISTRATION
Sec. 1301. Studies.
Sec. 1302. National Commission on Independent Education.
TITLE XIV—AMENDMENTS TO OTHER LAWS
Sec. 1401. Higher education technical amendments.
Sec. 1402. General Education Provisions Act.
Sec. 1403. United States Institute of Peace.
Sec. 1404. Law enforcement unit records.
Sec. 1405. Repeal of national science scholars program.
Sec. 1406. Special projects for two-year schools.
Sec. 1407. National and Community Service Act of 1990.
Sec. 1408. Prohibition on certain uses of funding.
Sec. 1409. Vocational education and training.
TITLE XV—NATIONAL CENTER FOR THE WORKPLACE
Sec. 1501. Purpose; designation.
Sec. 1502. Establishment.
Sec. 1503. Use of funds.
Sec. 1504. Board of Advisors.
Sec. 1505. Gifts and donations.
Sec. 1506. Authorization.
TITLE XVI—INDIAN HIGHER EDUCATION PROGRAMS
PART A—TRIBALLY CONTROLLED COMMUNITY COLLEGES
Sec. 1601. Reauthorization of the Tribally Controlled Community Colleges Act.
PART B—HIGHER EDUCATION TRIBAL GRANT AUTHORIZATION ACT
Sec. 1611. Short title.
Sec. 1612. Findings.
Sec. 1613. Program authority.
Sec. 1614. Qualification for grants to tribes.
Sec. 1615. Allocation of grant funds.
Sec. 1616. Limitations on use of funds.
Sec. 1617. Administrative provisions.
PART C—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT
Sec. 1621. Short title.
Sec. 1622. Definitions.
Sec. 1623. Service conditions permitted.
Sec. 1624. Critical area service agreements.
Sec. 1625. General provisions.
PART D—INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT
Sec. 1631. Institute of American Indian Native Culture and Arts Development.
PART E—AMERICAN INDIAN POSTSECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP
Sec. 1641. American Indian Postsecondary Economic Development Scholarship.
Sec. 1642. Indian scholarships.
Sec. 1643. Scholarship conditions.
Sec. 1644. Report.
Sec. 1645. Authorization of appropriations.
PART F—AMERICAN INDIAN TEACHER TRAINING
Sec. 1651. American Indian teacher training.
TITLE XVII—NATIONAL COMMISSION ON THE COST OF HIGHER EDUCATION
Sec. 1701. Establishment of Commission.
Sec. 1702. Membership of Commission.
Sec. 1703. Functions of Commission.
Sec. 1704. Powers of Commission.
Sec. 1705. Expenses of Commission.
Sec. 1706. Termination of Commission.
TITLE XVIII—AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965
Sec. 1801. Disclosure of tuition, administrative costs, instructional costs and capital costs.
Sec. 1802. Program participation agreement requirements.
TITLE XIX—RESOURCE SHARING GRANTS
Sec. 1901. Resource sharing grants.
TITLE XX—COMMUNITY AND JUNIOR COLLEGES
Sec. 2001. Definition of community and junior college.
Sec. 2002. Liaison for community colleges.
TITLE XXI—MISCELLANEOUS
Sec. 2101. Prohibitions relating to the provision of certain health care under sharing program.

TITLE I—POSTSECONDARY IMPROVEMENT AND COMMUNITY SERVICE

SEC. 101. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

Title I of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") (20 U.S.C. 1001 et seq.) is amended to read as follows:

"TITLE I—POSTSECONDARY IMPROVEMENT AND COMMUNITY SERVICE

"PART A—INSTITUTIONAL ASSISTANCE

"Subpart 1—Fund for the Improvement of Postsecondary Education

"SEC. 111. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

"The Secretary is authorized to make grants to, or enter into contracts with, institutions of postsecondary education or combinations of such institutions and other public and private nonprofit institutions and agencies, to enable such institutions and combinations of such institutions to improve postsecondary education opportunities by—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"SEC. 112. NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

"(a) ESTABLISHMENT.—There is established a National Board of the Fund for the Improvement of Postsecondary Education (hereafter in this subpart referred to as the 'Board'). The Board shall consist of 15 members appointed by the Secretary for overlapping 3-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for 6 consecutive years shall thereafter be ineligible for appointment to the Board during a 2-year period following the expiration of such sixth year.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Secretary shall designate one of the members of the Board as Chairman of the Board. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

"(2) APPOINTMENT OF DIRECTOR.—The Secretary shall appoint the Director of the Fund for the Improvement of Postsecondary Education (hereafter in this subpart referred to as the 'Director of the Fund').

"(c) DUTIES.—The Board shall—

"(1) advise the Secretary and the Director of the Fund on priorities for the improvement of postsecondary education and make such recommendations as the Board may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice; and

"(2) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund.

"(d) INFORMATION AND ASSISTANCE.—The Director of the Fund shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"SEC. 113. ADMINISTRATIVE TECHNICAL PROVISIONS.

"(a) TECHNICAL EMPLOYEES.—The Secretary may appoint, for terms not to exceed 3 years, without regard to the provisions of title 5 of the United States Code governing

appointments in the competitive service, not more than 5 technical employees to administer this subpart who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) PROCEDURES.—The Director of the Fund shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this subpart. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

"SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for the 6 succeeding fiscal years to carry out this subpart.

"Subpart 2—Innovative Programs at Institutions of Higher Education

"SEC. 115. PROGRAM AUTHORIZED.

"(a) GRANTS AUTHORIZED.—

"(1) GRANTS BY THE SECRETARY.—In any fiscal year in which the appropriations for this subpart are less than $10,000,000, the Secretary is authorized to award grants to State higher education agencies to pay the Federal share of the cost of the activities described in the application submitted pursuant to section 118.

"(2) STATE GRANT PROGRAM.—In any fiscal year in which the appropriations for this subpart equals or exceeds $10,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to State educational agencies from allocations under section 116 to enable such agencies to pay the Federal share of the cost of the activities described in the application submitted pursuant to section 118.

"(3) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(4) COMPETITIVE BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis.

"(5) DEFINITIONS.—For the purposes of this subpart the term 'State higher education agency' means the officer or agency primarily responsible for the State supervision of higher education.

"(b) SPECIAL RULE.—In awarding grants under this subpart, the Secretary shall ensure the equitable participation of public and private institutions of higher education in the program assisted under this subpart.

"SEC. 116. ALLOCATION.

"Each State higher education agency shall be eligible to receive a grant pursuant to section 115(a)(2) in each fiscal year that bears the same ratio to—

"(1) 50 percent of the amount appropriated pursuant to section 119 as the population in the State served by such State higher education agency bears to the total population of all States served by all State higher education agencies; and

"(2) 50 percent of the amount appropriated pursuant to section 119 as the number of full-time equivalents of students in the State served by such State higher education agency bears to the total number of full-time equivalents of students in all States served by all State education agencies.

"SEC. 117. AUTHORIZED ACTIVITIES.

"Each State higher education agency receiving a grant under this subpart shall use such grant to fund innovative programs at institutions of higher education within the State.

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"SEC. 118. APPLICATION.

"Each State higher education agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Such application shall describe the activities and services for which assistance is sought.

"SEC. 119. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"(b) LIMITATION.—No funds are authorized to be appropriated to carry out this subpart in any fiscal year unless the amount appropriated to carry out subpart 1 in such fiscal year equals or exceeds $20,000,000.

"PART B—COMMUNITY SERVICE PROGRAMS

"Subpart 1—Innovative Projects for Community Service

"SEC. 121. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to support innovative projects in order to encourage student participation in community service projects, including literacy projects.

"SEC. 122. INNOVATIVE PROJECTS FOR COMMUNITY SERVICE.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to and enter into contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this subpart.

"(2) PROJECTS.—The projects described in paragraph (1) may include—

"(A) supporting research regarding the effects of student community service organizations;

"(B) providing assistance to student organizations that work with community service organizations;

"(C) supporting linkages between youth corps as defined in section 101(30) of the National and Community Service Act of 1990 and higher education institutions; and

"(D) supporting innovative international student service programs.

"(b) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(c) APPLICABLE PROCEDURES.—

"(1) PROCEDURES.—No application may be approved under subsection (b) unless the National Board of the Fund for Improvement of Postsecondary Education, under procedures established by the Director, approves the application.

"(2) SPECIAL RULE.—The provisions of section 113(b) shall apply to grants made under this subpart.

"(d) DEFINITION.—For the purpose of this subpart, the term 'community service' means planned, supervised services designed to improve the quality of life for community residents, particularly community residents with low income, or to assist in the solution of particular problems related to the needs of such residents. Such services may address problems related to illiteracy, education (including tutorial services), health and child care, vocational rehabilitation and training, social and legal services, transportation, housing, and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and any other problem specified by the Secretary.

"Subpart 2—Student Literacy Corps

"SEC. 125. PURPOSE.

"It is the purpose of this subpart to provide financial assistance to institutions of higher education to promote the development of literacy corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

"SEC. 126. STUDENT LITERACY CORPS PROGRAM.

"(a) IN GENERAL.—From the amount reserved pursuant to section 131(b) for any fiscal year, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to institutions of higher education for not more than 3 years to pay for Federal share to carry out student literacy corps programs.

"(b) SPECIAL RULE.—An institution of higher education shall only receive 1 grant under this section in each fiscal year.

"(c) CONTINUATION OF LITERACY PROGRAM.—Grants under this section are renewable upon application by the institution of higher education in accordance with section 128.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of carrying out student literacy corps programs under this subpart shall be—

"(A) up to 100 percent for an initial grant to an institution of higher education; and

"(B) up to 75 percent for a grant renewed under subsection (c).

"(2) NONFEDERAL SHARE.—The non-Federal share of carrying out student literacy corps programs under this subpart may be paid from any non-Federal sources.

"SEC. 127. USES OF FUNDS.

"(a) IN GENERAL.—Funds made available under this subpart may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the student literacy corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the student literacy corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 129.

"(b) LIMITATION.—(1) No grant award to an institution of higher education under this subpart shall exceed $100,000.

"(2) FIRST YEAR.—No institution of higher education may expend more than $50,000 of a grant made under this subpart in the first year in which the institution receives such a grant.

"SEC. 128. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Each institution of higher education desiring to receive a grant under this subpart shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) contain assurances that the institution will use the grant in accordance with section 127;

"(2) contain adequate assurances that—

"(A) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the

training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors;

"(B) such individuals will be required, as a condition of receiving credit in such course, to perform, for each credit, not less than 2 hours a week of voluntary, uncompensated service during the academic term in a public community agency as a tutor in such agency's educational or literacy program;

"(C) such tutoring service will be supplementary to the existing instructional services, offered in a structured classroom setting, and furnished under the supervision of qualified personnel; and

"(D) the institution will locate such tutoring services in one or more public community agencies which serve educationally or economically disadvantaged individuals and will give priority in providing tutoring services to—

"(i) educationally disadvantaged students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(ii) illiterate parents of educationally or economically disadvantaged elementary school students, with special emphasis on single-parent households;

"(3) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subpart, in community service activities, including the conduct of a cooperative education program; and

"(4) contain such other assurances as the Secretary may reasonably require.

"(c) WAIVER.—

"(1) IN GENERAL.—The Secretary may, upon request of an institution of higher education which does not meet the requirements of paragraph (3) of subsection (b), grant a waiver of the requirement under such paragraph if the institution of higher education provides assurances that—

"(A) the institution of higher education has conducted another significant program which involves community outreach and service; or

"(B) its failure to engage in community service-related programs or activities prior to making application under this subpart will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this subpart.

"(2) SPECIAL RULE.—An institution of higher education may apply for a waiver as part of the application described in subsection (b).

"(d) REOPENING OF APPLICATION PROCESS.—The Secretary shall accept applications for assistance under this subpart for 90 days following the date of the enactment of this Act.

"SEC. 129. TECHNICAL ASSISTANCE AND COORDINATION CONTRACT.

"To the extent that funds are available pursuant to section 131, the Secretary may, directly or by way of grant, contract, or other arrangement—

"(1) provide technical assistance to grant recipients under this subpart;

"(2) collect and disseminate information with respect to programs assisted under this subpart; and

"(3) evaluate such programs and issue reports on the results of such evaluations.

"SEC. 130. DEFINITIONS.

"For the purpose of this subpart:

"(1) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education', in the case of an institution of higher education with a branch campus, means, at the election of the institution—

"(A) a branch campus of the institution; or

"(B) the institution.

"(2) PUBLIC COMMUNITY AGENCY.—The term 'public community agency' means an established community agency with an established program of instruction such as elementary and secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving individuals with disabilities, including disabled veterans.

"Subpart 3—Authorization of Appropriations

"SEC. 131. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for the 6 succeeding fiscal years to carry out this part.

"(b) RESERVATION.—The Secretary shall reserve at least 50 percent of the funds appropriated pursuant to the authority of subsection (a) to carry out subpart 2 of this part.

"PART C—ACCESS AND EQUITY TO EDUCATION FOR ALL AMERICANS THROUGH TELECOMMUNICATIONS

"SEC. 141. PROGRAM ESTABLISHED; AUTHORIZATION OF APPROPRIATIONS; ELIGIBILITY.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to eligible partnerships to enable such partnerships to pay the Federal share of the cost of the activities described in the application submitted pursuant to section 142.

"(b) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

"(c) ELIGIBLE PARTNERSHIP.—For the purpose of this part the term 'eligible partnership' means a partnership which—

"(1) shall consist of—

"(A) a public broadcasting entity or a consortium thereof; and

"(B) an institution of higher education or a consortium thereof; and

"(2) may also include a State, a unit of local government, or a public or private nonprofit organization.

"(d) FEDERAL SHARE.—The Federal share shall be 50 percent.

"SEC. 142. APPLICATION.

"(a) IN GENERAL.—Each eligible partnership desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(1) describe the education telecommunications activities or services to be assisted;

"(2) describe the administrative and management structure supporting such activities or services;

"(3) provide assurances that the financial interests of the United States in the telecommunications equipment, software and other facilities shall be protected for the useful life of such equipment, software or facilities;

"(4) describe the manner in which nontraditional postsecondary education students will benefit from the activities and services supported;

"(5) describe the manner in which special services, including captioned films, television, descriptive video and education media for individuals with disabilities, shall be supported; and

"(6) provide assurances that the eligible partnership will provide the non-Federal share of assistance under this part.

"(c) APPROVAL OF APPLICATIONS.—

"(1) IN GENERAL.—The Secretary shall, in approving applications under this part, give priority to applications which describe programs that—

"(A) include support for services to make captioned films, descriptive video and educational media available to individuals with disabilities who otherwise lack access to such educational materials;

"(B) will provide, directly or indirectly, activities or services to a significant number of postsecondary institutions;

"(C) improve access to accredited telecommunications coursework for individuals with disabilities otherwise denied such access;

"(D) will be available in a multistate area;

"(E) include evidence of significant support for the program from the business community; or

"(F) provides matching funds, in an amount which exceeds the required non-Federal share.

"(2) EQUITABLE GEOGRAPHIC DISTRIBUTION OF ASSISTANCE.—In approving applications under this part the Secretary shall ensure the equitable geographic distribution of grants awarded under this part.

"SEC. 143. AUTHORIZED ACTIVITIES.

"Grant funds awarded under this part shall be used for—

"(1) the acquisition of site equipment to provide the technical ability to receive diverse education services at schools, campuses, and work site locations;

"(2) satellite, fiberoptic and other distribution systems, and for local broadcast or other local distribution capability;

"(3) pre-service or in-service education and training for kindergarten through 4th grade teachers through interactive television conferencing;

"(4) preparation of telecommunications programs and software that support national, regional or statewide efforts to provide teaching and learning materials not otherwise available for local use; and

"(5) a loan service of captioned films, descriptive video and educational media in order to make such materials available, in accordance with regulations issued by the Secretary, in the United States for nonprofit purposes to individuals with disabilities, parents of individuals with disabilities, and other individuals directly involved in activities for the advancement of individuals with disabilities, including addressing problems of illiteracy among individuals with disabilities.

"SEC. 144. DEFINITIONS.

"For the purpose of this part—

"(1) the term 'institution of higher education' has the same meaning given to such term by section 481(a);

"(2) the term 'public broadcasting entity' has the same meaning given to such term by section 397(11) of the Communications Act of 1934; and

"(3) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands.

"SEC. 145. REPORT.

"(a) IN GENERAL.—Each recipient of a grant under this part shall submit a report

to the Secretary not later than 30 days after the conclusion of the grant period.

"(b) CONTENTS.—Each report described in subsection (a) shall include—

"(1) a description of activities and services assisted under this part;

"(2) a description of the population served by the program; and

"(3) an assessment of the ability of private sector entities participating in the eligible partnership to continue the support of the activities and services in the absence of Federal funding.

"(c) DISSEMINATION.—The Secretary shall select reports received under this subsection that are appropriate for dissemination to the education community and shall make such reports available through the National Diffusion Network.".

TITLE II—ACADEMIC LIBRARIES AND INFORMATION SERVICES

SEC. 201. AMENDMENT TO TITLE HEADING.

The heading for title II of the Act (20 U.S.C. 1021 et seq.) is amended by striking "LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT" and inserting "LIBRARIES AND INFORMATION SERVICES".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 201 of the Act (20 U.S.C. 1021) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) college and university libraries in acquiring technological equipment and in conducting research in information technology in accordance with part A;";

(B) by amending paragraph (2) to read as follows:

"(2) in the education and training of persons in library and information science and to encourage research and development relating to improvement of libraries (including the promotion of economical and effective information delivery, cooperative efforts, and developmental projects) in accordance with part B;";

(C) in paragraph (3), by striking the semicolon and "and" and inserting a period; and

(D) by striking paragraph (4); and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "1987" and inserting "1993"; and

(ii) by striking "4 succeeding" and inserting "6 succeeding";

(B) in paragraph (2)—

(i) by striking "$5,000,000" and inserting "$7,500,000";

(ii) by striking "1987" and inserting "1993"; and

(iii) by striking "4 succeeding" and inserting "6 succeeding";

(C) in paragraph (3)—

(i) by striking "$10,000,000" and inserting "$15,000,000";

(ii) by striking "1987" and inserting "1993"; and

(iii) by striking "4 succeeding" and inserting "6 succeeding"; and

(D) by striking paragraphs (4) and (5).

SEC. 203. LIBRARY EXPERTS.

Title II of the Act is further amended by inserting after section 202 the following new section:

"SEC. 203. LIBRARY EXPERTS.

"The Secretary shall make every effort to ensure that programs under this title are administered by appropriate library experts.".

SEC. 204. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS.

Part A of title II of the Act (20 U.S.C. 1029 et seq.) is amended to read as follows:

"PART A—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

"SEC. 211. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS.

"(a) GRANTS AUTHORIZED.—The Secretary is authorized to make grants for technological equipment, networking, and other special purposes to—

"(1) institutions of higher education which demonstrate a need for special assistance for the planning, development, acquisition, maintenance, or upgrading of technological equipment necessary to organize, access or utilize material in electronic formats and to participate in networks for the accessing and sharing of library and information resources;

"(2) combinations of institutions of higher education which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment for the accessing and sharing of library and information resources;

"(3) other public and private nonprofit organizations which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve the services provided by such organizations to institutions of higher education; and

"(4) institutions of higher education conducting research or demonstration projects that improve information services to meet special national or regional needs by utilizing technology to enhance library or information services such as through the National Research and Education Network.

"(b) AWARD BASIS.—Grants under this section shall be awarded on a competitive basis.

"(c) AMOUNT.—

"(1) IN GENERAL.—The Secretary shall award grants under this section in an amount which is not less than $25,000.

"(2) SPECIAL RULE.—The Secretary shall award grants pursuant to paragraph (1) of subsection (a) in an amount which is not more than $50,000 for each institution of higher education.

"(d) PRIORITY.—In awarding grants pursuant to paragraph (1) of subsection (a), the Secretary shall give priority to institutions of higher education seeking assistance for projects which assist developing institutions of higher education in linking one or more institutions of higher education to resource sharing networks.

"(e) DURATION.—The Secretary shall award grants under this section for a period not to exceed 3 years.

"(f) APPLICATION.—

"(1) IN GENERAL.—Each institution of higher education or combination thereof desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENT.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) contain assurances that the applicant will expend during the period for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant.

"(3) CRITERIA.—The Secretary shall prescribe criteria for the approval of applications submitted under this section.".

SEC. 205. LIBRARY EDUCATION, RESEARCH, AND DEVELOPMENT.

(a) AMENDMENT TO HEADING.—The heading for part B of title II of the Act (20 U.S.C. 1031 et seq.) is amended by striking "TRAINING" and inserting "EDUCATION".

(b) GRANTS AUTHORIZED.—Section 221 of the Act (20 U.S.C. 1031) is amended—

(1) by inserting "(a) IN GENERAL.—" before "From"; and

(2) by inserting at the end thereof the following new subsection:

"(b) CONSULTATION.—In awarding grants pursuant to this part, the Secretary shall consult with appropriate library and information science professional organizations to determine critical needs under section 222 and priorities for awarding grants under section 223.".

SEC. 206. LIBRARY EDUCATION AND HUMAN RESOURCE DEVELOPMENT.

(a) AMENDMENT TO HEADING.—The heading for section 222 of the Act is amended by striking "CAREER TRAINING" and inserting "EDUCATION AND HUMAN RESOURCE DEVELOPMENT".

(b) AMENDMENT TO TEXT.—Subsection (a) of section 222 of the Act (20 U.S.C. 1032(a)) is amended—

(1) in the first sentence thereof, by striking "librarianship" and inserting "library and information science, particularly in areas of critical needs such as recruitment and retention of minorities"; and

(2) in the second sentence thereof—

(A) by striking "training or";

(B) by inserting "or staff development" after "study"; and

(C) by striking "and others undergoing training" and inserting "who demonstrate need and are working toward a graduate degree".

SEC. 207. RESEARCH AND DEMONSTRATION.

Section 223 of the Act (20 U.S.C. 1033) is amended—

(1) by inserting "enter into" before "contracts"; and

(2) by striking "training in librarianship" and inserting "education in library and information science, enhancement of library services through effective and efficient use of new technology".

SEC. 208. IMPROVING ACCESS TO RESEARCH LIBRARY RESOURCES.

(a) ELIGIBILITY FOR ASSISTANCE.—Section 231 of the Act (20 U.S.C. 1041) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(b) AMENDMENT TO PART HEADING.—The heading for part C of title II of the Act (20 U.S.C. 1041 et seq.) is amended by striking "**STRENGTHENING**" and inserting "**IMPROVING ACCESS TO**".

SEC. 209. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS.

Part D of title II of the Act (20 U.S.C. 1042) is repealed.

TITLE III—INSTITUTIONAL AID

SEC. 301. FINDINGS.

Subsection (a) of section 301 of the Act (20 U.S.C. 1051) is amended—

(1) in paragraph (1), by striking "in this era of declining enrollments and scarce resources" and inserting "serving high percentages of minority students and students from low-income backgrounds";

(2) in paragraph (2), by striking "recruitment activities,"; and

(3) by amending paragraph (5) to read as follows:

"(5) providing assistance to eligible institutions will enhance the role of such institutions in providing access and quality education to low-income and minority students;".

SEC. 302. HISPANIC-SERVING INSTITUTIONS.

(a) IN GENERAL.—Part A of title III of the Act (20 U.S.C. 1057 et seq.) is amended—

(1) by redesignating sections 313 and 314 as sections 314 and 315, respectively; and

(2) by inserting after section 313 the following new section:

"SEC. 313. HISPANIC-SERVING INSTITUTIONS.

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic and other low-income students.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) the term 'Hispanic-serving institution' means an institution of higher education which—

"(A) has a full-time student undergraduate enrollment that is at least 25 percent Hispanic;

"(B) is duly accredited by an agency recognized for that purpose by the Secretary;

"(C) has been so accredited for 3 of its previous 5 years;

"(D) provides a 4-year program leading to a baccalaureate degree or a 2-year program leading to an associate's degree; and

"(E) is a public or nonprofit private institution of higher education;

"(F) is described in section 312(a), meets the requirements of paragraphs (1), (2) and (3) of section 312(b) and has an enrollment of needy students; and

"(G) provides assurances that—

"(i) not less than 50 percent of its Hispanic students be low-income individuals who are first generation college students; and

"(ii) another 25 percent of its Hispanic students be either low-income individuals or be first generation college students;

"(2) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree; and

"(3) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

"(c) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Hispanic-serving institutions of higher education to assist such institutions to plan, develop, undertake, and carry out programs in any of the following areas:

"(A) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(B) Renovation and improvement in classroom, library, laboratory, and other instructional facilities.

"(C) Faculty salaries and support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

"(D) Curriculum development and academic instruction.

"(E) Purchase of library books, periodicals, microfilm, and other educational materials.

"(F) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

"(G) Joint use of facilities such as laboratories and libraries.

"(H) Academic tutoring and counseling programs.

"(I) Transfer centers to support the development or expansion of centers designed to increase the transfer rate of underrepresented students from 2-year to 4-year institutions, which may include joint admissions programs, shared advisement programs, and student transfer management information data systems.

"(J) Academic partnership coalitions, including partnerships among colleges, elementary and secondary schools, community-based organizations, parents, and low-income students.

"(K) Collaborative arrangements with nonprofit organizations or private sector business entities, in order to carry out the activities described in this subsection.

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—Each Hispanic-serving institution desiring to receive assistance under this Act shall submit to the Secretary such enrollment data as may be necessary to demonstrate that it is a Hispanic-serving institution as defined in paragraph (1) of subsection (b), along with such other information and data as the Secretary may by regulation require.

"(2) APPLICATIONS.—Any institution which is determined by the Secretary to be a Hispanic-serving institution (on the basis of the information and data submitted under paragraph (1)) may submit an application for assistance under this section to the Secretary. Such application shall include—

"(A) a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic and other low-income students at the collegiate and pre-collegiate levels;

"(B) satisfactory evidence that such institution will, if provided with assistance, enter into a collaborative arrangement with at least one local educational agency to provide such agency with assistance in reducing Hispanic dropout rates, improving Hispanic rates of academic achievement, and increasing the rates at which Hispanic high school graduates enroll in higher education; and

"(C) such other information and assurance as the Secretary may require.

"(3) APPROVAL.—The Secretary shall approve any application which meets the requirements of paragraph (1) and shall not disapprove any application submitted under this section, or any modification thereof, without first affording such institution reasonable notice and opportunity for hearing.

"(e) SPECIAL RULE.—For the purposes of this section, no Hispanic-serving college or university which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Title III of the Act is further amended—

(1) by adding at the end of subsection (b) of section 352 the following new paragraph:

"(4) The Secretary shall waive the requirements set forth in section 312(b)(1)(B) in the case of an institution which qualifies for assistance under section 313."; and

(2) by adding at the end of subsection (a) of section 360 the following new paragraph:

"(5) There are authorized to be appropriated to carry out section 313, $45,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.".

SEC. 303. DURATION OF GRANTS.

Section 314 of the Act (as redesignated in section 302(a)(2)) is amended—

(1) in subsection (a), by striking "for—" and all that follows through the period at the end thereof and inserting "for 3, 4, or 5 years."; and

(2) by amending subsection (b) to read as follows:

"(b) LIMITATIONS.—In awarding grants under this part the Secretary shall give priority to applicants who are not already receiving a grant under this part.".

SEC. 304. GRANTS TO INSTITUTIONS.

Section 323 of the Act (20 U.S.C. 1062(a)) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting ", including purchase or rental of telecommunications technology equipment or services" after "facilities";

(B) in paragraph (5), by inserting ", including telecommunications program materials" after "materials"; and

(C) by inserting at the end thereof the following new paragraphs:

"(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

"(10) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary or secondary school in the State that shall include, as part of such program, preparation for teacher certification.

"(11) Other activities proposed in the application submitted pursuant to section 325 that—

"(A) contribute to carrying out the purposes of this part; and

"(B) are approved by the Secretary as part of the review and acceptance of such application."; and

(2) in subsection (b), by inserting at the end thereof the following new paragraph:

"(3) The Secretary shall not award a grant under this part for telecommunications technology equipment, facilities or services, if such equipment, facilities or services are available pursuant to section 396(k) of the Communications Act of 1934.".

SEC. 305. MINIMUM ALLOTMENT.

Paragraph (1) of section 324(d) of the Act (20 U.S.C. 1063(d)(1)) is amended by striking "$350,000" and inserting "$500,000".

SEC. 306. PROFESSIONAL OR GRADUATE INSTITUTIONS.

Section 326 of the Act (20 U.S.C. 1063b) is amended—

(1) by amending subsection (e) to read as follows:

"(e) ELIGIBILITY.—

"(1) IN GENERAL.—Independent professional or graduate institutions eligible for grants under subsection (a) include—

"(A) Morehouse School of Medicine;

"(B) Meharry Medical School;

"(C) Charles R. Drew Postgraduate Medical School;

"(D) Clark-Atlanta University;

"(E) Tuskegee University School of Veterinary Medicine;

"(F) Xavier University School of Pharmacy;

"(G) Southern University School of Law;

"(H) Texas Southern University School of Law or School of Pharmacy;

"(I) Florida A&M University School of Pharmaceutical Sciences;

"(J) North Carolina Central University School of Law; and

"(K) Morgan State University Graduate School.

"(2) SPECIAL RULE.—Graduate institutions that were awarded grants prior to October 1, 1992 shall continue to receive such grant payments, regardless of the eligibility of the graduate institutions described in subpara-

graphs (F) through (K), until such grant period has expired or September 30, 1993, whichever is later.

"(3) LIMITATION.—The Secretary shall not award more than 1 grant under this section in any fiscal year to any institution of higher education or university system."; and

(2) by adding at the end thereof the following new subsection:

"(f) FUNDING RULE.—If the amount of funds appropriated to carry out the provisions of this section does not exceed $12,000,000, then such amount as does not exceed $12,000,000 shall be available to make grants in accordance with the provisions of this section to the institutions described in subparagraphs (A) through (E) of subsection (e)(1).".

SEC. 307. ESTABLISHMENT OF GRANTS.

(a) REPEAL OF CHALLENGE GRANT PROGRAM.—

(1) REPEAL.—Section 331 of the Act (20 U.S.C. 1064) is repealed.

(2) REDESIGNATION.—Section 332 of the Act (20 U.S.C. 1065) is redesignated as section 331 of the Act.

(b) AMENDMENT TO HEADING.—The heading for part C of title III of the Act (20 U.S.C. 1064 et seq.) is amended by inserting "ENDOWMENT" before "CHALLENGE".

SEC. 308. ENDOWMENT CHALLENGE GRANTS.

Section 331 of the Act (20 U.S.C. 1065) (as redesignated in section 307(a)(2)) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "of higher education"; and

(B) in paragraph (2), by inserting at the end thereof the following new subparagraph:

"(D)(i) The term 'eligible institution' means an institution that is an—

"(I) eligible institution under part A or would be considered to be such an institution if section 312(b)(1)(C) referred to a postgraduate degree rather than a bachelor's degree;

"(II) institution eligible for assistance under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or

"(III) institution of higher education that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

"(ii) The Secretary may waive the requirements of subclauses (I) and (II) of clause (i) with respect to a postgraduate degree in the case of any institution otherwise eligible under clause (i) for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.";

(2) in subsection (b)—

(A) in paragraph (1), by striking "of higher education";

(B) in paragraph (2)—

(i) by amending subparagraph (B) to read as follows:

"(B) The Secretary may make a grant under this part to an eligible institution under the following circumstances:

"(i) In any fiscal year in which the amount appropriated to carry out this part is less than $15,000,000, the institution—

"(I) may apply for a grant in an amount not exceeding $500,000; and

"(II) shall have deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

"(ii) In any fiscal year in which the amount appropriated to carry out this part is equal to or greater than $15,000,000 but less than $25,000,000, the institution—

"(I) may apply for a grant in an amount not exceeding $1,000,000; and

"(II) shall have deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

"(iii) In any fiscal year in which the amount appropriated to carry out this part is equal to or greater than $25,000,000, the institution may apply for a grant in an amount not to exceed $1,500,000 if such institution has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant."; and

(ii) in subparagraph (C)—

(I) by striking "of higher education";

(II) by striking "10" and inserting "5";

(III) by inserting "(i)" after the subparagraph designation; and

(IV) by adding at the end the following new clause:

"(ii) The provisions of clause (i) shall not apply to an eligible institution which received a grant under this section in an amount which is less than $1,000,000.";

(C) in paragraph (4)—

(i) by striking subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (A); and

(iii) in subparagraph (A) (as redesignated by clause (ii)) by inserting "endowment" before "challenge"; and

(D) by amending paragraph (5) to read as follows:

"(5) An endowment challenge grant awarded under this section to an eligible institution shall be in an amount which is not less than $50,000 in any fiscal year."; and

(3) by amending paragraph (1) of subsection (f) to read as follows:

"(1) give priority to an applicant that is receiving assistance under this part or has received a grant under part A or part B of this title within the 5 fiscal years preceding the fiscal year in which the applicant is applying for a grant under this section;".

SEC. 309. APPLICATION FOR ASSISTANCE.

Paragraph (7) of section 351(b) of the Act (20 U.S.C. 1066(b)(7)) is amended by—

(1) striking subparagraph (D); and

(2) redesignating subparagraphs (E) and (F), as subparagraphs (D) and (E), respectively.

SEC. 310. WAIVER AUTHORITY.

Subsection (a) of section 352 of the Act (20 U.S.C. 1067(a)) is amended in the matter preceding paragraph (1) by striking "shall" and inserting "may".

SEC. 311. REPEALERS.

Sections 355 and 359 of the Act (20 U.S.C. 1069a and 1069e) are each repealed.

SEC. 312. ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS.

Subsection (a) of section 356 of the Act (20 U.S.C. 1069b(a)) is amended by striking "shall" and inserting "may".

SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

Section 360 of the Act (20 U.S.C. 1069f) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "$120,000,000" and inserting "$125,000,000";

(ii) by striking "1987" and inserting "1993"; and

(iii) by striking "4 succeeding" and inserting 6 succeeding";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking "$100,000,000" and inserting "$125,000,000";

(II) by striking "1987" and inserting "1993"; and

(III) by striking "4 succeeding" and inserting "6 succeeding"; and

(ii) in subparagraph (B)—

(I) by striking "$5,000,000" and inserting "$20,000,000";

(II) by striking "1987" and inserting "1993"; and

(III) by striking "4 succeeding" and inserting 6 succeeding"; and

(C) in paragraph (3)—

(i) by striking "$20,000,000" and inserting "$40,000,000";

(ii) by striking "1987" and inserting "1993"; and

(iii) by striking "4 succeeding" and inserting 6 succeeding";

(2) by amending subsection (c) to read as follows:

"(c) RESERVATIONS.—If the amount appropriated under subsection (a)(1) for part A for any fiscal year beginning after September 30, 1986, equals or exceeds the amount appropriated for such part for fiscal year 1986, then the Secretary shall, for such fiscal year—

"(1) allocate 25 percent of the excess (above the amount appropriated for part A for fiscal year 1986) among eligible institutions with a very high percentage of students who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

"(2) allocate 75 percent of such excess among other eligible institutions."; and

(3) by adding at the end thereof the following new subsection:

"(e) ADDITIONAL RESERVATION.—The Secretary shall award at least 25 percent of the amount appropriated pursuant to the authority of paragraph (3) of subsection (a) in each fiscal year to historically black colleges and universities that meet the requirements of part C.".

TITLE IV—STUDENT ASSISTANCE

SEC. 401. PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.

Section 411 of the Act (20 U.S.C. 1070a) is amended—

(1) in paragraph (1) of subsection (a), by inserting "in accordance with subsection (g)" after "pay to each eligible institution";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) The purpose of this subpart is to provide a basic grant that as determined under paragraph (2) will meet the cost of attendance as set forth in section 472, but in no event shall such grant amount exceed the amount of the basic grant described in paragraph 2.";

(B) in subparagraph (A) of paragraph (2)—

(i) by striking "The amount" and inserting "Except as provided in paragraph (3), the amount";

(ii) by striking clauses (i) through (v) and inserting the following:

"(i) $3,600 for academic year 1993–1994,

"(ii) $3,800 for academic year 1994–1995,

"(iii) $4,000 for academic year 1995–1996,

"(iv) $4,200 for academic year 1996–1997,

"(v) $4,400 for academic year 1997–1998,

"(vi) $4,600 for academic year 1998–1999,

"(vii) $4,800 for academic year 1999–2000, "; and

(C) in the matter following clause (vii) (as added by clause (ii)), by inserting "(determined in accordance with part F)" after "expected family contribution"; and

(D) by amending paragraph (3) to read as follows:

"(3)(A) Except as provided in subparagraph (B), the amount of a basic grant to which a student is entitled under this subpart in any fiscal year—

"(i) in the case that the maximum basic grant amount allowable pursuant to the appropriate Appropriation Act is less than $3,600, equals a basic educational allowance of $2,300 plus a pro rata decrease in the amount the student would have received toward the cost of tuition if such maximum basic grant amount allowable pursuant to the appropriate Appropriation Act had been equal to $3,600;

"(ii) in the case that the maximum basic grant amount allowable pursuant to the appropriate Appropriation Act is $3,600, equals a basic allowance of $2,300, plus 25 percent of the cost of tuition (except that such cost shall not exceed $1,300);

"(iii) in the case that the maximum basic grant amount allowable pursuant to the appropriate Appropriation Act is greater than $3,600, equals the sum of—

"(I) a basic education allowance of $2,300, multiplied by the percentage by which such maximum basic grant amount for the fiscal year exceeds such maximum basic grant amount for the preceding fiscal year plus 100 percent, and

"(II) 25 percent of the cost of tuition;

"(iv) in the case of a student who has dependent care expenses (as defined in section 472(7)) or disability related expenses (as defined in section 472(8)), shall include an allowance of $3,000 in addition to the cost of tuition; and

"(v) in the case of an incarcerated student, shall be limited to the amount of tuition and fees assessed by the postsecondary institution for the course of study such student is pursuing and an allowance, as determined by the Secretary pursuant to regulations, for books and supplies associated with such course of study.

"(B) In no event shall the amount of a basic grant be—

"(i) less than $2,400 minus the expected family contribution; and

"(ii) exceed the amount of the basic grant described in paragraph (2).";

(E) in paragraph (4), by striking "section 411F" and inserting "section 472".

(F) in paragraph (5), by striking "$200" and inserting "$400, except that a student who is eligible for a basic grant that is equal to or greater than $200 but less than $400 shall be awarded a basic grant of $400";

(G) by amending paragraph (6) to read as follows—

"(6) No basic grant shall be awarded under this subpart in any fiscal year to any student who is attending on a less than half-time basis unless the expected family contribution for such student for such fiscal year is less than or equal to $200."; and

(H) by adding at the end the following new paragraphs:

"(8) EXCEPTION TO THE MAXIMUM PELL GRANT AWARD.—Notwithstanding any other provision of law, a student may receive 2 Pell grants during a single 12-month period, if the student—

"(A) is enrolled full-time in a program of study that is 3 years or longer at an eligible institution; and

"(B) completes course work toward completion of a bachelor's degree that exceeds the requirements for a full academic year as defined by the institution.

"(9) STUDY ABROAD.—Notwithstanding any other provision of this subpart, the Secretary shall allow the amount of the basic grant to be exceeded for students participating in a program of study abroad approved for credit by the institution at which the student is enrolled when the reasonable costs of such program are greater than the cost of attendance at the student's home institution, except that the amount of such basic grant in any fiscal year shall not exceed the grant level specified in the appropriate Appropriation Act for this subpart for such year. If the preceding sentence applies, the financial aid administrator at the home institution may use the budget of the study abroad program, rather than the home institution's budget, to determine the expected family contribution of the student.

"(10) INCARCERATED STUDENTS.—(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release.

"(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.";

(3) in subsection (c)—

(A) in subparagraph (A) of paragraph (1)—

(i) in clause (i)—

(I) by striking "5 academic years" and inserting "7 academic years"; and

(II) by striking "4 years or less;" and inserting "5 years;"

(ii) in clause (ii) by striking "more than"; and

(iii) by adding at the end the following new clauses:

"(iii) 4 academic years in the case of an undergraduate or certificate program normally requiring 2 years; or

"(iv) twice the length of time for a program in the case of an undergraduate or certificate program normally requiring less than 2 years to complete;"; and

(B) in paragraph (2), by adding at the end thereof the following new sentence: "Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the institution at which the student is enrolled."; and

(4) by adding at the end of subsection (d) the following new paragraph:

"(3) The Secretary shall make available a common reapplication form and process for students who have received a Pell Grant in the award year prior to the year for which such application is filed.".

SEC. 402. REPEALERS.

Sections 411A, 411B, 411C, 411D, 411E and 411F of the Act (20 U.S.C. 1070a-1 through 1070a-6) are each repealed.

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

Subsection (b) of section 413A of the Act (20 U.S.C. 1070b-1) is amended—

(1) by striking "$490,000,000" and inserting "$650,000,000";

(2) by striking "1987" and inserting "1993"; and

(3) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 404. AMOUNT AND DURATION OF GRANTS.

Section 413B of the Act (20 U.S.C. 1070b-1 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "From" and inserting "Except as provided in paragraph (3), from"; and

(ii) in subparagraph (A), by inserting "or in a program of study abroad that is approved for credit by the institution at which the student is enrolled" after "course of study at the institution"; and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) For students participating in study abroad programs, the institution shall consider all reasonable costs associated with such study abroad when determining student eligibility. The amount of grant to be awarded in such cases may exceed the maximum amount of $4,000 by as much as $400 if reasonable study abroad costs exceed the cost of attendance at the home institution by more than 20 percent."; and

(2) in paragraph (1) of subsection (b), by inserting ", and the first academic year of the first postbaccalaureate degree or the first year of graduate study (if the financial aid officer determines that the student has exceptional needs comparable to undergraduate students receiving such grants)," before "being pursued".

SEC. 405. AGREEMENTS WITH INSTITUTIONS; SELECTION OF RECIPIENTS.

Section 413C of the Act (20 U.S.C. 1070b-2) is amended—

(1) by amending paragraph (2) of subsection (a) to read as follows:

"(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent of such awards, except that the Federal share may exceed such percentage if the Secretary determines that the non-Federal share would cause financial hardship at an eligible institution and that such institution serves a large number or percentage of low-income or minority students.";

(2) in subparagraph (A) of subsection (c)(2)—

(A) in clause (i), by striking the "and" after the comma;

(B) in clause (ii), by striking the period at the end thereof and inserting a comma; and

(C) by adding at the end the following new clauses:

"(iii) will, notwithstanding any other provision of this part, award supplemental grants to Pell grant recipients in an amount which is proportionate to the amount of the Pell grant received by such recipient in the academic year for which the determination is made, and

"(iv) will determine awards for supplemental grants without regard to the determination of a minimum student contribution, self-help amount or eligibility for assistance under other parts of this title except subpart 1 of part A."; and

(3) in subsection (d), by inserting "except that if the total financial need of all such students attending the institution exceeds 5 percent of such institution's allotment, then at least 5 percent of such allotment shall be made available to such students" before the period at the end thereof.

SEC. 406. ALLOCATION OF FUNDS.

Section 413D of the Act (20 U.S.C. 1070b-3) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

"(B) In order to receive an allocation pursuant to subparagraph (A) an institution

shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate or transfer to a 4-year institution of higher education."; and

(2) in subparagraph (A) of subsection (d)(2), by inserting "subdivided by full-time and part-time status" before the semicolon.

SEC. 407. GRANTS TO STATES FOR STATE STUDENT INCENTIVES.

Section 415A of the Act (20 U.S.C. 1070c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to—

"(1) make incentive grants available to States to assist States in providing grants to—

"(A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

"(B) eligible students for campus-based community service work-study; and

"(2) make allotments to States to enable States to conduct early intervention programs described in section 415F."; and

(2) in subsection (b)—

(A) by striking "1987" and inserting "1993"; and

(B) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 408. APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAM.

Subsection (b) of section 415C of the Act (20 U.S.C. 1070c-2(b)) is amended—

(1) in paragraph (2), by striking "$2,500" and inserting "$4,000"; and

(2) in paragraph (4), by inserting "except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State" before the semicolon.

SEC. 409. EARLY INTERVENTION PROGRAM.

Subpart 3 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.) is amended by adding at the end thereof the following new section:

"SEC. 415F. EARLY INTERVENTION PROGRAM.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to make incentive grants to States to enable States to conduct early intervention programs that—

"(1) raise the awareness of eligible students about the advantages of obtaining a postsecondary education;

"(2) provide academic support and personal mentoring for prospective postsecondary students; and

"(3) provide eligible students with tuition assistance.

"(b) EARLY INTERVENTION PROGRAM ESTABLISHED.—

"(1) PROGRAM ESTABLISHED.—From amounts appropriated pursuant to the authority of subsection (f), the Secretary shall make allotments to States in accordance with paragraph (2) to pay the Federal share of the costs of the activities and services described in the plan submitted pursuant to subsection (d).

"(2) ALLOTMENT.—Except as provided in paragraph 3, for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amount appropriated pursuant to subsection (f) as the number of eligible students in such State bears to the total number of eligible students in all the States.

"(3) MINIMUM ALLOTMENT.—No State shall receive an allotment under paragraph (2) in any fiscal year which is less than $500,000.

"(4) REALLOTMENT.—The amount of any State's allotment under paragraph (2) or (3) for any fiscal year which the Secretary determines will not be required for such fiscal year for the early intervention program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such paragraphs for such year, but with such proportionate amount for any of such States being reduced to the extent such amount exceeds the sum the Secretary estimates such State needs and will be able to use in such year for carrying out the activities and services described in the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this paragraph during a year from funds appropriated pursuant to subsection (g) shall be deemed part of its allotment under such paragraphs for such year.

"(5) ALLOTMENT SUBJECT TO CONTINUING COMPLIANCE.—The Secretary shall make payments for early intervention programs only to States which continue to meet the requirements of subsection (c).

"(6) DEFINITIONS.—For the purpose of this section—

"(A) the term 'eligible institution' has the same meaning provided such term in section 435(a);

"(B) the term 'eligible student' shall include students eligible—

"(i) to be counted under section 1005(c) of the Elementary and Secondary Education Act of 1965;

"(ii) for assistance pursuant to the National School Lunch Act; or

"(iii) for assistance pursuant to part A of title IV of the Social Security Act (Aid to Families with Dependent Children); and

"(C) term 'tuition assistance' includes the costs of tuition, room and board, books, and required fees, if any.

"(c) USE OF ALLOTMENTS.—

"(1) IN GENERAL.—A State shall use payments received under this section to conduct an early intervention program that—

"(A) provides eligible students in any of the grades pre-school through 12 with a continuing system of mentoring and advising that—

"(i) is coordinated with the Federal and State community service initiatives;

"(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring and academic counseling; and

"(iii) may be provided by service providers such as community-based organizations, schools, eligible institutions, and public and private agencies, particularly institutions and agencies sponsoring programs authorized under subpart 4 of this part;

"(B) requires each student to enter into an agreement with the State under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory academic progress as described in section 484(c), in exchange for receiving tuition assistance for a period of time to be established by each State;

"(C) establishes a plan for tuition assistance described in subparagraph (B) which may include contributions from Federal, State and private sources;

"(D) contains an incentive system to encourage greater collaboration between elementary and secondary schools, institutions of higher education, and any programs assisted under sections 417B and 417C in the State, through the creation of new linkage structures and programs;

"(E) provides financial aid counseling, including information on the opportunities for financial assistance pursuant to this title; and

"(F) contains an evaluation component that allows service providers to track eligible student progress during the period such students are participating in the program assisted under this section and which is consistent with the standards developed by the Secretary pursuant to paragraph (4).

"(2) ADDITIONAL REQUIREMENTS.—In carrying out the provisions of subparagraph (B) of paragraph (1), a State may include in the agreement such other requirements as the State determines necessary to meet the purposes of this section.

"(3) TUITION ASSISTANCE.—(A) In order to receive an allotment under this section each State shall ensure that tuition assistance provided pursuant to the provisions of paragraph (1)(B) is available to an eligible student for use at any eligible institution.

"(B) A State may consider students who have successfully participated in programs funded under subpart 4 of this part to have met the requirements of subsection (c)(1) (A) and (B).

"(C) Notwithstanding any other provision of law, tuition assistance provided under this section shall not be considered for the purpose of awarding Federal student financial aid, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed such student's total cost of attendance.

"(4) EVALUATION STANDARDS.—The Secretary shall prescribe standards for the evaluation described in paragraph (1)(E). Such standards shall—

"(A) provide for input from States and service providers; and

"(B) ensure that data protocols and procedures are consistent and uniform.

"(d) STATE PLAN.—

"(1) IN GENERAL.—Each State desiring an allotment under this section shall submit a State plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each State plan submitted pursuant to paragraph (1) shall—

"(A) describe the activities for which assistance under this section is sought; and

"(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this section.

"(3) APPROVAL.—The Secretary shall approve a State plan submitted pursuant to paragraph (1) within 6 months of receipt of the plan unless the plan fails to comply with the provisions of this section.

"(e) EVALUATION AND REPORT.—

"(1) EVALUATION.—Each State receiving an allotment under this section shall annually evaluate the early intervention program assisted under this section in accordance with the standards described in subsection (c)(4) and shall submit to the Secretary a copy of such evaluation.

"(2) REPORT.—The Secretary shall annually report to the Congress on the activities assisted under this section and the evaluations conducted pursuant to paragraph (1).

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $100,000,000 for fiscal year 1993 and such sums as may be necessary for the 6 succeeding fiscal years to carry out the provisions of this section.

"(2) SPECIAL RULE.—No funds are authorized to be appropriated pursuant to the authority of paragraph (1) in any fiscal year unless the amount appropriated pursuant to the authority of section 415A to carry out this subpart equals or exceeds $63,500,000 in such fiscal year.".

SEC. 410. SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS.

Section 417A of the Act (20 U.S.C. 1070d) is amended—

(1) in subsection (a), by inserting "to motivate and prepare such students for doctoral programs," after "pursuing programs of postsecondary education,";

(2) in paragraph (1) of subsection (b), by inserting "combinations of such institutions, agencies or organizations," after "private agencies and organizations,";

(3) in subsection (c)—

(A) by striking "$205,000,000" and inserting "$500,000,000";

(B) by striking "1987" and inserting "1993"; and

(C) by striking "4 succeeding" and inserting "6 succeeding";

(4) by inserting at the end the following new subsections:

"(e) OUTREACH.—

"(1) IN GENERAL.—The Secretary shall conduct outreach activities to ensure that entities eligible for assistance under this subpart submit applications proposing programs that serve geographic areas and eligible populations which have been underserved by the programs assisted under this subpart.

"(2) NOTICE AND ASSISTANCE.—In carrying out the provisions of paragraph (1), the Secretary shall—

"(A) notify the entities described in subsection (b) of the availability of assistance under this subsection not less than 120 days prior to the deadline for submission of applications under this subpart; and

"(B) provide assistance in the development of applications and programs assisted under this subpart.

"(3) SPECIAL RULE.—The Secretary may contract with eligible entities to conduct the outreach activities described in this subsection.

"(f) APPLICATION REVIEW PROCESS.—

"(1) IN GENERAL.—To the extent practicable, the Secretary shall ensure that readers of applications submitted under this subpart represent diverse backgrounds reflecting the populations served by programs assisted by this subpart.

"(2) SPECIAL RULE.—The Secretary shall ensure that each application submitted under this subpart is read by at least 3 reviewers not employed by the Department of Education.

"(g) DOCUMENTATION OF STATUS AS A LOW-INCOME INDIVIDUAL.—Documentation of an individual's status pursuant to subsection (d)(2) shall be made—

"(1) in the case of an individual who is eighteen years of age or younger or a dependent student by providing the Secretary with a signed statement from the parent or legal guardian, verification from another governmental source, a signed financial aid application, a signed United States or Puerto Rican income tax return, or any other documentation the Secretary deems appropriate that documents that the individual is a low-income individual for purposes of this subpart; and

"(2) in the case of an individual who is age 18 or older or who is an independent student, by providing the Secretary with a signed statement from the individual, verification from another governmental source, a signed financial aid form, a signed United States or Puerto Rican income tax return, or any other documentation the Secretary deems appropriate that documents that a student is a low-income individual for purposes of this subpart.

"(h) SPECIAL RULES.—

"(1) PEER REVIEW PROCESS.—(A) Except as provided in subparagraph (B), the Secretary shall award grants and contracts under this subpart in the order of the scores received by the application for such grant or contract in the peer review process required under section 1210 and adjusted for prior experience in accordance with subsection (b)(2).

"(B) SPECIAL RULE.—The Secretary is not required to provide assistance to a program otherwise eligible for assistance under this subpart pursuant to subparagraph (A), if the Secretary is in receipt of evidence indicating that such program has involved the fraudulent use of funds under this subpart.

"(2) DURATION.—Grants or contracts made under this subpart shall be awarded for a period of 4 years, except that the Secretary may award such grants or contracts for not more than 5 years to support programs the Secretary considers exceptional.

"(3) APPLICATION STATUS.—The Secretary shall inform each entity operating programs under this subpart regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this subpart, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this subpart for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.

"(4) NUMBER OF APPLICATIONS FOR GRANTS AND CONTRACTS.—The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this subpart if the additional applications describe programs serving different populations or campuses.

"(5) COORDINATION WITH OTHER PROGRAMS FOR DISADVANTAGED STUDENTS.—The Secretary shall encourage coordination of programs assisted under this subpart with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity's eligibility to receive funds under this subpart because such entity sponsors a program similar to the program to be assisted under this subpart, regardless of the funding source of such program. The Secretary shall not require a separate Director to administer a program funded under this subpart if the imposition of such requirement will hinder coordination among programs funded under this subpart or between programs funded under this subpart and similar programs funded through other sources.".

SEC. 411. TALENT SEARCH.

Section 417B of the Act (20 U.S.C. 1070d-1) is amended—

(1) by amending subsection (b) to read as follows:

"(b) PERMISSIBLE SERVICES.—Any talent search project assisted under this subpart may provide services such as—

"(1) academic advice and assistance in secondary school and college course selection;

"(2) assistance in completing college admission and financial aid applications;

"(3) assistance in preparing for college entrance examinations;

"(4) guidance on high school reentry or entry into a general equivalency diploma program (GED) or other alternative education programs for high school dropouts;

"(5) personal counseling;

"(6) tutorial services;

"(7) career counseling;

"(8) exposure to college campuses as well as cultural events, academic programs and other sites or activities not usually available to disadvantaged youth;

"(9) mentoring programs involving either elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

"(10) workshops and counseling for parents of students served."; and

(2) by amending paragraph (2) of subsection (c) to read as follows:

"(2) require that such participants be persons who have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person will defeat the purposes of this section or the purposes of section 417E;".

SEC. 412. UPWARD BOUND.

Section 417C of the Act (20 U.S.C. 1070d-1a) is amended—

(1) in subsection (b)—

(A) in paragraph (8), by striking "and" after the semicolon;

(B) by redesignating paragraph (9) as paragraph (10);

(C) by inserting after paragraph (8) the following new paragraph:

"(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and"; and

(D) in paragraph (10) (as redesignated in subparagraph (B)), by striking "(8)" and inserting "(9)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following, new subsection:

"(c) SPECIAL REQUIRED SERVICES.—Any upward bound project assisted which has received funding under this subpart for 2 or more years shall include as part of the core curriculum in the next and succeeding years—

"(1) instruction in mathematics through precalculus;

"(2) a minimum of 1 laboratory science;

"(3) a minimum of 1 foreign language; and

"(4) instruction in composition and literature.".

SEC. 413. STUDENT SUPPORT SERVICES.

Section 417D of the Act (20 U.S.C. 1070d-1b) is amended—

(1) in subsection (a), by striking the period at the end thereof and inserting the following: "that shall be designed to—

"(1) increase college retention and graduation rates for students;

"(2) increase the transfer rates of students from 2-year to 4-year institutions; and

"(3) foster an institutional climate supportive of the success of low-income, first-generation and physically handicapped students.";

(2) in subsection (b)—

(A) in paragraph (8), by striking "and" after the semicolon;

(B) by redesignating paragraph (9) as paragraph (10);

(C) by inserting after paragraph (8) the following new paragraph:

"(9) mentoring programs involving faculty or upper class students, or a combination thereof; and"; and

(D) in paragraph (10) (as redesignated in subparagraph (B)) by striking "(8)" and inserting "(9)";

(3) in subsection (c)—

(A) in subparagraph (A) of paragraph (1), by striking "be physically handicapped" and insert "be individuals with disabilities"; and

(B) in paragraph (5), by striking "receive" and inserting "be offered"; and

(4) by striking subsection (d).

SEC. 414. EDUCATIONAL OPPORTUNITY CENTERS.

Subsection (b) of section 417E is amended to read as follows:

"(b) PERMISSIBLE SERVICES.—An educational opportunity center assisted under this subpart may provide services such as—

"(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

"(2) academic advice and assistance in course selection;

"(3) assistance in completing college admission and financial aid applications;

"(4) assistance in preparing for college entrance examinations;

"(5) guidance on high school reentry or entry into a general equivalency diploma (GED) program or other alternative education programs for high school dropouts;

"(6) personal counseling;

"(7) tutorial services; and

"(8) career workshops and counseling.".

SEC. 415. STAFF DEVELOPMENT ACTIVITIES.

Section 417F of the Act (20 U.S.C. 1070d-1d) is amended by inserting after the second sentence the following new sentence: "Such training shall be offered annually for new directors of projects assisted under this subpart as well as annually on the following topics and other topics chosen by the Secretary:

"(1) Legislative and regulatory requirements for the operation of programs assisted under this subpart.

"(2) Assisting students in receiving adequate financial aid from programs assisted under this title and other programs.

"(3) The design and operation of model programs for projects assisted under this subpart.".

SEC. 416. EVALUATION FOR PROGRAM IMPROVEMENT.

Subpart 4 of part A of title IV of the Act (20 U.S.C. 1070d et seq.) is amended by adding at the end the following new sections:

"SEC. 417G. POSTBACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall carry out a program to be known as the 'Ronald E. McNair Postbaccalaureate Achievement Program' which shall be designed to motivate and prepare promising undergraduate students for doctoral study.

"(2) SPECIAL RULE.—The Secretary shall ensure that a significant number of projects assisted under this subsection provide students with summer research internships.

"(b) PERMISSIBLE SERVICES.—A postbaccalaureate achievement project assisted under this section may provide services such as—

"(1) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

"(2) summer internships;

"(3) seminars and other educational activities designed to prepare students for doctoral study;

"(4) tutoring;

"(5) academic counseling; and

"(6) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for postbaccalaureate achievement projects assisted under this section for any fiscal year, the Secretary shall require—

"(1) an assurance that not less than one-half of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first-generation college students;

"(2) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

"(3) an assurance that participants be enrolled in a degree program at an eligible institution in accordance with the provisions of section 487;

"(4) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education; and

"(5) an assurance that summer internships, seminars and research activities assisted under this subpart are jointly developed, implemented and administered with the dean or other designated official of a related or cooperating graduate school, college or institution.

"(d) SELECTION CRITERIA.—In addition to such other selection criteria as the Secretary may prescribe by regulations, the Secretary, in making awards to institutions under this subsection, shall consider—

"(1) the quality of research and other scholarly activities in which students will be involved;

"(2) the level of faculty involvement in the project and the description of the research in which students will be involved; and

"(3) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this subsection.

"(e) MAXIMUM STIPENDS.—Students participating in research under a postbaccalaureate achievement project may receive an award that—

"(1) shall include a stipend not to exceed $2,400 per annum; and

"(2) may include the costs of summer tuition, summer room and board, and transportation to summer programs.

"(f) FUNDING.—From amounts appropriated pursuant to the authority of section 417A(c), the Secretary shall allocate funds for projects authorized by this section in an amount which is not less than $11,000,000 for each of the fiscal years 1993 through 1999.

"SEC. 417H. EVALUATION FOR PROJECT IMPROVEMENT.

"(a) IN GENERAL.—For the purpose of improving the operation of the programs and projects assisted under this subpart, the Secretary is authorized to make grants to and enter into contracts with institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the various programs assisted under this subpart in meeting the purposes described in this subpart.

"(b) CONTENT.—The evaluations described in subsection (a) shall identify institutional, community and program practices particularly effective in increasing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of such individuals and students for postsecondary education, and such individuals' and students' success in postsecondary education.

"(c) RESULTS.—In order to improve program effectiveness, the results of the ongoing evaluations described in subsection (a) shall be disseminated by the Secretary to similar programs assisted under this subpart as well as other individuals concerned with the postsecondary access and retention of low-income individuals and first-generation college students.".

SEC. 416A. ADVANCED PLACEMENT TEST FEE PAYMENT PROGRAM.

Subpart 4 of part A of title IV of the Act (20 U.S.C. 1070d et seq.) is amended by adding at the end thereof the following new section:

"SEC. 417I. ADVANCED PLACEMENT FEE PAYMENT PROGRAM.

"(a) PROGRAM ESTABLISHED.—The Secretary is authorized to make grants to States to enable the States to reimburse individuals to cover part or all of the cost of advance placement test fees, to low-income individuals who—

"(1) are enrolled in an advanced placement class; and

"(2) plan to take an advanced placement test.

"(b) INFORMATION DISSEMINATION.—The State education agency shall disseminate information on the availability of test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for grants the Secretary shall—

"(1) require that each such application contain a description of the advance placement test fees the State will pay on behalf of individual students;

"(2) require an assurance that any funds received under this section shall only be used to pay advanced placement test fees; and

"(3) contain such information as the Secretary may require to demonstrate that the State will ensure that the student is eligible for payments under this section, including the documentation required by section 417A(g).

"(d) SUPPLEMENTATION OF FUNDING.—Funds provided under this section shall be used to supplement and not supplant other Federal, State, and local funds available to assist low-income individuals in paying for advanced placement testing.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,600,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

"(g) DEFINITION.—As used in this section:

"(1) ADVANCED PLACEMENT TEST.—The term 'advanced placement test' includes only an advanced placement test approved by the Secretary for the purposes of this section.

"(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' has the meaning given the term in section 417A(d)(2).".

SEC. 417. SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK.

Section 418A of the Act (20 U.S.C. 1070d-2) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "17 years of age and over," and inserting "16 years of age and older, or are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school,"; and

(B) in paragraph (4)—

(i) by inserting a comma after "concerning"; and

(ii) by inserting a comma after "obtaining";

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by inserting ", except as provided in paragraph (2), are limited to services that are necessary to assist migrant students in completing their first year of college, and" before "include";

(B) by amending paragraph (1) to read as follows:

"(1) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated in programs under section 1201 of the Elementary and Secondary Education Act of 1965 or section 402 of the Job Training Partnership Act, and who meet the minimum qualifications for attendance at a college or university;";

(C) in paragraph (2), by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively;

(D) in paragraph (3), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(E) by redesignating paragraphs (1) through (6) (as amended in subparagraphs (B), (C) and (D)) as subparagraphs (A) through (F), respectively;

(F) by inserting the paragraph designation "(1)" after the subsection heading; and

(G) by adding at the end thereof the following new paragraph:

"(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

"(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college; and

"(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid.";

(3) in the heading for subsection (e), by striking "Three" and inserting "Five";

(4) in subsection (e), by striking "3-year" and inserting "5-year"; and

(5) in subsection (g)—

(A) in paragraph (1)—

(i) by striking "$7,000,000" and inserting "$15,000,000"; and

(ii) by striking "1987" and inserting "1993"; and

(B) in paragraph (2)—

(i) by striking "$2,000,000" and inserting "$5,000,000"; and

(ii) by striking "1987" and inserting "1993".

SEC. 418. SCHOLARSHIPS AUTHORIZED.

Subsection (b) of section 419C of the Act (20 U.S.C. 1070d-33(b)) is amended to read as follows:

"(b) PERIOD OF AWARD.—Scholarships under this section shall be awarded for a period of not more than 4 years for the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this title.".

SEC. 419. ALLOCATION AMONG STATES.

Section 419D of the Act (20 U.S.C. 1070d-34) is amended to read as follows:

"SEC. 419D. ALLOCATION AMONG STATES.

"(a) ALLOCATION FORMULA.—From the sums appropriated pursuant to the authority of section 419K for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 419E an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

"(b) NUMBER OF SCHOLARSHIPS AVAILABLE.—The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

"(c) USE OF CENSUS DATA.—For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the United States Bureau of the Census.".

SEC. 420. SELECTION OF SCHOLARS.

Section 419G of the Act (20 U.S.C. 1070d-37) is amended—

(1) by amending subsection (b) to read as follows:

"(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).'"; and

(2) by adding at the end the following new subsection:

"(d) TIMING OF SELECTION.—The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.".

SEC. 421. STIPENDS AND SCHOLARSHIP CONDITIONS.

Subsection (a) of section 419H of the Act (20 U.S.C. 1070d-38(a)) is amended by inserting ", except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance" before the period.

SEC. 422. CONSTRUCTION OF NEEDS PROVISIONS.

Section 419J of the Act (20 U.S.C. 1070d-40) is amended by striking "Nothing" and inserting "Except as provided in section 471, nothing".

SEC. 423. AWARDS CEREMONY.

(a) REPEAL.—Section 419I of the Act (20 U.S.C. 1070d-39) is repealed.

(b) CONFORMING AMENDMENTS.—Section 419E of the Act (20 U.S.C. 1070d-35) is amended—

(1) in paragraph (3) by inserting "and" after the semicolon;

(2) in paragraph (4) by striking "at an awards ceremony in accordance with section 419I; and" and inserting a period; and

(3) by striking paragraph (5).

SEC. 424. AUTHORIZATION OF APPROPRIATIONS.

Section 419K of the Act (20 U.S.C. 1070d-41) is amended—

(1) by striking "$8,000,000" and inserting "$10,000,000";

(2) by striking "1987" and inserting "1993"; and

(3) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 425. PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION.

Section 420 of the Act (20 U.S.C. 1070e) is repealed.

SEC. 426. VETERANS EDUCATION OUTREACH PROGRAM.

Subsection (a) of section 420A of the Act (20 U.S.C. 1070f(a)) is amended by striking "1987" and inserting "1993".

SEC. 427. GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION.

(a) ACCESS SCHOLARSHIPS.—Subpart 8 of part A of title IV of the Act (20 U.S.C. 1070f) is amended to read as follows:

"Subpart 8—Access Scholarships

"SEC. 420B. PURPOSE.

"It is the purpose of this subpart to award scholarships to encourage students to finish secondary school and obtain a college education, and to upgrade the course of study completed by our Nation's secondary school graduates.

"SEC. 420C. 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 the provisions of this subpart, except that no amount is authorized to be appropriated to carry out the provisions of this subpart unless the amount appropriated in any fiscal year to carry out this part equals or exceeds the amount appropriated to carry out this part in the preceding fiscal year.

"SEC. 420D. SCHOLARSHIP PROGRAM.

"(a) IN GENERAL.—The Secretary is authorized to award scholarships to eligible students in accordance with the provisions of this subpart.

"(b) PERIOD OF AWARD.—Scholarships under this subpart shall be awarded for a period of four academic years, or in the case of a student who is enrolled in an undergraduate course of study that requires attendance for the full-time equivalent of five academic years, five academic years.

"(c) USE AT ANY INSTITUTION PERMITTED.—An eligible student awarded a scholarship under this subpart may use such scholarship stipend to attend any institution of higher education (as such term is defined in section 481(a)).

"SEC. 420E. STUDENT ELIGIBILITY.

"(a) STUDENT ELIGIBILITY.—For the purpose of this subpart the term 'eligible student' means an individual who—

"(1) has participated in an early intervention program assisted under section 415F or subpart 4;

"(2) is a graduate of a public or private secondary school or has the equivalent certificate of graduation as recognized by the State in which the eligible student resides;

"(3) not later than 3 years after such individual graduates or obtains an equivalent certificate, has been admitted for enrollment or is enrolled at an institution of higher education;

"(4) is eligible to receive a Pell Grant for the year in which the scholarship is awarded; and

"(5) has demonstrated academic achievement and preparation for postsecondary education by taking college preparatory level coursework in the following areas while in secondary school or the equivalent:

"(A) 4 years of English;

"(B) 3 years of science;

"(C) 3 years of mathematics;

"(D) either—

"(i) 3 years of history; or

"(ii) 2 years of history and 1 year of social studies; and

"(E) either—

"(i) 2 years of a foreign language; or

"(ii) 1 year of computer science and 1 year of a foreign language.

"(b) LIMITATION.—For the purpose of this subpart the term 'eligible student' does not include an individual who has been awarded an associate or baccalaureate degree.

"(c) WAIVERS.—

"(1) EARLY INTERVENTION PROGRAM PARTICIPATION.—The Secretary may waive the requirement described in paragraph (1) of subsection (a) in the first 3 academic years that scholarships are awarded under this subpart for any student who was unable to participate in an early intervention program assisted under section 415F or subpart 4 because such program was not available in the area in which such student resides.

"(2) LIMITED-ENGLISH PROFICIENT STUDENTS.—The Secretary may waive the requirement described in subparagraph (E) of paragraph (5) for any limited-English proficient student who is fluent in a language other than English and is participating in a program to teach such student the English language.

"SEC. 420F. EARLY INTERVENTION SCHOLARSHIP AGREEMENT.

"(a) IN GENERAL.—In order for a student to receive a scholarship under this subpart, the State educational agency serving the State in which such child resides shall have entered into an agreement with the Secretary.

"(b) CONTENTS.—Each agreement described in subsection (a) shall include provisions designed to ensure that—

"(1) all secondary school students in the State have equal and easy access to the coursework described in section 420E(a)(5);

"(2) the State educational agency has procedures in place to verify to the Secretary that students receiving a scholarship under this subpart have taken such coursework and that such coursework has been of a college preparatory level, including a requirement that all secondary schools in the State issue a certificate to each eligible student certifying that such student has completed the necessary coursework to qualify for a scholarship under this subpart;

"(3) the State educational agency has procedures in place to notify institutions of higher education of the availability of scholarships under this subpart, so that such institutions may award additional scholarships in concert with the scholarships received under this subpart; and

"(4) the State educational agency has procedures in place to inform junior high school students and their families about the value of postsecondary education, the availability of student aid to meet college expenses, and the availability of scholarships under this subpart for students who take demanding courses, with particular emphasis on activities designed to ensure that students from low- and moderate-income families have access to such information.

"(c) SPECIAL RULE.—The Secretary may allow a State to receive assistance under this subpart for students whose secondary schools do not offer the necessary coursework if such students take the required courses at another local secondary school or community college.

"SEC. 420G. STIPENDS AND SCHOLARSHIP CONDITIONS.

"(a) AMOUNT OF STIPEND.—

"(1) IN GENERAL.—Each eligible student awarded a scholarship under this subpart shall receive a stipend for each academic year of study for which the scholarship is awarded in an amount equal to $1,000.

"(2) PRO RATA REDUCTION.—If the amount appropriated pursuant to the authority of section 420C is insufficient to award stipends in accordance with paragraphs (1)(A) and (1)(B), then the Secretary shall make a pro rata reduction of the amount of stipends awarded pursuant to paragraphs (1)(A) and (1)(B).

"(b) PELL RECIPIENT STATUS AND SATISFACTORY ACADEMIC PROGRESS.—In order to continue eligibility for a scholarship under this subpart for the second year of postsecondary attendance, an eligible student shall maintain eligibility to receive a Pell Grant, including fulfilling the requirements for satisfactory academic progress as described in section 484(c).

"(c) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—Scholarships awarded under this subpart, in combination with the Pell Grant and other student financial assistance, may not exceed the student's cost of attendance, as defined in section 472.

"SEC. 420H. APPLICATION.

"Each eligible student desiring a scholarship under this subpart shall submit an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require.".

(b) GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended by adding at the end the following new subparts:

"Subpart 9—Minority Science and Engineering Improvement Programs

"CHAPTER 1—MINORITY SCIENCE IMPROVEMENT PROGRAM

"SEC. 420I. PURPOSE; AUTHORITY.

"(a) PURPOSE.—It is the purpose of this chapter to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 3(a)(1) of the National Science Foundation Act of 1950 and transferred to the Department by section 304(a)(1) of the Department of Education Organization Act of 1979.

"(b) AUTHORITY.—The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities in scientific and technological careers.

"SEC. 420J. GRANT RECIPIENT SELECTION.

"(a) ESTABLISHMENT OF CRITERIA.—Grants under this chapter shall be awarded on the basis of criteria established by the Secretary by regulations.

"(b) PRIORITIES TO BE GIVEN IN CRITERIA.—In establishing criteria under subsection (a), the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

"(c) REQUIRED CRITERIA.—In establishing criteria under subsection (a), the Secretary may consider the following selection criteria in making grants:

"(1) plan of operation;

"(2) quality of key personnel;

"(3) budget and cost-effectiveness;

"(4) evaluation plan;

"(5) adequacy of resources;

"(6) identification of need for the project;

"(7) potential institutional impact of the project;

"(8) institutional commitment to the project;

"(9) expected outcomes; and

"(10) scientific and educational value of the proposed project.

"SEC. 420K. USE OF FUNDS.

"(a) TYPES OF GRANTS.—Funds appropriated to carry out this chapter may be made available as—

"(1) institutional grants (as defined in section 420T(6));

"(2) cooperative grants (as defined in section 420T(7));

"(3) design projects (as defined in section 420T(8)); or

"(4) special projects (as defined in section 420T(9)).

"(b) AUTHORIZED USES FOR EACH TYPE OF GRANT.—

"(1) IN GENERAL.—The authorized uses of funds made available as institutional grants include (but are not limited to)—

"(A) faculty development programs; or

"(B) development of curriculum materials.

"(2) COOPERATIVE GRANTS.—The authorized uses of funds made available as cooperative grants include (but are not limited to)—

"(A) assisting institutions in sharing facilities and personnel;

"(B) disseminating information about established programs in science and engineering;

"(C) supporting cooperative efforts to strengthen the institutions' science and engineering programs; or

"(D) carrying out a combination of any of the activities described in subparagraphs (A) through (C).

"(3) DESIGN PROJECTS.—(A) The authorized uses of funds made available as design projects include (but are not limited to)—

"(i) developing planning, management, and evaluation systems; or

"(ii) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

"(B) Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

"(4) SPECIAL PROJECTS.—The authorized uses of funds made available as special projects include (but are not limited to)—

"(A) advanced science seminars;

"(B) science faculty workshops and conferences;

"(C) faculty training to develop specific science research or education skills;

"(D) research in science education;

"(E) programs for visiting scientists;

"(F) preparation of films or audio-visual materials in science;

"(G) development of learning experiences in science beyond those normally available to minority undergraduate students;

"(H) development of pre-college enrichment activities in science; or

"(I) any other activities designed to address specific barriers to the entry of minorities into science.

"SEC. 420L. MULTIAGENCY STUDY OF MINORITY SCIENCE PROGRAMS.

"The Secretary, in cooperation with the heads of other departments and agencies that operate programs similar in purposes to the Minority Science Improvement Program which seek to increase minority participa-

tion and representation in scientific fields, shall submit a report to the President and Congress summarizing and evaluating such programs by January 1, 1996.

"CHAPTER 2—SCIENCE AND ENGINEERING ACCESS PROGRAMS

"SEC. 420M. MINORITY SUPPORT IN SCIENCE AND ENGINEERING PROGRAMS.

"The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants to institutions of higher education that are designed to provide or improve support programs for minority students enrolled in science and engineering programs at institutions with a significant minority enrollment (at least 10 percent).

"SEC. 420N. SPECIAL SERVICE PROJECTS PROGRAM.

"The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants to institutions of higher education that are designed to provide or improve support to accredited colleges and universities and professional scientific societies for a broad range of activities designed to eliminate or reduce specific barriers to the entry of minorities into science and technology.

"SEC. 420O. SUPPORTABLE ACTIVITIES.

"Funds appropriated for the purpose of this chapter may be made available for—

"(1) providing needed services to groups of minority institutions or providing training for scientists and engineers from eligible minority institutions;

"(2) providing needed services to groups of institutions serving significant numbers of minority students or providing training for scientists and engineers from such institutions to improve their ability to train minority students in science or engineering;

"(3) assisting minority institutions to improve the quality of preparation of their students for graduate work or careers in science, mathematics, and technology;

"(4) improving access of undergraduate students at minority institutions to careers in the sciences, mathematics, and engineering;

"(5) improving access of minority students to careers in the science, mathematics, and engineering;

"(6) improving access for pre-college minority students to careers in science, mathematics, and engineering through community outreach programs conducted through colleges and universities eligible for support through the Minority Science and Engineering Improvement Programs;

"(7) disseminating activities, information, and educational materials designed to address specific barriers to the entry of minorities into science and technology, and conducting activities and studies concerning the flow of underrepresented ethnic minorities into scientific careers;

"(8) supporting curriculum models to encourage minority student participation in research careers in science, mathematics, and technology; and

"(9) improving the capability of minority institutions for self-assessment, management, and evaluation of their science, mathematics, and engineering programs and dissemination of their results.

"CHAPTER 3—ADMINISTRATIVE AND GENERAL PROVISIONS

"SEC. 420P. ELIGIBILITY FOR GRANTS.

"Eligibility to receive grants under this subpart is limited to—

"(1) public and private nonprofit institutions that are minority institutions (as defined in section 420T(3));

"(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions; and

"(3) for the purposes of section 420N, public and private nonprofit institutions that have at least 10 percent minority enrollment.

"SEC. 420Q. GRANT APPLICATION.

"(a) SUBMISSION AND CONTENTS OF APPLICATIONS.—An eligible applicant (as determined under section 420P) that desires to receive a grant under this subpart shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

"(1) a program of activities for carrying out one or more of the purposes described in section 420I(b) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

"(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) APPROVAL BASED ON LIKELIHOOD OF PROGRESS.—The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this subpart.

"(c) CONTINUING ELIGIBILITY.—In order to remain eligible to receive financial assistance under this subpart in any fiscal year after the first fiscal year in which financial assistance under this subpart is received, a grant recipient shall demonstrate to the Secretary in the application submitted pursuant to this section that such recipient is making reasonable progress toward achieving the goals of the project for which assistance is sought.

"SEC. 420R. CROSS PROGRAM AND CROSS AGENCY COOPERATION.

"The Minority Science and Engineering Improvement Programs shall cooperate and consult with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

"SEC. 420S. ADMINISTRATIVE PROVISIONS.

"(a) TECHNICAL STAFF.—The Secretary shall appoint without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not less than 2 technical employees with appropriate scientific and educational background to administer the programs under this subpart who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) PROCEDURS FOR GRANT REVIEW.—The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this subpart may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

"SEC. 420T. DEFINITIONS.

"For the purpose of this subpart:

"(1) ACCREDITED.—The term 'accredited' means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

"(2) MINORITY.—The term 'minority' means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

"(3) MINORITY INSTITUTION.—The term 'minority institution' means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

"(4) SCIENCE.—The term 'science' means, for the purpose of this program, the biological, engineering, mathematical, physical, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

"(5) UNDERREPRESENTED IN SCIENCE AND ENGINEERING.—The term 'underrepresented in science and engineering' means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

"(6) INSTITUTIONAL GRANT.—The term 'institutional grant' means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

"(7) COOPERATIVE GRANT.—The term 'cooperative grant' means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

"(8) DESIGN PROJECTS.—The term 'design projects' means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

"(9) SPECIAL PROJECTS.—The term 'special projects' means—

"(A) a special project grant to a minority institution which supports activities that—

"(i) improve the quality of training in science and engineering at minority institutions; or

"(ii) enhance the minority institutions' general scientific research capabilities; or

"(B) a special project grant to any eligible applicant which supports activities that—

"(i) provide a needed service to a group of eligible minority institutions; or

"(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

"SEC. 420U. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the purposes of this subpart, $7,500,000 for fiscal year 1993, and such sums as may be necessary for the 6 succeeding fiscal years.

"(b) APPROPRIATION LIMITATION.—For any fiscal year, 50 percent of the funds under this subpart shall be allocated for the purpose of section 420I, 33.33 percent for the purpose of section 420M, and 16.67 percent for the purpose of section 420N.

"Subpart 10—National Science Scholars Program

"SEC. 420W. PURPOSE; APPROPRIATIONS AUTHORIZED.

"(a) PURPOSE.— It is the purpose of this subpart to—

"(1) establish a National Science Scholars Program to recognize student excellence and achievement in the physical, life, and computer sciences, mathematics, and engineering;

"(2) provide financial assistance to students under paragraph (1) to continue their postsecondary education in such fields of study at sustained high levels of performance;

"(3) contribute to strengthening the leadership of the United States in such fields;

"(4) strengthen the United States mathematics, science, and engineering base by offering opportunities to pursue postsecondary education in life, physical, and computer sciences, mathematics, and engineering;

"(5) encourage role models in scientific, mathematics, and engineering fields for young people;

"(6) strengthen the United States mathematics, scientific, and engineering potential by encouraging equal participation of women with men in mathematics, scientific, and engineering fields; and

"(7) attract talented students to teaching careers in mathematics and science in elementary and secondary schools.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years for awards to National Science Scholars.

"SEC. 420X. SCHOLARSHIPS AUTHORIZED.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this subpart, to carry out a program of awarding scholarships to students for the study of the physical, life, or computer sciences, mathematics, or engineering, who—

"(1) are selected by the President;

"(2) have demonstrated outstanding academic achievement in the physical, life, or computer sciences, mathematics, or engineering; and

"(3) show promise of continued outstanding academic performance in such field of study.

"(b) PERIOD OF AWARDS.—

"(1) PERIOD OF INITIAL AWARD.—A student who satisfies the requirements of section 420Z(a) may receive a scholarship, for a period of 1 academic year, for the first year of undergraduate study at an institution of higher education.

"(2) CONTINUATION AWARDS.—A student who satisfies the requirements of section 420Z(b) may receive additional scholarships, each awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study. A student may receive additional scholarships for not more than 3 academic years of undergraduate study, except that, in the case of a student who is enrolled in an undergraduate course of study that requires attendance for 5 academic years, the student may receive additional scholarships for not more than 4 academic years of undergraduate study.

"(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this subpart may attend any institution of higher education as defined in section 1201(a).

"(d) NATIONAL SCIENCE SCHOLARS.—Students awarded scholarships under this subpart shall be known as 'National Science Scholars'.

"SEC. 420Y. SELECTION OF SCHOLARS.

"(a) SELECTION CRITERIA FOR INITIAL AWARDS.—

"(1) SELECTION CRITERIA.—The Director of the National Science Foundation shall develop and submit to the Secretary proposed criteria to be used in the selection of National Science Scholars for initial year awards under section 420X(b)(1). Such criteria shall provide for the selection of such scholars on the basis of potential to complete successfully a postsecondary program in the physical, life, or computer sciences, mathematics, or engineering, and on the basis of motivation to pursue a career in such fields. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities. The Director shall determine the proposed criteria for measuring the potential and motivation of nominees.

"(2) PUBLICATION.—The Secretary and the Director shall agree to, and jointly publish in the Federal Register, appropriate selection criteria.

"(b) SELECTION PROCESS FOR INITIAL AWARDS.—

"(1) NOMINATING COMMITTEE.—Each State desiring to qualify its students for selection as a National Science Scholar shall establish a nominating committee. Such committee shall be appointed by the chief State school officer or by an existing grant agency or panel designated by such officer, and shall be approved by the Secretary. The nominating committee shall be a broad-based committee composed of educators, scientists, mathematicians, and engineers, who shall serve as volunteers without compensation.

"(2) NOMINATIONS.—The nominating committee in each State shall submit to the President the nominations of at least four individuals from each congressional district in the State, at least half of whom are female. Such selections shall be ranked in order of priority.

"(3) SELECTION.—The President, after consultation with the Secretary and the Director of the National Science Foundation, shall select two National Science Scholars for each academic year from each congressional district, at least one of whom shall be female.

"(4) ANNOUNCEMENT AND AWARD OF SCHOLARSHIPS.—The selection process shall be completed, and the announcement of the selection of National Science Scholars shall be made by the President prior to January 1 of each fiscal year. The Secretary shall notify each Member of Congress of selections made from such Member's district and State before the public announcement by the President. Presentation of scholarships may be made in a public ceremony.

"(5) CONGRESSIONAL DISTRICT.—For purposes of this subsection, the term 'congressional district' includes the part or all of a State (within the meaning of section 1201(b)) represented by a Member or Delegate of the House of Representatives, and includes the Commonwealth of the Northern Mariana Islands.

"(c) CONTINUATION AWARDS.—The Secretary shall award additional scholarships under section 420X(b)(2) to recipients of initial awards under section 420X(b)(1) whom the Secretary determines meet the requirements of section 420Z(b).

"(d) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this subpart to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education.

"(e) SPECIAL RULE.—The Director and the Secretary shall encourage the support and assistance of civic groups, the business community, professional associations, institutions of higher education, and others in providing scholarship assistance to National Science Scholarship finalists.

"SEC. 420Z. ELIGIBILITY OF SCHOLARS.

"(a) REQUIREMENTS FOR INITIAL AWARD.—To be eligible to receive a scholarship under section 420X(b)(1), a student shall—

"(1) be scheduled to graduate from a public or private secondary school, or to obtain the equivalent of a certificate of graduation (as recognized by the State in which the student resides), during the school year in which the award is made;

"(2) be a citizen or national of the United States or the entities set forth in section 420Y(b)(5), or be an alien lawfully admitted to the United States for permanent residence;

"(3) have demonstrated outstanding academic achievement in secondary school in physical, life, or computer sciences, mathematics, or engineering;

"(4) have been accepted for enrollment at an institution of higher education as a full-time undergraduate student (as determined by the institution); and

"(5) have declared a major in one of the physical, life, or computer sciences, mathematics, or engineering, or provided a written statement to the State of the student's intent to major in one of these fields of study, if it is the policy of the institution at which the student has been accepted for enrollment that students not declare a major until a later point in their course of study.

"(b) REQUIREMENTS FOR CONTINUATION AWARDS.—A student who has received a scholarship under section 420X(b)(1) may receive a scholarship for a subsequent academic year of undergraduate education under section 420X(b)(2) if the student—

"(1) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

"(2) continues to major in, or provides a statement to the State as described in subsection (a)(5) of the student's continuing intent to major in, one of the physical, life, or computer sciences, mathematics, or engineering; and

"(3) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

"(c) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

"(d) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this subpart shall be suspended in accordance with the regulations of the Secretary.

"(e) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this subpart may be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

"(f) NOTIFICATION OF SECONDARY SCHOOLS.—The Secretary shall notify all public and private secondary schools and all institutions of higher education in each State annually of the availability of scholarships under this subpart.

"SEC. 420AA. SCHOLARSHIP AMOUNT.

"(a) AMOUNT OF AWARD.—Except as provided in subsections (b) and (c), the amount of a scholarship awarded under this subpart for any academic year shall be $5,000.

"(b) RELATION TO COST OF ATTENDANCE.—Notwithstanding subsection (a), the amount of a scholarship awarded under this subpart shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472. A scholarship awarded under this subpart shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

"(c) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—In the event that funds available in a fiscal year are insufficient to fully fund all awards under this subpart, the amount paid to each student shall be reduced proportionately.

"SEC. 420BB. SUMMER EMPLOYMENT OPPORTUNITIES FOR SCHOLARS.

"(a) PRIORITY FOR SUMMER EMPLOYMENT.—To the extent that they are otherwise qualified, students receiving scholarships under this subpart shall be given priority consideration for federally financed summer employment in federally funded research and development centers, that, to the maximum extent practicable, complements and reinforces the educational program of these students.

"(b) FEDERAL AGENCY COOPERATION.—Federal agencies shall cooperate fully with the Secretary and participate actively in providing appropriate summer employment opportunities for such students.

"(c) NOTIFICATION.—The Secretary shall notify other Federal agencies of the requirements of this section.

"Subpart 11—Special Child Care Services for Disadvantaged College Students

"SEC. 420CC. SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS.

"(a) PROGRAM AUTHORITY.—Funds appropriated pursuant to subsection (c) shall be used by the Secretary to make grants to institutions of higher education to provide special child care services to disadvantaged students.

"(b) APPLICATIONS.—Any institution wishing to receive a grant under this section shall submit an application to the Secretary. Such application shall include—

"(1) a description of the program to be established;

"(2) assurances by the applicant to the Secretary that—

"(A) not less than two-thirds of the participants in the program are low-income individuals;

"(B) the participants require the services to pursue successfully a program of education beyond high school;

"(C) the participants are enrolled at the institution which is the recipient of the grant;

"(D) all participants will receive sufficient assistance (under this subpart, other provisions of this title, or otherwise) to meet that student's full financial need for child care services related to such enrollment; and

"(E) the institution will meet such need of participants by providing child care through vouchers, contracted services, or direct provision of services; and

"(3) such information (and meet such conditions) as may be required by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purpose of this section, $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(d) DEFINITION.—For purposes of this subpart, the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using the criteria of poverty established by the Bureau of Census.

"Subpart 12—Training Grants for Community College and Small Business Consortia

"SEC. 420DD. FINDINGS.

"The Congress finds that—

"(1) small businesses provide most entry-level jobs in the United States but often lack the resources to provide needed worker education and training;

"(2) there is a growing mismatch between worker skills and workplace demands that has a greater impact on small businesses than on large businesses;

"(3) many employees of small businesses need both literacy and English-as-a-second language training, and skills training, in order to meet the needs of business;

"(4) joint education and training programs help share the risks of training, increase the number of the skilled workers available to small businesses, and allow more cost-effective development of training materials; and

"(5) many small businesses subcontract with large businesses that can provide valuable training advice to the small businesses.

"SEC. 420EE. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Small Business Administration and the Secretaries of Labor and Commerce, is authorized to make not more than 40 grants to community colleges participating in an eligible consortium to pay part or all of the costs of developing and providing training and retraining programs which meet the existing and changing needs of the eligible consortium's workers, especially nonsupervisory workers.

"(b) AMOUNT.—The Secretary shall not award a grant under this subpart in an amount which exceeds $500,000.

"(c) PROCEDURES AND CRITERIA.—The Secretary shall establish procedures and criteria for awarding grants under this subpart on a competitive merit basis.

"SEC. 420FF. ELIGIBLE CONSORTIUM.

"For the purpose of this subpart the term 'eligible consortium' means an accredited community college in consortium with two or more small businesses. The small businesses described in the preceding sentence shall—

"(1) be in the same industry;

"(2) use the same technology; and

"(3) have common educational needs.

"SEC. 420GG. APPLICATION.

"(a) IN GENERAL.—Each community college desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall describe—

"(1) the activities and services for which assistance is sought, which shall include technology training, basic skills training, or English-as-a-second language training;

"(2) the membership of the eligible consortium including, where applicable, a description of the large businesses that contract with the small businesses participating in the consortium and have training expertise to share with the small businesses;

"(3) the education and training needs of the eligible consortium; and

"(4) the source of the non-Federal share of costs of the training and retraining programs, including a description of any system of fees which may be used by the eligible consortium to support or partially support the training or retraining program.

"(c) APPROVAL.—The Secretary shall appoint a technical review panel to—

"(1) establish competitive selection criteria based on the contents of the application described in subsection (b);

"(2) select and approve applications under this subpart based on the selection criteria established pursuant to paragraph (1); and

"(3) make recommendations to the Secretary regarding the awarding of grants under this subpart.

"(d) PREFERENCE.—The panel described in subsection (c) shall give preference to applications that demonstrate a commitment to continue the training and retraining program after the termination of assistance provided under this subpart.

"(e) SPECIAL RULE.—The panel described in subsection (c) shall only approve applications under this subpart from eligible consortia which demonstrate the ability to provide effective training and retraining programs.

"SEC. 420HH. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and each of the 6 succeeding fiscal years to carry out the provisions of this subpart.

"Subpart 13—Olympic Scholarships

"SEC. 420II. OLYMPIC SCHOLARSHIPS.

"(a) SCHOLARSHIPS AUTHORIZED.—The Secretary shall award scholarships to each athlete who is training at the United States Olympic Education Center or a United States Olympic Training Center.

"(b) ELIGIBILITY.—The Secretary shall award scholarships under this part to both full-time and part-time students who are athletes described in subsection (a).

"(c) AMOUNT.—Except as provided in subsection (d), the Secretary shall award scholarships under this section in an amount sufficient to pay the cost to the athletes described in subsection (a) of tuition, room and board at an accredited institution of higher education.

"(d) PRO RATA REDUCTION.—If in any fiscal year in which the amount appropriated pursuant to the authority of subsection (f) is insufficient to award each athlete described in subsection (a) a scholarship under this section in the full amount described in subsection (c), then the Secretary shall make a pro rata reduction in the amount of each such scholarship awarded for such year.

"(e) APPLICATION.—Each athlete desiring a scholarship under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $6,000,000 for fiscal year 1993 and each of the 6 succeeding fiscal years.

"Subpart 14—Dwight D. Eisenhower Leadership Program

"SEC. 420JJ. SHORT TITLE.

"This subpart may be cited as the 'Dwight D. Eisenhower Leadership Development Act of 1992'.

"SEC. 420KK. ESTABLISHMENT OF THE PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a program to be known as the 'Dwight D. Eisenhower Leadership Development Program'.

"(b) SPECIAL RULE.—The program assisted under this subpart shall be established in conjunction with institutions of higher education which are specially prepared to undertake the development of new generations of leaders in the areas of national and international affairs.

"SEC. 420LL. FUNCTIONS OF THE PROGRAM.

"The functions of the program assisted under this subpart shall include—

"(1) stimulating and supporting the development of leadership skills among new generations of American college students;

"(2) directing a national program that identifies, recruits, inspires, and educates outstanding young men and women regarding leadership roles in a wide variety of fields in both the public and private sectors;

"(3) offering opportunities for young American leaders to benefit from internships in national and international organizations, with special attention being given to establishing such opportunities in developing countries;

"(4) identifying potential leaders from the developing democracies and supporting their study of leadership and democracy in the United States;

"(5) developing a prototype for understanding and teaching critical leadership skills to young Americans and encouraging institutions of higher education to establish similar leadership programs throughout the United States and abroad; and

"(6) stimulating the theoretical and practical study of leadership and leadership development to develop both a better understanding of leadership and improved methods to teach critical skills to young adults.

"SEC. 420MM. OPERATION OF THE PROGRAM BY A PRIVATE NONPROFIT ORGANIZATION.

"The Secretary is authorized to make grants to or enter into cooperative agreements, contracts, or leases with private nonprofit organizations to operate the program assisted under this subpart.

"SEC. 420NN. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1994 and 1995 to carry out this subpart.".

SEC. 428. ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS.

Section 422 of the Act (20 U.S.C. 1072) is amended—

(1) in paragraph (2) of subsection (a), by adding at the end the following new sentence: "Except as provided in section 428(c)(10)(C), such unencumbered non-Federal portion shall not be subject to recall, repayment or recovery by the Secretary."; and

(2) by adding at the end thereof the following new subsections:

"(e) CORRECTION FOR ERRORS UNDER REDUCTION OF EXCESS CASH RESERVES.—

"(1) IN GENERAL.—The Secretary shall pay any guaranty agency the amount of reimbursement of claims under section 428(c)(1), filed between September 1, 1988 and December 31, 1989, which were previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in section 422(e) as in effect on September 1, 1988) permitted at the end of 1986, if such maximum cash reserve was miscalculated because of erroneous financial information provided by such agency to the Secretary and if (A) such erroneous information is verified by an audited financial statement of the reserve fund, signed by a certified public accountant, and (B) such audited financial statement is provided to the Secretary prior to January 1, 1993.

"(2) AMOUNT.—The amount of reimbursement for claims shall be equal to the amount of reimbursement for claims withheld or canceled in order to be applied to such agency's obligation to eliminate excess cash reserves which exceeds the amount of that which would have been withheld or canceled if the maximum excess cash reserves had been accurately calculated.

"(f) REFUND OF CASH RESERVE PAYMENTS.—The Secretary shall, within 30 days after the date of enactment of this Act, pay the full amount of payments withheld or canceled under paragraph (3) of this subsection to any guaranty agency which—

"(1) was required to eliminate excess cash reserves, based on the maximum cash reserve (as described in section 422(e) as in effect on September 1, 1988) permitted at the end of 1986;

"(2) appealed the Secretary's demand that such agency should eliminate such excess cash reserves and received a waiver of a portion of the amount of such excess cash reserves to be eliminated;

"(3) had payments under section 428(c)(1) or section 428(f) previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in section 422(e) as in effect on September 1, 1988) permitted at the end of 1986; and

"(4) according to a Department of Education review that was completed and forwarded to such guaranty agency prior to January 1, 1992, is expected to become insolvent during or before 1996 and the payments withheld or canceled under paragraph (3) of this subsection are a factor in such agency's impending insolvency.".

SEC. 428A. ELIGIBLE DISLOCATED WORKERS EDUCATIONAL TRAINING DEMONSTRATION PROGRAM.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 9—Eligible Dislocated Workers Educational Training Demonstration Program

"SEC. 420C. PROGRAM ESTABLISHED.

"(a) PROGRAM ESTABLISHED.—

"(1) IN GENERAL.—The Secretary shall award grants to States to enable such States to pay the Federal share of establishing and operating eligible dislocated workers educational training demonstration programs in accordance with this section.

"(2) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(3) AWARD BASIS.—The Secretary shall award grants under this section on the basis of the number of eligible dislocated workers in each State.

"(b) PROGRAM REQUIREMENTS.—Each State receiving a grant under this section shall use such grant funds to carry out an eligible dislocated workers educational training demonstration program that—

"(1) is designed to provide eligible dislocated workers with new skills through a variety of educational opportunities offered by institutions of higher education which are suited to such workers' goals, educational background, aptitude and skills;

"(2) leads to entry level job skills that assist an eligible dislocated worker to return to the work force;

"(3) only pays the cost of participating in such program which is not paid for by other Federal, State, or local grant programs; and

"(4) provides educational opportunities in programs that—

"(A) do not provide academic credit and which include academic skills improvement, job skills, and career and personal development; or

"(B) provide academic credit in one-year certificate granting programs or 2-year associate degree granting programs.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—An eligible dislocated worker is eligible to participate in a program assisted under this section if such eligible dislocated worker—

"(A) has applied for all Federal, State, and local grant assistance available to such eligible dislocated worker; and

"(B) is eligible for payments of unemployment compensation under Federal or State law.

"(2) SPECIAL RULE.—Notwithstanding any other provision of law, no individual shall be eligible to participate in a program assisted under this section if such individual—

"(A) completes such individual's education goal; or

"(B) returns to employment of at least 20 hours per week.

"(d) SPECIAL RULE.—The amount of an eligible dislocated worker's payments of unemployment insurance under Federal or State law shall not be increased or decreased as a result of assistance received under this section.

"(e) APPLICATION.—Each State desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(f) EVALUATION.—The Secretary shall evaluate the program assisted under this section every year.

"(g) DEFINITIONS.—For the purpose of this section—

"(1) the term 'eligible dislocated worker' has the same meaning given to such term by section 301(a) of the Job Training Partnership Act; and

"(2) the term 'public assistance' has the same meaning given to such term by section 4(20) of the Job Training Partnership Act.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums for each of the fiscal years thereafter.".

SEC. 429. LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE.

Subsection (a) of section 425 of the Act (20 U.S.C. 1075(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking clauses (i), (ii) and (iii) and inserting the following:

"(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

"(I) $3,000, if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $2,250, if such student is carrying three-quarters of the normal full-time academic work load (as determined by the institution); or

"(III) $1,500, if such student is carrying at least one-half of the normal full-time academic work load (as determined by the institution);

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the second year of undergraduate study—

"(I) $3,500 if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $2,250, if such student is carrying at least three-quarters of the full-time academic work load (as determined by the institution); or

"(III) $1,750, if such student is carrying at least one-half of the normal full-time work load (as determined by the institution);

"(iii) in the case of a student at an eligible institution who has successfully completed such second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $5,500, if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $3,750, if such student is carrying at least three-quarters of the full-time academic work load (as determined by the institution); or

"(III) $2,500, if such student is carrying at least one-half of the full-time academic work load (as determined by the institution); or

"(iv) $9,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary), except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education or in programs of study abroad that are approved for credit by the institution at which such students are enrolled."; and

(B) by inserting at the end the following new subparagraph:

"(B)(i) The annual insurable limit per student described in subparagraph (A) shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

"(ii) The determination of the workload being carried by the student shall be made at the time the student's eligibility for the loan is certified, and shall not be affected by subsequent changes in the student's workload during the loan period."; and

(2) in subparagraph (A) of paragraph (2), by striking clauses (i) and (ii) and inserting the following:

"(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

"(ii) $68,000, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 428A or 428B, except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive,

except that the aggregate insured unpaid principal amount for all loans insured under this part and part E made to any student minus any interest capitalized under section 428A(c) shall be any amount not to exceed a maximum of $52,000, in the case of any student who has not successfully completed a program of undergraduate education, and $115,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary and including any loans which are insured by the Secretary under this part and part E, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 428B.".

SEC. 430. ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS.

Subsection (a) of section 427 of the Act (20 U.S.C. 1077) is amended—

(1) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

"(A) is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under this part a lender may—

"(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who is an independent student for the award year for which assistance is being sought, and for which the lender shall not charge the applicant a fee; and

"(ii) require an applicant described in clause (i) who, in the judgment of the lender and in accordance with the regulations issued by the Secretary, has an adverse credit history, to obtain a credit worthy cosigner or endorser in order to obtain the loan, except that, for purposes of this clause, an insufficient or nonexistent credit history shall not be considered to be an adverse credit history;";

(B) by amending subparagraph (C) to read as follows:

"(C)(i) for loans made on or before June 30, 1993, provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(I) during which the borrower—

"(aa) is pursuing a full-time course of study as determined by an eligible institution;

"(bb) is pursuing at least a half-time course of study (as determined by such institution); or

"(cc) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

"(II) not in excess of 3 years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

"(III) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

"(IV) not in excess of 3 years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

"(V) not in excess of 3 years during which the borrower is in service, comparable to the service referred to in subclauses (III) and (IV), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(VI) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or nonprofit private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to paragraph (4) of this subsection;

"(VII) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training;

"(VIII) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

"(IX) not in excess of 24 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

"(X) not in excess of 6 months of parental leave; and

"(XI) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938;

"(ii) for loans made to new borrowers on or after July 1, 1993, provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(I) during which the borrower—

"(aa) is pursuing at least a half-time course of study as determined by an eligible institution; or

"(bb) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, except that no borrower shall be eligible for a deferment under this subclause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

"(II) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

"(III) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled; and

"(IV) not in excess of 3 years during which the borrower is working full-time and is earning an amount which does not exceed the greater of—

"(aa) the minimum wage rate described in section 6 of the Fair Labor Standard Act of 1938; or

"(bb) an amount equal to 100 percent of the poverty line for a family of 2 as determined in accordance with section 673(2) of the Community Service Block Grant Act,

and any such period shall not be included in determining the 10-year period described in subparagraph (B);";

(C) by striking "and" at the end of subparagraph (G);

(D) by redesignating subparagraph (H) as subparagraph (I); and

(E) by inserting after subparagraph (G) the following new subparagraph:

"(H) requires the lender (or the holder of the loan) to notify the borrower not later than 120 days after the borrower has left the eligible institution of the month in which the repayment period begins; and"; and

(2) in paragraph (3), by inserting ", and except further, that checks to students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such students are enrolled may be endorsed pursuant to an authorized power-of-attorney" before the semicolon.

SEC. 431. APPLICABLE INTEREST RATES.

Section 427A of the Act (20 U.S.C. 1077a) is amended—

(1) in paragraph (4) of subsection (c)—

(A) in subparagraph (A)—

(i) by inserting "and before July 1, 1993" after "1987";

(ii) by striking "prior to such date"; and

(iii) by striking "under subparagraph (B)" and inserting "under subparagraph (C)";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) For any loan made pursuant to sections 428A or 428B to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1993, or any loan made pursuant to such sections prior to such date that is refinanced pursuant to sections 428A(d) or 428B(d), the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (C), except that such rate shall not exceed 11 percent."; and

(D) in subparagraph (D) (as amended in subparagraph (B)), by striking "under subparagraph (B)" and inserting "under subparagraph (C)";

(2) in the heading for subsection (d), by inserting "and before July 1, 1993" after "1988";

(3) in the matter preceding paragraph (1) of subsection (d), by inserting "and ending before July 1, 1993" after "1988";

(4) in paragraph (1) of subsection (e), by inserting "made to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988 and ending before July 1, 1993" after "loan";

(5) by redesignating subsections (e), (f) and (g) as subsections (f), (g) and (h), respectively; and

(6) by inserting after subsection (d) the following new subsection:

"(e) INTEREST RATES FOR NEW BORROWERS AFTER JULY 1, 1993.—

"(1) IN GENERAL.—Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 428A, 428B and 428C) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1993, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

"(A) during the period beginning on the date of disbursement of the loan and ending 4 years after the commencement of repayment, the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined on the preceding June 1 and is equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.10 percent,

except that such rate shall not exceed 9 percent.

"(B) during the remainder of the repayment period, the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined on the preceding June 1 and is equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.10 percent,

except that such rate shall not exceed 11 percent.

"(2) CONSULTATION.—The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.".

SEC. 432. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

Section 428 of the Act (20 U.S.C. 1078) is amended—

(1) in paragraph (2) of subsection (a)—

(A) in subparagraph (A)—

(i) in subclause (III) of clause (i), by striking "and" at the end thereof;

(ii) in clause (ii), by striking the period at the end thereof and inserting a semicolon and "and"; and

(iii) by adding at the end thereof the following new clause:

"(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's drivers license number, if any."; and

(B) in subparagraph (C)—

(i) by amending clause (i) to read as follows:

"(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A, and parts C and E of this title, and any veterans' education benefits paid because of enrollment in a postsecondary education institution, including benefits received under chapters 2, 106 and 107 of title 10, United States Code, and chapters 30, 31, 32, 34 and 35 of title 38, United States Code."; and

(ii) by amending clause (ii) to read as follows:

"(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part F.".

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by amending subparagraph (A) to read as follows:

"(A) authorizes the insurance in any academic year or its equivalent of an amount not to exceed—

"(i) in the case of a student at an eligible institution (or in a program of study abroad approved for credit by the eligible institution at which such student is enrolled) who has not successfully completed the first year of a program of undergraduate education—

"(I) $3,000, if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $2,250, if such student is carrying three-quarters of the normal full-time academic work load (as determined by the institution); or

"(III) $1,500, if such student is carrying at least one-half of the normal full-time academic work load (as determined by the institution);

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the second year of undergraduate study—

"(I) $3,500 if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $2,250, if such student is carrying at least three-quarters of the full-time academic work load (as determined by the institution); or

"(III) $1,750, if such student is carrying at least one-half of the normal full-time work load (as determined by the institution);

"(iii) in the case of a student at an eligible institution (or in a program of study abroad approved for credit by the eligible institution at which such student is enrolled) who has successfully completed such second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $5,500, if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(II) $3,750, if such student is carrying at least three-quarters of the full-time academic work load (as determined by the institution); or

"(III) $2,500, if such student is carrying at least one-half of the full-time academic work load (as determined by the institution); and

"(iv) $9,000, in the case of a graduate or professional student (as defined in regulations of the Secretary), except that in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education,

except that the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit."; and

(ii) by amending subparagraph (B) to read as follows:

"(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount not to exceed—

"(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

"(ii) $68,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary and including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 428A or 428B, except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

except that the aggregate insured unpaid principal amount for all loans insured under this part and part E made to any student

minus any interest capitalized under section 428A(c) shall be any amount not to exceed a maximum of $52,000, in the case of any student who has not successfully completed a program of undergraduate education, and $115,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary and including any loans which are insured by the Secretary under this part and part E, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 428B;";

(iii) in clause (ii) of subparagraph (D), by inserting "and subsection (c)(3) of this section" after "of this paragraph"; and

(iv) by amending subparagraph (M) to read as follows:

"(M)(i) for borrowers who have received loans made on or before June 30, 1993, provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(I) during which the borrower (aa) is pursuing a full-time course of study as determined by an eligible institution, (bb) is pursuing at least a half-time course of study (as determined by such institution), or (cc) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

"(II) not in excess of 3 years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

"(III) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

"(IV) not in excess of 3 years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

"(V) not in excess of 3 years during which the borrower is in service, comparable to the service referred to in subclauses (III) and (IV), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(VI) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or nonprofit private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to paragraph (4) of this subsection;

"(VII) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training;

"(VIII) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

"(IX) not in excess of 24 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

"(X) not in excess of 6 months of parental leave; and

"(XI) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938;

"(ii) for loans made to new borrowers on or after July 1, 1993, provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(I) during which the borrower—

"(aa) is pursuing a course of study on at least a half-time basis as determined by an eligible institution; or

"(bb) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

"(II) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

"(III) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled; and

"(IV) not in excess of 3 years during which the borrower is working full-time and is earning an amount which does not exceed the greater of—

"(aa) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

"(bb) an amount equal to 100 percent of the poverty line for a family of 2 as determined in accordance with section 673(2) of the Community Service Block Grant Act;";

(v) in subparagraph (N), by inserting "or may be endorsed pursuant to an authorized power-of-attorney" before the semicolon;

(vi) in subparagraph (U), by striking "and" at the end thereof;

(vii) by amending clause (i) of subparagraph (V) to read as follows:

"(V)(i) provide that, upon written request, a lender shall grant a borrower forbearance of principal and interest (or principal only at the option of the borrower) and renewable at 12-month intervals—

"(I) for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations of the Secretary set forth in writing by the parties to the loan, if the borrower's debt burden under this title equals or exceeds 20 percent of gross income; or

"(II) for a period equal to the length of time remaining in the borrower's medical or dental internship or residency program, on such terms as are otherwise consistent with the regulations of the Secretary and set forth in writing by the parties to the loan, if the borrower—

"(aa) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training; and

"(bb) provides that no administrative or other fee may be charged in connection with the granting of a forbearance under subclause (I), and that no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of a forbearance under such subclause."; and

(viii) by adding at the end the following new subparagraphs:

"(W) provides that prior to making a loan made, insured, or guaranteed under this part (other than a loan made in accordance with section 428C), a lender may—

"(i) obtain a credit report, from at least 1 national credit bureau organization, with respect to a loan applicant who is an independent student for the award year for which assistance is being sought, for which the lender shall not charge a fee; and

"(ii) require an applicant described in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner or endorser in order to obtain the loan, except that, for purposes of this clause, an insufficient or nonexistent credit history shall not be considered to be an adverse credit history; and

"(X) provides that the agency shall implement all requirements of the Secretary for uniform claims and procedures.";

(B) in paragraph (2)—

(i) in subparagraph (C), by striking ", as the Secretary may reasonably require to carry out the Secretary's functions under this part," and inserting ", including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States,";

(ii) by striking "and" at the end of clause (ii) of subparagraph (D);

(iii) in subparagraph (E)—

(I) by inserting "(i)" after the subparagraph designation;

(II) by striking the period at the end thereof and inserting a semicolon and "and"; and

(III) by adding at the end the following new clause:

"(ii) provide that the lender (or the holder of the loan) shall notify the borrower not later than 120 days after the borrower has left the eligible institution of the month in which the repayment period begins."; and

(iv) inserting at the end thereof the following new subparagraph:

"(F) provide that the lender shall be required to notify promptly the borrower, the guaranty agency, and, upon the request of an institution of higher education, the guaranty agency shall be required to notify the last such institution the student attended prior to the beginning of repayment of any loan made under this part, of—

"(i) any sale or other transfer of the loan to another holder; and

"(ii) the address and telephone number by which contact may be made with such other holder concerning repayment of the loan,

except that this subparagraph shall only apply if the borrower is in the grace period described in section 427(a)(2)(B) or 428(b)(1)(E) or in repayment status and if such sale or transfer results in the student being required to make payments, or to direct other matters concerned with the loan, to a person other than the person to whom such payments were made or such matters were directed before such sale or transfer."; and

(C) by adding at the end the following new paragraph:

"(7) REPORTING REQUIREMENT.—All officers and directors, and those employees and consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State higher education agencies, and entities acting as secondary market, who are engaged in making decisions or providing advice as to the administration of any program or funds under this title or as to the eligibility of any entity or individual to participate under this title, shall report to the Secretary, in such manner and at such time as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this title.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking the period at the end thereof and inserting "or 45 days after the guaranty agency discharges such agency's insurance obligation on the loan, whichever is later."; and

(ii) by amending subparagraph (B) to read as follows:

"(B) Notwithstanding subparagraph (A)—

"(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the amount of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 percent of the amount of such excess;

"(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of the amount of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 percent of such excess; and

"(iii) if, with respect to the end of any fiscal year, a guaranty agency is being reimbursed at the level described in clause (i) or (ii), the initial reimbursement payments by the Secretary with respect to the beginning of the next succeeding fiscal year shall be calculated at such level until the Secretary determines, based on data submitted by the guaranty agency, that such guaranty agency meets the requirements of this subsection for reimbursement at a different level. Upon the Secretary's determination, the reimbursement payments by the Secretary shall be adjusted accordingly, including any underpayment or overpayment of the initial reimbursement payments.";

(B) in paragraph (2)—

(i) in subparagraph (D)—

(I) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(II) by inserting "(i)" after the subparagraph designation; and

(III) by inserting at the end the following new clauses:

"(ii) shall provide that a guaranty agency that receives reimbursement payment from the Secretary shall, at the Secretary's discretion, promptly and without administrative delay in accordance with clause (iii), assign to the Secretary the promissory note for the loan on which such payment has been made; and

"(iii) shall require that the Secretary use the discretion described in clause (ii) only after the Secretary has developed criteria to determine adequate collections efforts by guaranty agencies, and in no event shall the assignment of loans be required unless the Secretary explains in writing the reasons why a guaranty agency's collection efforts have not been adequate and how the Secretary's collection efforts will be superior; and";

(ii) by striking "and" at the end of subparagraph (F);

(iii) by redesignating subparagraph (G) as subparagraph (H); and

(iv) by inserting after subparagraph (F) the following new subparagraph:

"(G) shall prohibit the Secretary from making any reimbursement under this subsection to a guaranty agency when a default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, demonstrates to the Secretary that diligent attempts have been made to locate the borrower through the use of all available skip-tracing techniques; and";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "(b)(1)(V)" and inserting "(b)(1)(V)(ii)"; and

(ii) by adding at the end of the matter following subparagraph (B) the following new sentence: "The Secretary shall permit lenders to exercise administrative forbearances that do not require the agreement of the borrower under conditions authorized by the Secretary, that shall include forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under section 428(b)(1)(M) or 427(a)(2)(C).";

(D) in paragraph (7)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "(1)(B)" and inserting "(1)(C)"; and

(II) in clause (i), by inserting "and ends before October 1, 1991" before the semicolon;

(ii) in subparagraph (B), by inserting "or (B)" after "(A)";

(iii) by redesignating subparagraph (B) (as amended in clause (ii)) as subparagraph (C); and

(iv) by inserting after subparagraph (A) the following new subparagraph:

"(B) Notwithstanding the provisions of paragraph (1)(C), the Secretary may pay a guaranty agency 100 percent of the amount expended by such agency in discharge of such agency's insurance obligation for any fiscal year which—

"(i) begins on or after October 1, 1991; and

"(ii) is the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) or is one of the 4 succeeding fiscal years."; and

(E) by adding at the end the following new paragraph:

"(10) GUARANTY AGENCY RESERVE LEVEL.—(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain a current minimum reserve level of at least .5 percent of the total amount of all outstanding loans guaranteed by such agency in every calendar quarter beginning with the calendar quarter that starts on January 1, 1993. The minimum reserve level shall increase to—

"(i) .7 percent of such total amount in every calendar quarter beginning with the calendar quarter that starts on January 1, 1994;

"(ii) .9 percent of such total amount in every calendar quarter beginning with the calendar quarter that starts on January 1, 1995; and

"(iii) 1.1 percent of such total amount in every calendar quarter beginning with the calendar quarter that starts on January 1, 1996.

"(B) The Secretary shall collect, on a quarterly basis, information from each guaranty agency having an agreement under this subsection to enable the Secretary to evaluate the financial solvency of each such agency. The information collected shall include the level of such agency's current reserves, cash disbursements and accounts receivable.

"(C) If any guaranty agency falls below the required minimum reserve level in any 2 consecutive calendar quarters, any guaranty agency's Federal reimbursement payments are reduced to 80 percent pursuant to section 428(c)(1)(B)(ii), or the Secretary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency's continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require the guaranty agency to submit and implement a management plan acceptable to the Secretary within 30 working days of any such event.

"(D) Each management plan described in subparagraph (C) shall include the means by which the guaranty agency shall improve its financial and administrative condition to the required level within 18 months.

"(E) The Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

"(i) a guaranty agency required to submit a management plan under this paragraph fails to submit a plan that is acceptable to the Secretary;

"(ii) the Secretary determines that a guaranty agency has failed to improve substantially its administrative and financial condition; or

"(iii) if the Secretary determines that the guaranty agency is in danger of financial collapse.

"(F) Except as provided in subparagraph (G), if a guaranty agency's agreement under this subsection is terminated in accordance with subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to:

"(i) Permit the transfer of guaranties to another guaranty agency.

"(ii) Revoke the reinsurance agreement of the guaranty agency at a specified date, so as to require the merger, consolidation or termination of the guaranty agency.

"(iii) Transfer guaranties to the Department for the purpose of payment of such claims and process such claims using the claims standards of the guaranty agency, if such standards are determined by the Secretary to be in compliance with this Act.

"(iv) Design and implement a plan to restore the guaranty agency's viability.

"(v) Take any other action the Secretary determines necessary to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and to avoid disruption of the student loan program.

"(G) The Secretary may not take any action under subparagraph (F) against any guaranty agency that is backed by the full faith and credit of the State where such guaranty agency is the primary guarantor.

"(H) The Secretary shall not take any action under subparagraph (F) without giving the guaranty agency notice and the opportunity for a hearing.";

(4) in subsection (f)—

(A) in paragraph (1)—

(i) in clause (i) of subparagraph (A), by striking "commercial" and inserting "eligible"; and

(ii) in subparagraph (B)—

(I) in the first sentence thereof, by striking "The total" and inserting "Except as provided in paragraph (3), the total"; and

(II) in the second sentence thereof, by striking "according to the provisions of this subparagraph" and inserting "according to the provisions of this subsection"; and

(B) by adding at the end the following new paragraph:

"(3) PROVISION OF FINANCIAL INFORMATION.—The Secretary is authorized to reduce or withhold payments under this subsection until the guaranty agency provides the information required under subsection (c)(2)(B).";

(5) in subsection (j), by adding at the end the following: "The guaranty agency shall develop rules and operating procedures for the lender of last resort program designed to ensure that—

"(A) the program establishes operating hours and means for application designed to facilitate application by students;

"(B) information about the availability of loans under the program is available to institutions of higher education in the State; and

"(C) appropriate steps are taken to ensure that borrowers receiving loans under the program are appropriately counseled on their loan obligation."; and

(6) in subsection (k)—

(A) by amending the heading for such subsection to read as follows:

"(k) EXCHANGE OF INFORMATION ON DEFAULTED BORROWERS.—";

(B) in paragraph (1), by striking ", upon the request of an eligible institution,"; and

(C) by adding at the end the following new paragraph:

"(3) BORROWER LOCATION INFORMATION.—Any information provided by the institution relating to borrower location shall be used by the guaranty agency in contacting the borrower for the purpose of encouraging loan repayment.".

SEC. 433. SUPPLEMENTAL LOAN FOR STUDENTS.

Section 428A of the Act (20 U.S.C. 1078–1) is amended—

(1) in the second sentence of paragraph (1) of subsection (a), by inserting "or if the financial aid administrator determines after such a review that the dependent student can demonstrate the ability to repay the loan (which may include obtaining a creditworthy cosigner)" before the period at the end thereof;

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) ANNUAL LIMIT.—Subject to paragraphs (3) and (4), the maximum amount a student may borrow in any academic year or its equivalent or in any period of 7 consecutive months, whichever is longer:

"(A) In the case of a student at an eligible institution who has not successfully completed the second year of a program of undergraduate education—

"(i) $4,000, if such student is carrying at least the normal full-time academic work load (as determined by the institution);

"(ii) $3,000, if such student is carrying three-quarters of the normal full-time academic work load (as determined by the institution); or

"(iii) $2,000, if such student is carrying one-half of the normal full-time academic work load (as determined by the institution).

"(B) In the case of a student at an eligible institution who has successfully completed such second year but who has not successfully completed the remainder of a program of undergraduate education—

"(i) $5,000, if such student is carrying at least the full-time academic work load (as determined by the institution);

"(ii) $3,750, if such student is carrying three-quarters of the full-time academic work load (as determined by the institution); or

"(iii) $2,500, if such student is carrying one-half of the full-time academic work load (as determined by the institution).

"(C) In the case of a graduate or professional student (as defined in regulations issued by the Secretary) at an eligible institution $15,000.

"(D) In the case of a student who has not successfully completed the first year of a program of undergraduate education and who is not enrolled in a program that is at least one academic year in length, but who is determined to be enrolled in a program whose length is at least ⅔ of an academic year, $2,500.".

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(D) by inserting after paragraph (1) the following new paragraphs:

"(2) SPECIAL RULE.—(A) Notwithstanding paragraphs (1), (3) and (4), in the case of a student who has not successfully completed the first year of a program of undergraduate education and who is not enrolled in a program that is at least 1 academic year in length as determined in accordance with regulations issued by the Secretary, the maximum amount a student may borrow in any academic year or its equivalent (as defined by regulations issued by the Secretary), or in any period of 7 consecutive months, whichever is longer, is—

"(i) $2,500 for a student who is determined, in accordance with such regulations, to be enrolled in a program whose length is at least two-thirds of an academic year;

"(ii) $1,500 for a student who is determined, in accordance with such regulations, to be enrolled in a program whose length is less than two-thirds, but at least one-half, of an academic year; and

"(iii) zero for a student who is determined, in accordance with such regulations, to be enrolled in a program whose length is less than one-half of an academic year.

"(B) The determination of the workload being carried by the student described in subparagraph (A) shall be made at the time the student's eligibility for the loan is certified, and shall not be affected by subsequent changes in the student's workload during the loan period.

"(3) AGGREGATE LIMIT.—The aggregate insured principal amount for insured loans made to any student under this section minus any interest capitalized under subsection (c) shall be an amount not to exceed—

"(A) $23,000, in the case of any student who has not successfully completed a program of undergraduate education; and

"(B) $30,000, in the case of any graduate or professional student, as such terms are defined by regulations issued by the Secretary, including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student;

except that the aggregate insured unpaid principal amount for all loans insured under this part and part E minus any interest capitalized under subsection (c) made to any student shall be any amount not to exceed a maximum of $52,000, in the case of any student who has not successfully completed a program of undergraduate education, and $115,000, in the case of any graduate or professional student, as such terms are defined in regulations issued by the Secretary, including any loans which are insured by the Secretary under this part or part E, or by a guaranty agency, made to such student before the student became a graduate or professional student."; and

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) COMMENCEMENT OF REPAYMENT.—(A) Except as provided in subparagraph (B), repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, or, if the loan is disbursed in multiple installments, not later than 60 days after the disbursement of the last such installment.

"(B) Loans made under this section may be subject to deferral pursuant to sections 427(a)(2)(C) and 428(b)(1)(M), and any loans which are deferred under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i), may be subject, upon borrower request, to a single postdeferment grace period of 6 months.";

(B) in subparagraph (B) of paragraph (2), by striking "on a quarterly basis" and inserting "not more frequently than quarterly"; and

(C) by adding at the end the following new paragraph:

"(6) REPAYMENT PERIOD.—For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall commence at the time the first payment is due from the borrower.".

SEC. 434. PLUS LOANS.

Section 428B of the Act (20 U.S.C. 1078–2) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "$4,000" and inserting "$6,000"; and

(B) in paragraph (2), by striking "$20,000" and inserting "$30,000"; and

(2) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral during any period during which the parent meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M).."; and

(B) in subparagraph (B) of paragraph (2), by striking "on a quarterly basis" and inserting "not more frequently than quarterly".

SEC. 435. CONSOLIDATION LOANS.

Section 428C of the Act (20 U.S.C. 1078–3) is amended—

(1) in paragraph (3) of subsection (a)—

(A) in subparagraph (A), by striking all beginning with "loan—" through "(ii) is" and inserting "loan is";

(B) by amending subparagraph (B) to read as follows:

"(B)(i) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section, except—

"(I) with respect to eligible student loans received after the date of receipt of the consolidation loan; and

"(II) that loans received prior to the date of the consolidation loan may be added to the consolidation loan during the 180-day period following the making of the consolidation loan.

"(ii) Loans made under this section shall, to the extent used to discharge loans made under this title, be counted against applicable limitations on aggregate indebtedness contained in sections 425(a)(2), 428(b)(1)(B), 428A(b)(2), and 464(a)(2). Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidated loans to receive, to maintain, or to make reports with respect to preexisting records relating to any eligible student loan (as defined under section 428C(a)(4)) discharged by a borrower in receiving a consolidation loan."; and

(C) by adding at the end the following new subparagraph:

"(C)(i) A married couple, each of whom has eligible student loans, may be treated as if such couple were an individual borrowing under subparagraphs (A) and (B) if such couple agrees to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of the respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in such couple's marital status.

"(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall—

"(I) individually make the initial certification that no other application is pending in accordance with subsection (b)(1)(A); and

"(II) agree to notify the holder concerning any change of address in accordance with subsection (b)(4)."; and

(2) in subparagraph (A) of subsection (c)(2)—

(A) in clause (i), by striking "is equal to or greater than $5,000 but less than $7,500" and inserting "is less than $5,000"; and

(B) in clause (ii), by striking "$7,500" and inserting "$5,000".

SEC. 436. DEFAULT REDUCTION PROGRAMS.

Section 428F of the Act (20 U.S.C. 1078-6) is amended—

(1) by striking subsection (a);

(2) in subsection (b)—

(A) in subparagraph (A) of paragraph (1)—

(i) by striking "Upon" and inserting "Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon"; and

(ii) by adding at the end the following new sentence: "Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts referred to in this paragraph more than is reasonable and affordable based upon the borrower's total financial circumstances.";

(B) in paragraph (3), by inserting "or grants" after "loans";

(3) by redesignating subsection (b) (as amended in paragraph (2)) as subsection (a); and

(4) by adding at the end the following new subsections:

"(b) FULL-TIME LOAN SPECIALIST REQUIRED IN CERTAIN CASES.—Each eligible institution which—

"(1) has a default rate in excess of the national average default rate of all eligible institutions; or

"(2) has a principal amount of loans in default in excess of $1,000,000 for any fiscal year,

shall employ a full-time equivalent loan specialist to assist students at such eligible institution to avoid defaulting on loans made, insured, or guaranteed under this part.

"(c) SPECIAL RULE.—Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew their eligibility for all title IV student financial assistance (regardless of whether their defaulted loan has been sold to an eligible lender) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's total financial circumstances.".

SEC. 437. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.

Section 428G of the Act (20 U.S.C. 1078-7) is amended—

(1) in paragraph (1) of subsection (b), by adding at the end thereof the following: "No institution shall impose a late fee, drop from enrollment or otherwise penalize any student solely because an installment of the proceeds of such student's loan under this part is being delayed pursuant to the provisions of this paragraph."; and

(2) by adding at the end thereof the following new subsection:

"(g) SALES PRIOR TO DISBURSEMENT PROHIBITED.—An eligible lender shall not sell a promissory note for any loan made, insured, or guaranteed under this part until all proceeds of such loan have been disbursed.".

SEC. 438. DEFAULT RATES.

Section 430 of the Act (20 U.S.C. 1080) is amended by adding at the end the following new subsection:

"(e) DEFAULT RATE BY LENDER AND GUARANTY AGENCY.—

"(1) IN GENERAL.—The Secretary shall annually publish a list indicating the annual default rate (determined in accordance with section 435(m)) for each lender and guaranty agency participating in the program assisted under this part and an average annual default rate for all institutions of higher education within each State.

"(2) REGULATIONS.—The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of an annual default rate through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

"(3) RATE ESTABLISHMENT AND CORRECTION.—

"(A) IN GENERAL.—The Secretary shall establish an annual default rate for lenders and guaranty agencies (determined in accordance with section 435(m)), except that the rate for lenders shall not reflect any loans issued in accordance with section 428(j). The Secretary shall allow institutions, lenders, and guaranty agencies the opportunity to correct such annual default rate information.

"(B) STUDY.—The Secretary shall study the feasibility of requiring the disclosure by institutions, lenders, and guaranty agencies of additional information that may affect the annual default rate, such as institutional type, State, students served by the organization, and accrediting body (where applicable).".

SEC. 439. REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION.

Subsection (f) of section 430A of the Act (20 U.S.C. 1080a(f)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a comma and "or"; and

(3) by adding at the end the following new paragraph:

"(3) in the case of a borrower who reenters repayment after defaulting on a loan and subsequently goes into default on such loan, 7 years from the date the loan entered default such subsequent time.".

SEC. 440. LEGAL POWERS AND RESPONSIBILITIES.

Section 432 of the Act (20 U.S.C. 1082) is amended—

(1) in paragraph (3) of subsection (a), by striking "on the record";

(2) in subsection (g)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking "on the record";

(B) by striking paragraphs (2), (3) and (4); and

(C) by redesignating paragraphs (5) and (6) as paragraphs (2) and (3), respectively;

(3) in subsection (h)—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking all beginning with "The Secretary" through "disqualification—" and inserting the following: "The Secretary shall impose any or all sanctions imposed by the guaranty agency on the participation of the lender in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of the imposition of such sanctions—";

(ii) in subparagraph (B), by striking "disqualification" each place such term appears and inserting "sanction";

(iii) by redesignating subparagraph (B) (as amended in clause (ii)) as subparagraph (C); and

(iv) by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(U) shall be limited to—

"(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

"(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(U) and any notice and hearing requirements specified in regulations prescribed under this part."; and

(B) in paragraph (3)—

(i) in the second sentence of subparagraph (A), by striking "The Secretary" through "disqualification—" and inserting the following: "The Secretary shall impose any or all sanctions imposed by the guaranty agency on the participation of the institution in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of the imposition of such sanctions—";

(ii) in subparagraph (B), by striking "disqualification" each place such term appears and inserting "sanction";

(iii) by redesignating subparagraph (B) (as amended in clause (ii)) as subparagraph (C); and

(iv) by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(T) shall be limited to—

"(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

"(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(T) and any notice and hearing requirements specified in regulations prescribed under this part."; and

(4) by inserting at the end the following new subsections:

"(k) PROGRAM OF ASSISTANCE FOR BORROWERS.—

"(1) IN GENERAL.—The Secretary shall undertake a program to encourage corporations and other private and public employers, including the Federal Government, to assist borrowers in repaying loans received under this title, including providing employers with options for payroll deduction of loan payments and offering loan repayment matching provisions as part of employee benefit packages.

"(2) PUBLICATION.—The Secretary shall publicize models for providing the repayment assistance described in paragraph (1) and each year select entities that deserve recognition, through means devised by the Secretary, for the development of innovative plans for providing such assistance to employees.

"(3) RECOMMENDATION.—Within 1 year after the date of enactment of the Higher Education Amendments of 1992, the Secretary shall recommend to the appropriate committees in the Senate and House of Representatives changes to the tax code or other statutes that could be made in order to further encourage such efforts.

"(l) UNIFORM ADMINISTRATIVE AND CLAIMS PROCEDURES.—

"(1) IN GENERAL.—The Secretary shall, in consultation with guaranty agencies and lenders, develop standardized forms and procedures regarding—

"(A) origination;

"(B) guaranty;

"(C) deferments;

"(D) forbearance;

"(E) servicing;

"(F) claims filing; and

"(G) cures.

"(2) SPECIAL RULES.—(A) The forms and procedures described in paragraph (1) shall include all aspects of the loan process as such process involves eligible lenders and guaranty agencies and shall be directed to minimize administrative costs and burdens (other than the costs and burdens involved in the transition to new forms and procedures) involved in exchanges of data to and from borrowers, schools, lenders, secondary markets, and the Department.

"(B) Nothing in this paragraph shall be construed to limit the development of electronic forms and procedures.".

SEC. 441. STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.

Section 433 of the Act (20 U.S.C. 1083) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) through (13) as paragraphs (2) through (14), respectively;

(B) by inserting before paragraph (2) (as redesignated in subparagraph (A)) the following new paragraph:

"(1) a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid;";

(C) in paragraph (13) (as redesignated in subparagraph (A)) by striking "and" after the semicolon;

(D) in paragraph (14) (as redesignated in subparagraph (A)) by striking the period and inserting a semicolon and "and"; and

(E) by inserting at the end thereof the following new paragraph:

"(15) a statement that the borrower's loan repayment obligation is separate and distinct from the school's obligation to the borrower and that a failure by the school to comply with any Federal, State, or local law shall not excuse any portion of the borrower's obligation to repay the loan.";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting after the first sentence thereof the following new sentence: "Any disclosure required by this subsection shall be made during the grace period described in section 427(a)(2)(B) or 428(b)(1)(E), if applicable."; and

(B) in paragraph (8), by inserting "except as provided in subsection (e)," before "the projected"; and

(3) by inserting at the end thereof the following new subsection:

"(e) SPECIAL DISCLOSURE RULES ON SLS LOANS AND PLUS LOANS.—Loans made under section 428A and 428B, if applicable, shall not be subject to the disclosure of projected monthly payment amounts required under subsection (b)(8), if the lender, in lieu of such disclosure, provides the borrower with sample projections of monthly repayment amounts assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower is in school. Such sample projections shall disclose the cost to the student of capitalizing—

"(1) principal and interest; and

"(2) interest only.".

SEC. 442. DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM.

(a) IN GENERAL.—Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting "as defined in section 481(a)" before the semicolon;

(ii) in subparagraph (C), by striking "part," and inserting "part."; and

(iii) by striking the matter following subparagraph (C); and

(B) in subparagraph (B) of paragraph (3)—

(i) in clause (i), by striking "and" at the end thereof;

(ii) in clause (ii), by striking "any succeeding fiscal year." and inserting "fiscal year 1993; and"; and

(iii) by inserting at the end the following new clause:

"(iii) 25 percent for any succeeding fiscal year.";

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in paragraph (3), by striking "and" and the end thereof;

(B) by striking the period at the end of paragraph (4) and inserting a semicolon and "and"; and

(C) inserting before the matter following subparagraph (C) of paragraph (4) the following new paragraph:

"(5) offers to individuals receiving assistance under this title only programs that are eligible programs as described in section 481(f).";

(4) in subsection (f), by inserting "servicing and" before "collection practices"; and

(5) by amending subsection (m) to read as follows:

"(m) ANNUAL DEFAULT RATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'annual default rate' means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under section 428 or 428A received for attendance at the institution, the percentage of students and former students who enter repayment on such loans received for attendance at that institution in that fiscal year who default before the end of the following fiscal year. In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in calculating the annual default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the annual default rate. For any fiscal year in which less than 30 of the institution's current and former students enter repayment, the term 'annual default rate' means the average of the rate calculated under the preceding sentence for the 3 most recent fiscal years.

"(2) SPECIAL RULES.—(A) In the case of a student who has attended and borrowed at more than 1 school, the student (and such student's subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year.

"(B) A loan on which a payment is made by the school, such school's owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection.

"(C) Any loan which has been rehabilitated is not considered as in default for the purposes of this subsection.

"(D) For the purposes of this subsection, a loan made in accordance with section 428A shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of deferment based on such enrollment. Each eligible lender of a loan made under section 428A shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.".

(b) CONFORMING AMENDMENTS.—

(1) REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.—Paragraph (2) of section 428A(a) of the Act (20 U.S.C. 1078-1(a)(2)) is amended by striking "cohort" each place such term appears and inserting "annual".

(2) DEFINITION.—Subparagraph (A) of section 435(a)(3) (20 U.S.C. 1085(a)(3)(A)) is amended—

(A) in the first sentence thereof, by striking "cohort" and inserting "annual"; and

(B) in clause (i) by striking "cohort" each place such term appears and inserting "annual".

SEC. 443. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED OR DISABLED BORROWERS.

Section 437 of the Act (20 U.S.C. 1087) is amended to read as follows:

"SEC. 437. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING CLOSED SCHOOLS OR BORROWERS FALSELY CERTIFIED AS ELIGIBLE TO BORROW.

"(a) IN GENERAL.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies, becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), or is temporarily or permanently relieved of his obligation to repay such loan according to the repayment schedule, through an action in bankruptcy, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

"(b) DISCHARGE.—

"(1) IN GENERAL.—If a student borrower who received a loan described in subpara-

graph (A) or (B) of section 428(a)(1) on or after January 1, 1986, is unable to complete the program in which the borrower is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was fraudulently certified by the eligible institution, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan and shall pursue any claim available to such borrower against the institution.

"(2) ASSIGNMENT.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution, its affiliates, and principals.

"(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE.—The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title.

"(4) SPECIAL RULE.—A borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this title for which the borrower would be otherwise eligible, except that in no case shall this paragraph apply to any borrower whose loan has been discharged through an action in bankruptcy.

"(5) REPORTING.—The Secretary shall report to credit bureaus with respect to loans which have been discharged pursuant to this subsection.

"(c) REPAYMENT OF LOANS TO PARENTS.—If a student on whose behalf a parent has received a loan described in section 428B dies, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.".

SEC. 444. SPECIAL ALLOWANCES.

Section 438 of the Act (20 U.S.C. 1087-1) is amended—

(1) in paragraph (2) of subsection (b)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "and (D)" and inserting "(D), (E), and (F)"; and

(ii) in clause (iii), by striking "3.25" and inserting "3.10";

(B) in clause (i) of subparagraph (B), by striking "3.25" and inserting "3.10";

(C) in subparagraph (C)—

(i) by inserting "before July 1, 1993" after "made";

(ii) by inserting "(i)" before "In"; and

(iii) by adding at the end the following new clause:

"(ii) In the case of loans made on or after July 1, 1993 pursuant to section 428A or 428B for which the interest rate is determined under section 427A(c)(4), a special allowance shall not be paid unless the rate determined for any 12-month period under section 427A(c)(4)(B) exceeds 11 percent.";

(D) in clause (i) of subparagraph (D), by striking "3.25" and inserting "3.10"; and

(E) by adding at the end thereof the following new subparagraphs:

"(E) Notwithstanding any other provision of law, in the case of a holder of loans for which the annual default rate exceeds 25 percent, subparagraph (A)(iii) shall be applied by substituting '3 percent' for '3.10 percent'.

"(F) In the case of a lender who does not provide to the guaranty agency the information required under section 435(m)(2)(D), subparagraph (A)(iii) shall be applied by substituting '3 percent' for '3.10 percent'.";

(2) by adding at the end of subsection (c) the following new paragraphs:

"(6) SLS AND PLUS LOANS.—With respect to any loan made under section 428A or 428B on or after July 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

"(7) DISTRIBUTION OF ORIGINATION FEES.—All origination fees collected by this section on loans authorized under section 428A or 428B shall be deposited in the fund authorized under section 431 of this part."; and

(3) in subparagraph (C) of subsection (d)(2), by striking "premium or".

SEC. 445. STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Act (20 U.S.C. 1087-2) is amended—

(1) by amending subsection (c) to read as follows:

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—(A) The Association shall have a Board of Directors which shall consist of 21 persons, 7 of whom shall be appointed by the President and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f). Commencing with the annual shareholders meeting to be held in 1992—

"(i) 7 of the elected directors shall be affiliated with an eligible institution; and

"(ii) 7 of the elected directors shall be affiliated with an eligible lender.

"(B) The President shall designate 1 of the directors to serve as Chairman.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board of Directors which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board of Directors which becomes vacant after the annual election of the directors shall be filled by the Board of Directors, but only for the expired portion of the term.

"(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director 'affiliated with an eligible institution' or a director 'affiliated with an eligible lender' means an individual who is, or within 5 years of election to the Board of Directors has been, an employee, officer, director, or similar official of—

"(A) an eligible institution or an eligible lender;

"(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

"(C) a State agency, authority instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

"(4) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board of Directors shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board of Directors shall, with the approval of the Board of Directors, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.";

(2) by striking out subparagraph (C) of subsection (d)(1) and inserting in lieu thereof the following new subparagraph:

"(C)(i) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, improvement or purchase (including the underlying property) of—

"(I) educational and training facilities;

"(II) housing for students and faculties;

"(III) academic, research, and library facilities, including the acquisition of library materials; and

"(IV) related equipment, instrumentation, and furnishings;

except that not more than 30 percent of the value of transactions entered into under this clause shall involve transactions solely of the type described in subclause (II);";

(3) by amending subsection (f) to read as follows:

"(f) STOCK OF THE ASSOCIATION.—

"(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

"(2) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(3) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on voting common stock by the Board of Directors. Such dividends as may be declared by the Board of Directors shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(4) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Higher Education Amendments of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares."; and

(4) by adding at the end thereof the following new subsection:

"(r) SAFETY AND SOUNDNESS OF ASSOCIATION.—

"(1) REPORTS BY THE ASSOCIATION.—The Association shall promptly furnish to the Secretary copies of all—

"(A) periodic financial reports publicly distributed by the Association; and

"(B) reports concerning the Association that are received by the Association and prepared by nationally recognized statistical rating organizations.

"(2) AUDIT BY SECRETARY.—(A) The Secretary may—

"(i) appoint auditors to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing its financial safety and soundness;

"(ii) enter into contracts to obtain the services of such technical experts as the Secretary determines necessary and appropriate to provide technical assistance to any auditor appointed under subparagraph (A).

"(B) Each auditor appointed under paragraph (2)(A) shall conduct an audit of the Association to the extent requested by the Secretary and shall prepare and submit a report to the Secretary concerning the results of such audit. A copy of such report shall be furnished to the Association and the Secretary of Education on the date on which it is delivered to the Secretary.

"(3) MONITORING OF SAFETY AND SOUNDNESS.—The Secretary shall conduct such studies as may be necessary to monitor the financial safety and soundness of the Association. In the event that the Secretary determines that the financial safety and soundness of the Association is at risk, the Secretary shall inform the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and the Secretary of Education of such determination and identify any corrective actions that should be taken to ensure the safety and soundness of the Association.

"(4) CAPITAL RESTORATION PLAN.—If after an audit it is determined that the capital ratio of the Association is less than 2 percent in any two consecutive calendar quarters, the Association shall, not later than 60 days after the date of such determination, submit to the Secretary a capital restoration plan (including a timetable for the implementation of such capital restoration plan of not more than 36 months) that the Association has determined will be adequate to cause the capital ratio of the Association to equal or exceed 2 percent.

"(5) ASSOCIATION CAPITAL RESTORATION PLAN.—(A) The Secretary shall consult with the Association with respect to any capital restoration plan submitted under paragraph (4) and shall approve or disapprove such capital restoration plan (or a modification thereof that is accepted by the Association) not later than 30 days after the date on which such capital restoration plan is first submitted to the Secretary, except that the Association and the Secretary may mutually agree to a longer period for the consideration of such capital restoration plan.

"(B) If the Secretary approves a capital restoration plan submitted under paragraph (4), the Association shall implement such capital restoration plan.

"(C) If the Secretary disapproves of a capital restoration plan submitted under paragraph (4), the Secretary shall, not later than the date on which the Secretary disapproves of such capital restoration plan through the provision of written notice to the Association or the date on which the 30 day consideration period referred to in subparagraph (A) (as such period may have been extended by mutual agreement) expires, whichever is earlier, submit the capital restoration plan of the Association, in the form most recently proposed by the Association, together with a report containing the reasons for the Secretary's disapproval of such capital restoration plan and an alternative capital restoration plan to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives. A copy of such capital restoration plan and report shall simultaneously be transmitted to the Association and the Secretary of Education by the Secretary.

"(D) Upon receipt from the Secretary of a capital restoration plan and report under subparagraph (C), the Association shall proceed with diligence to implement such capital restoration plan. Not later than 30 days after the receipt of such capital restoration plan and report, the Association shall submit to the Chairman and ranking minority members referred to in subparagraph (C), a written response to such capital restoration plan and report setting out to the maximum extent feasible the nature and extent of the agreement or the disagreement of the Association with the Secretary with respect to the capital restoration plan submitted to the Secretary and any findings of the Secretary.

"(E) If the Secretary determines that the Association has failed to make a good faith effort to implement a capital restoration plan under this paragraph, the Association shall be prohibited from making advances on the security of, purchasing or repurchasing, selling or reselling, offering participations or pooled interests or otherwise dealing in student loans which are insured by the Secretary of Education under this part or by a guaranty agency. The Secretary shall notify the Secretary of Education within a reasonable period of time prior to imposing any such prohibition. The Association may, within 30 days after a determination by the Secretary under this subparagraph, file a petition with the United States Court of Appeals for the District of Columbia Circuit for review of such determination.

"(6) REVIEW BY CONGRESS.—Congress shall have 60 days after the date on which Congress receives material under this subsection from the Secretary of Education, the General Accounting Office or the Congressional Budget Office, to review such material. If Congress does not take statutory action with respect to any such material within such 60-day period, the capital restoration plan of the Secretary under paragraph (5)(C) shall take effect. If Congress is out of session when any such materials are received, such 60-day period shall begin on the first day of the next session of Congress.

"(7) CRITICAL CAPITAL STANDARD.—(A) If the capital ratio described in paragraph (4) is less than 1 percent at the end of the most recent calendar quarter of the Association and—

"(i) the Association has submitted a capital restoration plan to the Secretary pursuant to paragraph (4), the Association shall implement the most recently proposed capital restoration plan with such modifications (including a timetable for the implementation of such plan of not more than 60 months) as the Secretary determines are necessary to cause such capital ratio to equal or exceed 2 percent; or

"(ii) the Association has not submitted a capital restoration plan to the Secretary pursuant to paragraph (4), the Association shall, not later than 14 days after the determination of such capital ratio, submit a capital restoration plan (including a timetable for the implementation of such plan of not more than 60 months) to the Secretary that the Association determines is adequate to cause such capital ratio to equal or exceed 2 percent and proceed with diligence to implement such capital restoration plan with such modifications as the Secretary determines are necessary to cause such capital ratio to equal or exceed 2 percent.

"(B) Immediately upon a determination under clause (i) or (ii) of subparagraph (A) to implement a capital restoration plan, the Secretary shall submit the capital restoration plan to be implemented to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and the Secretary of Education.

"(8) ADDITIONAL REPORTS.—(A) The Secretary shall submit a copy of the Association's capital restoration plan in the form most recently submitted by the Association, including modifications of such capital restoration plan that are proposed by the Secretary, to the Congressional Budget Office and the General Accounting Office on the date on which such capital restoration plan or modifications are submitted to or received from the Secretary.

"(B) Notwithstanding any other provision of law, the Congressional Budget Office and the General Accounting Office shall maintain the confidentiality of information received under subparagraph (A). If the Secretary does not approve a capital restoration plan as provided for in paragraph (5), or if a capital restoration plan is modified by the Secretary pursuant to paragraph (6)—

"(i) the Congressional Budget Office and the General Accounting Office shall each, not later than 30 days after the date on which the Secretary makes the submission to the Chairmen and ranking minority members as required in paragraphs (5) and (6), prepare and submit a report to such Chairmen and ranking members that—

"(I) analyzes the financial condition of the Association;

"(II) analyzes the capital restoration plan and reasons for its disapproval, as contained in the Secretary's submission made pursuant to paragraph (5), or the capital restoration plan proposed by the Association and the modifications made by the Secretary pursuant to paragraph (6);

"(III) analyzes the impact of the capital restoration plan and reasons for its disapproval, as contained in the Secretary's submission made pursuant to paragraph (5), or the impact of the capital restoration plan proposed by the Association and the modifications made by the Secretary pursuant to paragraph (7), and the impact of the recommendations made pursuant to clause (IV), on—

"(aa) the ability of the Association to fulfill its purpose and authorized activities as provided for in this section; and

"(bb) the operation of the student loan programs; and

"(IV) recommends steps that the Association should take to increase its capital ratio without impairing the ability of the Association to perform its purpose and authorized activities as provided for in this section; and

"(ii) the Secretary of Education shall review the Secretary's submission required under paragraph (5) or (7) and shall, not later than 30 days after the date of such submission, submit a report to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Sen-

ate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives that—

"(I) describes any administrative or legislative provisions governing the student loan programs that contributed to the decline in the Association's capital ratio; and

"(II) recommend administrative and legislative changes in the student loan programs appropriate to maintain the orderly operation of such programs and to enable the Association to fulfill its purpose and authorized activities consistent with the capital ratio described in paragraph (4).

"(9) SAFE HARBOR.—The Association shall be considered to be in compliance with the capital ratios described in paragraphs (4) and (7) if the Association is rated in the highest or next highest full rating categories by two nationally recognized statistical rating organizations without regard to the Association's status as a federally chartered corporation.

"(10) CONFIDENTIALITY OF RELEVANT INFORMATION.—(A) For purposes of this subsection, the Secretary, the Secretary of Education, the Director of the Congressional Budget Office, and the Comptroller General shall determine and maintain the confidentiality of any book, record, or information made available by the Association under this subsection in a manner consistent with the level of confidentiality established for the material by the Association.

"(B) Section 552 of title 5, United States Code, shall not apply to the Department of the Treasury and the Department with respect to any book, record, or information made available and determined to be confidential under this subsection.

"(C) Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

"(i) by virtue of his or her employment or official position, he or she has possession of or access to any book, record, or information made available under and determined to be confidential under this section; and

"(ii) he or she discloses the material in any manner other than—

"(I) to any officer or employee of the Department of the Treasury; or

"(II) pursuant to the exception set forth in such section 1906 of such title.

"(D) Section 203 of the Congressional Budget Act of 1974, shall not apply to the Congressional Budget Office with respect to any book, record, or information made available under this subsection and determined by the Director of the Office to be confidential under subparagraph (A).

"(11) DEFINITIONS.—As used in this subsection:

"(A) The term 'capital ratio' means the ratio of total stockholders' equity, as determined under the Association's most recent quarterly consolidated balance sheet prepared in the ordinary course of its business, to the sum of—

"(i) the total assets of the Association, as determined under a balance sheet prepared in the ordinary course of its business; and

"(ii) 50 percent of the credit equivalent amount of the following off-balance sheet items of the Association as of the date of the preparation of such balance sheet:

"(I) all financial standby letters of credit and other irrevocable guarantees of the repayment of financial obligations of others; and

"(II) all interest rate contracts and exchange rate contracts, including interest exchange agreements, floor, cap and collar agreements and similar arrangements.

For purposes of this subparagraph, the calculation of the credit equivalent amount of the items described in clause (ii), the netting of such items and eliminations for the purpose of avoidance of double-counting of such items shall be made in accordance with the measures for computing credit conversion factors for off-balance sheet items for capital maintenance purposes established for commercial banks from time to time by the Federal Reserve Board, but without regard to any risk-weighting provisions in such measures.

"(B) The term 'nationally recognized statistical rating organization' means any entity recognized as such by the Division of Market Regulation of the Securities and Exchange Commission for the purposes of net capital rules applicable to brokers.

"(C) The term 'Secretary' unless otherwise provided means the Secretary of the Treasury.".

SEC. 446. AUTHORIZATION OF APPROPRIATIONS.

Section 441 of the Act (40 U.S.C. 2751(b)) is amended—

(1) in subsection (a), by inserting ", and to encourage students receiving Federal student financial assistance to participate in community service activities that will benefit the Nation and engender in the students a sense of social responsibility and commitment to the community" before the period at the end thereof; and

(2) in subsection (b)—

(A) by striking "$656,000,000" and inserting "$700,000,000";

(B) by striking "1987" and inserting "1993"; and

(C) by striking "4 succeeding" and inserting "6 succeeding"; and

(3) by adding at the end the following new subsection:

"(c) DEFINITION.—For the purpose of this part the term 'community service' means work in which students perform meaningful and constructive service in public agencies, private nonprofit organizations, and situations where the application of human talent and dedication may help to meet human, educational, linguistic, and environmental community needs, especially such needs relating to poverty, including work in service opportunities or youth corps as defined in section 101 of the National and Community Service Act of 1990, and service in the agencies, institutions and activities designated in section 124(a) of the National and Community Service Act of 1990. Such term includes support services provided to students with disabilities.".

SEC. 447. ALLOCATION OF FUNDS.

Section 442 of the Act (42 U.S.C. 2752) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4)(A) Notwithstanding any other provision of this section, the Secretary shall allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

"(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate or transfer to a 4-year institution of higher education.";

(2) in subparagraph (A) of subsection (d)(2), by inserting "subdivided by full-time and part-time status" after "students"; and

(3) in subsection (e), by amending paragraph (2) to read as follows:

"(2) The Secretary shall reallot the amount available pursuant to paragraph (1) to eligible institutions for use in initiating, improving and expanding community service work-study programs.".

SEC. 448. GRANTS FOR WORK-STUDY PROGRAMS.

Subsection (b) of section 443 of the Act (42 U.S.C. 2753) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by inserting ", work in community service" after "itself";

(2) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A) in fiscal year 1994 and succeeding fiscal years, an institution shall use at least 10 percent of the total amount of funds granted to such institution under this section in any fiscal year to carry out a community service work-study program, and the calculation of either such 10 percent or such total amount of funds granted to such institution shall not take into consideration funds made available pursuant to section 443(e) or the fourth sentence of section 489(a);";

(3) in paragraph (3), by inserting ", and except further that if the financial need of such less than full-time students at any institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of the grant shall be made available to such less than full-time students" before the semicolon at the end thereof;

(4) in paragraph (4)—

(A) by inserting "need-based" after "derived from any"; and

(B) by striking "$200" and inserting "$300";

(5) by amending paragraph (5) to read as follows:

"(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent for academic year 1992–1993 and succeeding academic years, except that—

"(A) the Federal share may exceed such percentage if the Secretary determines that the non-Federal share would cause financial hardship at an eligible institution and that such institution serves a large number or percentage of low-income or minority students; and

"(B) when a student engaged in work in community service performs such work for a public agency or private nonprofit organization other than the eligible institution, the contribution of such agency or organization shall not exceed 10 percent of the compensation of the student, and the eligible institution in its discretion may count such contribution toward satisfaction of the non-Federal share of the compensation of the student;";

(6) in paragraph (8)—

(A) in subparagraph (A), by inserting ", except as required in subparagraph (A) of paragraph (2)" before the semicolon at the end thereof; and

(B) in subparagraph (C)—

(i) by striking ", as determined by the Secretary pursuant to regulations" and inserting "that are directly related to the student's education"; and

(ii) by striking "and" at the end of subparagraph (C);

(7) by redesignating paragraph (9) as paragraph (10); and

(8) by inserting after paragraph (8) the following new paragraph:

"(9) provide assurances that the institution will inform all eligible students of the opportunity to perform community service work-study, and will consult with local nonprofit, governmental, and community-based

organizations to identify such opportunities; and".

SEC. 449. JOB LOCATION AND DEVELOPMENT PROGRAMS.

Section 446 of the Act (42 U.S.C. 2756) is amended—

(1) in subparagraph (B) of subsection (a)(1)—

(A) by striking "10 percent or $20,000" and inserting "15 percent or $40,000"; and

(B) by striking "local"; and

(2) by striking subsection (c).

SEC. 449A. ADDITIONAL FUNDS TO CONDUCT COMMUNITY SERVICE WORK-STUDY PROGRAMS.

(a) IN GENERAL.—Section 447 of the Act (42 U.S.C. 2756a) is amended—

(1) by striking subsections (a) and (b); and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "last sentence of section 489(a) to conduct that institution's program of community service learning" and inserting "fourth sentence of section 489(a) to conduct that institution's program of community service work-study";

(B) in paragraph (3), by inserting ", and programs assisted under the National and Community Service Act of 1990" after "nonprofit agencies"; and

(C) by striking "(c) USE OF OTHER FUNDS TO CONDUCT PROGRAM.—".

(b) AMENDMENT TO HEADING.—The heading for section 447 of the Act is amended to read as follows:

"ADDITIONAL FUNDS TO CONDUCT COMMUNITY SERVICE WORK-STUDY PROGRAMS".

(c) CONFORMING AMENDMENTS.—Subsection (a) of section 489 of the Act (20 U.S.C. 1096(a)) is amended—

(1) in the second sentence, by striking "(other than section 447)"; and

(2) in the third sentence, by striking "The payment" and inserting "Except as provided in the succeeding sentence, the payment";

(3) in the fourth sentence—

(A) by striking "447" and inserting "community service work-study described in section 443"; and

(B) by striking "expenditures during such fiscal year under such section" and inserting "payments during such fiscal year to compensate students participating in a community service work-study program conducted pursuant to such section".

SEC. 450. WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW INCOME INDIVIDUALS AND FAMILIES.

Paragraph (2) of section 447(b) of the Act (20 U.S.C. 2756a(b)(2)) is amended by inserting "to provide support services to students with disabilities," after "individuals,".

SEC. 451. WORK-LEARNING PROGRAM AND STUDENT MENTOR PILOT PROGRAM.

Part C of title IV of the Act (42 U.S.C. 2751 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 448. WORK-LEARNING PROGRAM.

"(a) PURPOSE.—It is the purpose of this section to recognize, encourage and promote the use of comprehensive work-learning programs as a valuable educational approach when such approach is an integral part of an institution of higher education's educational program and a part of a student financial plan which decreases reliance on grants and loans.

"(b) PROGRAM AUTHORIZED.—Notwithstanding any other provision of law, a work-college may use funds provided under this part to carry out the activities described in subsection (d) in accordance with the provisions of this section.

"(c) MATCH REQUIRED.—Funds made available to work-colleges pursuant to this section shall be matched on a dollar-for-dollar basis from non-Federal sources.

"(d) ACTIVITIES AUTHORIZED.—Funds made available under this section may be used for—

"(1) providing assistance to pay the educational expenses of qualified students through self-help payments or credits provided under a comprehensive work-learning program;

"(2) promotion of a comprehensive work-learning program as a tool of postsecondary education, financial self-help and community service-learning opportunities;

"(3) activities described in section 446 or 447; and

"(4) the administration, development and assessment of comprehensive work-learning programs, including—

"(A) community-based work-learning alternatives that expand opportunities for community service and career-related work; and

"(B) alternatives that develop sound citizenship, encourage student persistence, and make optimum use of assistance under this part.

"(e) DEFINITIONS.—For the purpose of this section—

"(1) the term 'work-college' means an eligible institution that—

"(A) has been a public or private nonprofit institution with a commitment to community service;

"(B) has operated a comprehensive work-learning program for at least 2 years;

"(C) requires all resident students who reside on campus to participate in a comprehensive work-learning program; and

"(D) provides students participating in the comprehensive work-learning program with the opportunity to contribute to their education and to the welfare of the community as a whole; and

"(2) the term 'comprehensive work-learning program' means a program that—

"(A) requires participation of all students residing on campus in order to enroll in and graduate from a work-college;

"(B) includes learning objectives, evaluation and a record of work performance as part of the student's college record;

"(C) provides programmatic leadership by work-college personnel at levels comparable to traditional academic programs;

"(D) recognizes the educational role of work-learning supervisors; and

"(E) includes consequences for nonperformance or failure in the comprehensive work-learning program similar to the consequences for failure in a regular academic program.

"SEC. 449. STUDENT MENTOR PILOT PROGRAM.

"(a) PURPOSE.—It is the purpose of this section to establish a pilot program to test the feasibility of using work-study funds to provide incentives to eligible youth attending institutions of higher education to encourage such students to engage in mentor activities for the benefit of such eligible youth who are at risk of dropping out of elementary or secondary school.

"(b) PROGRAM AUTHORIZED; AGREEMENTS.—

"(1) PROGRAM AUTHORIZED.—The Secretary is authorized to designate not less than 10 nor more than 100 institutions of higher education that may use a portion of their allocations under this part to establish a program in accordance with this section.

"(2) AGREEMENT.—In order to be eligible to participate in the program assisted under this part an institution of higher education shall enter into an agreement with the Secretary. Such agreement shall—

"(A) contain or be accompanied by such information and assurances as the Secretary may require by regulation;

"(B) specify the methods and rates of compensation of the mentors, which may include incentive bonuses based on the satisfactory academic progress of the eligible youth;

"(C) describe the methods to be used—

"(i) by the institution of higher education to identify and select suitable students to serve as mentors; and

"(ii) by elementary and secondary schools to identify and select eligible youth; and

"(D) provide that the eligible youth, such youth's teacher, and the mentor shall enter into an agreement that—

"(i) provides attainable goals for the eligible youth to pursue with the advice and assistance of the mentor; and

"(ii) identifies the stages at which progress toward such goals shall be evaluated.

"(c) USE OF FUNDS.—An institution of higher education with which the Secretary has an agreement under subsection (b)(2) may use funds provided under this part to pay students to engage in activities as mentors for an eligible youth to—

"(1) tutor the youth in subjects in which the youth is experiencing difficulty;

"(2) support the youth in educational and recreational activities;

"(3) counsel the youth on career and educational choices;

"(4) otherwise encourage the youth to stay in school, to develop the youth's aptitudes, and to follow the mentor student into a successful college and adult career; and

"(5) develop in the student a better self-awareness and a self-motivated desire to academically excel.

"(d) EVALUATION AND REPORTS.—Not later than 3 years after the enactment of this section, the Secretary shall submit to the Congress a report evaluating the program assisted under this section. Such report shall include such recommendations as the Secretary considers appropriate concerning such program, and may include proposals for legislative changes.

"(e) DEFINITIONS.—The term 'eligible youth' means an individual who is—

"(1) age 5 to 18, inclusive;

"(2) enrolled but failing to maintain satisfactory progress in an elementary or secondary school, as determined under the standards of such school; and

"(3) determined by a teacher or other qualified staff of such school to be likely to benefit from participation in the program assisted under this section.".

SEC. 452. INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROGRAM.

(a) REPEALER.—Part D of title IV of the Act (20 U.S.C. 1087a et seq.) is repealed.

(b) DISTRIBUTION OF ASSETS FROM FUND.—

(1) IN GENERAL.—After September 30, 1992, and not later than March 31, 1992, the capital balance of the student loan fund established under part D of title IV of the Higher Education Act of 1965 (as such Act was in effect on the date of enactment of this Act) shall be distributed by allowing institutions to transfer any remaining funds, including future collections and all other funds at the institution's discretion, to such institution's part E account, part C fund, or subpart 1 of part A fund under the terms and conditions of the appropriate program.

(2) CONVERSION OF EXISTING LOANS.—Institutions may, after July 1, 1992, convert all outstanding loans made under part D of title IV of the Higher Education Act of 1965 (as

such Act was in effect on such date) to part E loans, provided that such institution—

(A) notify the borrower of such conversion;

(B) obtain a signed part E promissory note from the borrower for the remaining amount outstanding; and

(C) provide the borrower in writing with a description of all terms and conditions of the new loan.

SEC. 453. AUTHORIZATION OF APPROPRIATIONS.

Section 461 of the Act (20 U.S.C. 1087aa) is amended—

(1) in subsection (a), by inserting "or while engaged in programs of study abroad approved for credit by such institutions" after "in such institutions"; and

(2) in paragraph (1) of subsection (b)—

(A) by striking "$268,000,000" and inserting "$200,000,000";

(B) by striking "1987" and inserting "1993"; and

(C) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 454 ALLOCATION OF FUNDS.

(a) Subsection (e) of section 462 (20 U.S.C. 1087bb(e)) is amended—

(1) by striking "An" and inserting "(1) An"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary shall establish an appeals process by which the anticipated collections required in paragraph (1) may be waived for institutions with low default rates in the program assisted under this part.".

(b) Subsection (j) of section 462 of the Act (20 U.S.C. 1087bb(j)) is amended to read as follows:

"(j) REALLOCATION OF EXCESS ALLOCATIONS.—

"(1) IN GENERAL.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate such excess to eligible institutions which were participants in the program in fiscal year 1985 but which did not receive an allocation under subsection (a), an amount equal to those institutions' excess eligible amounts as determined under paragraph (2) multiplied by the institution's default penalty, as determined under subsection (f), except that—

"(A) if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this subparagraph; and

"(B) except that the reallocation to an institution shall not exceed such institution's eligible amount (as determined under paragraph (3) of subsection (c)).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) that institution's eligible amount (as determined under paragraph (3) of subsection (c)), divided by (ii) the sum of the eligible amounts of all institutions described in paragraph (1) (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

"(B) the amount required to be allocated to that institution under subsection (c) of section 462.

"(3) From the remainder of such excess, the Secretary shall reallocate the remainder, in accordance with regulations, to eligible institution which did not return to the Secretary any portion of the sums allocated to such institution.".

SEC. 455. AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION.

Section 463 of the Act (20 U.S.C. 1087cc) is amended—

(1) in subparagraph (B) of subsection (a)(2)—

(A) by striking "one-ninth" and inserting "15 percent in fiscal year 1993 and 25 percent in each of the succeeding fiscal years"; and

(B) by inserting "except that the Federal share may exceed such percentage if the Secretary determines that the non-Federal share would cause financial hardship at an eligible institution and that such institution serves a large number or percentage of low-income or minority students" before the semicolon at the end thereof;

(2) in subsection (c)—

(A) in subparagraph (B) of paragraph (3), by striking ", if that account has not been previously reported by any other holder of the note"; and

(B) by adding at the end the following new paragraph:

"(4) DISCLOSURES TO CREDIT BUREAU ORGANIZATIONS.—Each institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose to any credit bureau organization with which the Secretary has such an agreement—

"(A) the amount of loans made to any borrower under this part at the time of the disbursement of the loan; and

"(B) the information set forth in section 430A(a).''; and

(3) by adding at the end the following new subsections:

"(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(10), the Secretary may not require that any collection agency, collection attorney or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts.

"(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.".

SEC. 456. STUDENT LOAN INFORMATION BY ELIGIBLE INSTITUTIONS.

Paragraph (11) of section 463A(a) of the Act (20 U.S.C. 1087cc(a)(11)) is amended by striking "including a statement that the default may be" and inserting "together with a statement that the disbursement of, and the default on, a loan under this part, shall be".

SEC. 457. TERMS OF LOANS.

Section 464 of the Act (20 U.S.C. 1087dd) is amended—

(1) in subsection (a)—

(A) by amending paragraph (2) to read as follows:

"(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

"(i) $3,000, in the case of a student who has not successfully completed a program of undergraduate education; or

"(ii) $5,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

"(B) The aggregate of loans for all years made by institutions of higher education from loan funds established pursuant to agreements made under this part shall not exceed—

"(i) $15,000, in the case of any student who has not successfully completed a program of undergraduate education; or

"(ii) $40,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary) and including any loans from such funds made to such student before the student became a graduate or professional student.";

(B) by inserting after paragraph (3) the following new paragraph:

"(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the aggregate of loans for all years for the student may exceed the totals described in subparagraphs (A) through (C) by 20 percent.";

(2) in subsection (b)—

(A) in paragraph (1), by striking "this title and who meets the requirements of section 484" and inserting "this title, who meets the requirements of section 484, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan"; and

(B) in paragraph (2), by inserting ", except that if the total financial need of all such less than full-time students at the institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of such loans shall be made available to such less than full-time students" before the period at the end thereof;

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by amending subparagraph (C) to read as follows:

"(C)(i) for loans made before July 1, 1993, may provide, at the option of the institution and in accordance with regulations issued by the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than 1 year when such lower payment is necessary to avoid hardship to the borrower, but in no event shall the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph be extended;

"(ii) for loans made on or after July 1, 1993, may provide, at the option of the institution and in accordance with regulations issued by the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $40 per month, except that the institution may permit a borrower to pay less than $40 per month when such lower payment is necessary to avoid hardship to the borrower, but in no event shall the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph be extended; and

"(iii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;";

(ii) by amending subparagraph (D) to read as follows:

"(D) shall provide that the loan shall bear interest on the unpaid balance of the loan, at

the rate of (i) 3 percent per year in the case of any loan made before July 1, 1981, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, (iii) 5 percent per year in the case of any loan made on or after October 1, 1981, or (iv) 5 percent per year for the first 4 years of repayment and 8 percent during the remainder of the repayment period in the case of any loan made on or after July 1, 1993, except that no interest shall accrue—

"(I) prior to the beginning date of repayment determined under subparagraph (A)(i); or

"(II) during any period in which repayment is suspended pursuant to paragraph (2);"; and

(iii) by amending subparagraph (E) to read as follows:

"(E) shall provide that the loan is made without security and without endorsement, except that an institution participating in the loan program under this part may—

"(i) prior to making any loan under this part, obtain a credit report from at least one national credit bureau organization with respect to a loan applicant who is an independent student as of July 1 of the award year for which assistance is being sought; and

"(ii) require an applicant described in clause (i) who, in the judgment of the institution in accordance with the regulations issued by the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, except that for purposes of this paragraph, an insufficient or nonexistent credit history shall not be considered to be an adverse credit history;"; and

(B) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

"(i) during which the borrower—

"(I) is pursuing a full-time course of study as determined by an eligible institution;

"(II) is pursuing at least a half-time course of study (as determined by such institution); or

"(III) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under section 428B or 428C), while serving in a medical internship or residency program;

"(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

"(iii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled; or

"(iv) not in excess of 3 years during which the borrower is working full-time and earning an amount which does not exceed the greater of—

"(I) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

"(II) an amount equal to 100 percent of the poverty line for a family of 2 as defined in section 673(2) of the Community Service Block Grant Act.";

(4) by inserting at the end thereof the following new subsections:

"(e) FORBEARANCE.—The Secretary shall ensure that, upon written request, a lender shall grant a borrower forbearance of principal and interest or principle only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

"(1) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income; or

"(2) the institution determines that the borrower should qualify for forbearance for other reasons.

"(f) SPECIAL REPAYMENT AUTHORITY.—

"(1) IN GENERAL.—Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States and in order to encourage repayment on loans made under this part which are in default, the Secretary may, pursuant to the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2).

"(2) LIMITATION.—(A) No compromise repayment of a defaulted loan described in paragraph (1) may be made unless the student borrower pays—

"(i) 90 percent of the loan made under this part;

"(ii) the interest due on such loan; and

"(iii) any collection fees due on such loan.

"(B) The compromise repayment described in subparagraph (A) shall be paid in a lump sum payment.".

SEC. 458. CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE.

Section 465 of the Act (20 U.S.C. 1087ff) is amended—

(1) by amending subparagraph (B) of subsection (a)(2) to read as follows:

"(B) as a full-time teacher of mathematics, science, foreign languages, special education, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;"; and

(2) by adding at the end the following new subsection:

"(c) SPECIAL RULES.—

"(1) LIST.—If the list of schools in which a teacher may perform service pursuant to subparagraph (A) of paragraph (2) of subsection (a) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

"(2) CONTINUING ELIGIBILITY.—Any teacher who performs service in a school which—

"(A) meets the requirements of subparagraph (A) of paragraph (2) of subsection (a) in any year; and

"(B) in a subsequent year fails to meet the requirements of such subparagraph,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to paragraph (1) of subsection (a) in such subsequent years.".

SEC. 459. DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS.

Section 466 of the Act (20 U.S.C. 1087ff) is amended—

(1) in subsection (b), by striking "1997" and inserting "2005".

(2) in subsection (c)—

(A) by striking "Upon" and inserting "(1) Upon";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following new paragraph:

"(2) No finding that the liquid assets of a student loan fund established under this part exceed the amount required under paragraph (1) may be made prior to a date which is 2 years after the date on which the institution of higher education received the funds from such institution's allocation under section 462.".

SEC. 460. STUDENT AID METHODOLOGY.

(a) AMENDMENT TO HEADING.—The heading for part F of title IV of the Act (20 U.S.C. 1087kk et seq.) is amended to read as follows:

"PART F—STUDENT AID METHODOLOGY".

(b) CONFORMING AMENDMENTS.—

(1) PELL GRANTS.—Section 411(f) of the Act is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "eligibility index" and inserting "expected family contribution";

(ii) in subparagraph (A) by striking "eligibility index" and inserting "expected family contribution";

(iii) in subparagraph (B), by striking "eligibility index" and inserting "expected family contribution"; and

(iv) in subparagraph (D), by striking "eligibility index" and inserting "expected family contribution"; and

(B) in paragraph (3), by striking "eligibility index" and inserting "expected family contribution";

(2) ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.—Section 491 of the Act (20 U.S.C. 1098) is amended—

(A) in subparagraph (B) of subsection (a)(2), by striking "needs analysis," and inserting "student aid methodology";

(B) in paragraph (2) of subsection (c), by striking "needs analysis" and inserting "student aid methodology"; and

(C) in paragraph (1) of subsection (d), by striking "needs analysis under sections 411A through 411E and" and inserting "student aid methodology established under".

SEC. 461. AMOUNT OF NEED.

The text of section 471 of the Act (20 U.S.C. 1087kk) is amended to read as follows:

"Except as otherwise provided in subpart 1 or 3 of part A, the determination of need for financial assistance under this title for any student is equal to the cost of attendance of such student minus—

"(1) the expected family contribution of such student for the academic year for which the determination is made determined in accordance with this part;

"(2) except as otherwise provided in subpart 2 of part A, a student contribution equal to the greater of—

"(A) $900 for first-year dependent undergraduates or $1,100 for all other students, except that this subparagraph shall not apply to independent students with dependents other than a spouse; or

"(B) the student contribution determined in accordance with this part; and

"(3) the sum of all resources available to such student at the time of the award, including the amount of—

"(A) funds the student is entitled to receive from a Pell Grant, regardless of whether the student applies for such funds;

"(B) a waiver of tuition and fees;

"(C) a scholarship or grant, including a scholarship or grant received under subparts 2, 3, 6, 8, and 10 of this part or an athletic scholarship;

"(D) fellowship or assistantship assistance;

"(E) insurance benefits available to such student for such student's education, including any social security education benefits not included in computing expected family contribution;

"(F) except as otherwise provided in subpart 2 of part A, loans under part B;

"(G) long-term loans made by the institution (excluding loans made under part B); and

"(H) veterans' benefits, including benefits received under chapters 2, 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code.".

SEC. 462. COST OF ATTENDANCE.

(a) IN GENERAL.—Section 472 of the Act (20 U.S.C. 1087ll) is amended—

(1) in the matter preceding paragraph (1) by inserting "(a) DEFINITION OF COST OF ATTENDANCE.—" before "For the purpose";

(2) in subsection (a) (as so designated by paragraph (1))—

(A) in the matter preceding paragraph (1) by striking "except for subpart 1 of part A and";

(B) in paragraph (6), by striking "in an academic program which normally includes a formal program of study abroad" and inserting "in a program of study abroad approved for credit by the student's home institution"; and

(C) in paragraph (8)—

(i) by striking "handicapped student" and inserting "student with a disability"; and

(ii) by inserting "personal assistance," after "services,";

(3) by adding at the end the following new subsection:

"(b) DEFINITION OF PERSONAL ASSISTANCE.—As used in subsection (a), the term 'personal assistance' means assistance by a person to an individual with tasks that the individual would typically do if the individual did not have a disability and that are necessary to enable the individual with a disability to participate fully in postsecondary opportunities, including assisting the individual with major life activities."; and

(4) by amending paragraph (7) to read as follows:

"(7) for a student with one or more dependents, an allowance for the expenses actually incurred by the student for dependent care for each child, except that such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided (as determined by the institution);".

SEC. 463. FAMILY CONTRIBUTION.

Section 473 of the Act (20 U.S.C. 1087nn) is amended by striking "subparts 1 and 3" and inserting "subpart 3".

SEC. 464. STUDENT AID METHODOLOGY; DATA ELEMENTS.

Section 474 of the Act (20 U.S.C. 1087nn) is amended to read as follows:

"SEC. 474. STUDENT AID METHODOLOGY; DATA ELEMENTS.

"(a) GENERAL RULE FOR DETERMINATION OF EXPECTED FAMILY CONTRIBUTION.—

"(1) IN GENERAL.—The expected family contribution—

"(A) for a dependent student shall be determined in accordance with section 475;

"(B) for an independent student with dependents other than a spouse shall be determined in accordance with section 476; and

"(C) for a single independent student or a married independent student without dependents (other than a spouse) shall be determined in accordance with section 477.

"(2) The following data elements are considered in determining the expected family contribution:

"(A) The effective income of—

"(i) the student and the student's spouse; and

"(ii) in the case of a dependent student, the student's parents.

"(B) The number of family members in the household.

"(C) The number of family members in the household who meet the requirements of section 484(a)(1).

"(D) The assets of—

"(i) the student and the student's spouse; and

"(ii) in the case of a dependent student, the student's parents.

"(E) The marital status of the student.

"(F) The additional expenses incurred—

"(i) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed; or

"(ii) in the case of an independent student, when both the student and the student's spouse are employed or when the employed student qualifies as a surviving spouse or as a head of household under section 2 of the Internal Revenue Code of 1986.

"(b) EXCLUSION OF FORCED SALE PROCEEDS.—In the computation of expected family contribution for expected any academic year, there shall be excluded from such contribution any proceeds of a sale of farm or business assets of such family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.".

SEC. 465. EXPECTED FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

Section 475 of the Act (20 U.S.C. 1087oo) is amended to read as follows:

"SEC. 475. EXPECTED FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each dependent student, the expected family contribution is equal to the sum of—

"(1) the contribution from parents' income and assets, determined in accordance with subsection (b);

"(2) the contribution from student's income, determined in accordance with subsection (h); and

"(3) the contribution from student's assets, determined in accordance with subsection (l).

"(b) CONTRIBUTION FROM PARENTS' INCOME AND ASSETS.—The parents' contribution from income and assets is equal to—

"(1) the sum of—

"(A) the standard contribution from parents' income, determined in accordance with subsection (c); and

"(B) the contribution from parents' assets, determined in accordance with subsection (g); divided by:

"(2) the number of family members who meet the requirements of section 484(a)(1) during the award period for which assistance under this title is requested.

"(c) STANDARD CONTRIBUTION FROM PARENTS' INCOME.—The standard contribution from parents' income is determined by—

"(1) calculating the sum of—

"(A) the effective family income determined in accordance with subsection (d); minus

"(B) the total offsets against income determined in accordance with subsection (e); and

"(2) assessing the result in accordance with subsection (f).

"(d) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to the annual adjusted family income minus the sum of—

"(1) the amount of United States income tax paid or payable by the parents in the tax year preceding the award year; and

"(2) an allowance for State and other taxes, as determined by multiplying the parents' total income by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is— less than $15,000 the percentage is	$15,000 or more the percentage is
Alaska, Puerto Rico, Wyoming.	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands.	4	3
Florida, South Dakota, Tennessee, New Mexico.	5	4
North Dakota, Washington.	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia.	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky.	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico.	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island.	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(e) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are determined by deducting—

"(1) a family size offset as determined by the following table:

"Family Size Offsets

Family Members:	Amount:
1	$6,400
2	$8,000
3	$9,800
4	$12,500
5	$14,900
6 or more	$16,600, plus $2,000 for each member over 6.

"(2) an employment expense offset determined in accordance with section 480(b)(3).

"(f) ASSESSMENT OF DISCRETIONARY INCOME.—

"(1) IN GENERAL.—(A) The discretionary income that is assessed under this subsection is equal to—

"(i) the effective family income (as determined under subsection (d)); minus

"(ii) the total offsets to such income (as determined under subsection (e)).

"(B) If the discretionary income described in subparagraph (A) is a negative amount, the contribution from the parents' income is zero.

"(2) STANDARD CONTRIBUTION.—If such discretionary income is a positive amount, the standard contribution from discretionary income is determined in accordance with the following chart:

"Discretionary income:	Expected contribution:
$0 to $5,000	11% of discretionary income.
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

"(g) CONTRIBUTION FROM PARENTS' ASSETS.—The standard contribution from parents' assets is determined in accordance with paragraphs (1) through (6) as follows:

"(1) PRINCIPAL PLACE OF RESIDENCE.—If the parental assets include a principal place of

residence, deduct $30,000 from the net value of the principal place of residence, except that the net value of a principal place of residence shall be considered to be zero when the adjusted gross income of the parents is $50,000 or less. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(2) OTHER ASSETS.—If the parental assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of such other assets. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(3) FARM OR BUSINESS ASSETS.—If the parental assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both, except that the net value of farm assets shall be considered to be zero when the adjusted gross income of the parents is $50,000 or less. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4) SPECIAL RULE.—If the sum of the farm and business deduction and the deductions in paragraphs (1) and (2) exceeds $100,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deductions shall be reduced by the amount that the sum exceeds $110,000 or $130,000, as the case may be.

"(5) EXPECTED CONTRIBUTION FROM PARENTAL ASSETS.—(A) The expected contribution from parental assets equals 5 percent of the total of the amounts obtained under paragraphs (1), (2), and (3).

"(B) If the calculation of effective family income required by subsection (d) produces a negative number, the expected contribution from parental assets, calculated under this paragraph, shall be reduced by the amount of that negative effective family income. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(6) SEPARATION OR DIVORCE.—(A) If the student's parents are separated or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

"(B) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income also is included in computing effective family income, the assets of that parent's spouse shall also be included.

"(h) CONTRIBUTION FROM STUDENT'S INCOME.—The contribution from student's income is determined by—

"(1) calculating the sum of—

"(A) the student's effective income, as determined in accordance with subsection (i); minus

"(B) the total offsets against income, as determined in accordance with subsection (j); and

"(2) assessing the results in accordance with subsection (k).

"(i) DETERMINATION OF STUDENT'S EFFECTIVE INCOME.—The effective income of the student is equal to—

"(1) the sum of—

"(A) the adjusted gross income of the student as reported to the Internal Revenue Service for the year immediately preceding the award year, or income earned from work, but not reported on a Federal income tax return, minus any excludable income (as defined in section 480(b)(4)); and

"(B) the total annual amount of untaxed income and benefits received by the student in the year immediately preceding the award year; minus

"(2) the amount of United States income tax paid or payable by the student in the tax year preceding the award year.

"(j) TOTAL OFFSETS AGAINST STUDENT'S INCOME.—Total offsets against student's income are—

"(1) a dependent student offset of $3,500; and

"(2) if the parental discretionary income (as determined under subsection (f)) is a negative amount, the amount, if any, by which the result of the subtraction performed under subsection (g)(5) is less than zero.

"(k) ASSESSMENT OF STUDENT'S INCOME.—

"(1) NEGATIVE AMOUNT.—If the student's effective income (as determined under subsection (i)) minus the total offsets (as determined under subsection (j)) is a negative amount, the contribution from student income is zero.

"(2) POSITIVE AMOUNT.—If the student's effective income is a positive amount, the contribution from such student's income is equal to 75 percent of such student's effective income, except that for a first-year undergraduate student who was not enrolled at least half-time in the previous academic year, the effective income shall be equal to 50 percent of such student's effective income.

"(l) DETERMINATION OF CONTRIBUTION FROM STUDENT'S ASSETS.—The contribution from the student's assets is equal to 33 percent of such student's net assets.".

SEC. 466. EXPECTED FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.

Section 476 of the Act (20 U.S.C. 1087pp) is amended to read as follows:

"SEC. 476. EXPECTED FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For independent students with dependents other than a spouse, the expected family contribution is equal to—

"(1) the sum of—

"(A) the standard contribution from student's (and spouse's) income determined in accordance with subsection (b); plus

"(B) the contribution from student's (and spouse's) assets determined in accordance with subsection (f); divided by

"(2) the number of family members who meet the requirements of section 484(a)(1) during the award period for which assistance under this title is requested.

"(b) COMPUTING THE STANDARD CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The standard contribution from the student's (and spouse's) income is determined by—

"(1) calculating the sum of—

"(A) the effective family income determined in accordance with subsection (c); minus

"(B) the total offsets against income as determined in accordance with subsection (d); and

"(2) assessing the results in accordance with subsection (e).

"(c) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to the annual adjusted family income minus the sum of—

"(1) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year; and

"(2) an allowance for State and other taxes as determined by multiplying the student's (and spouse's) total income by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's (and spouse's) total income is— less than $15,000 the percentage is	$15,000 or more the percentage is
Alaska, Puerto Rico, Wyoming.	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands.	4	3
Florida, South Dakota, Tennessee, New Mexico.	5	4
North Dakota, Washington.	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia.	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky.	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico.	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island.	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(d) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are—

"(1) a family size offset equal to the amount specified in the following table:

"Family Size Offsets

Family Members:	Amount:
2	$8,000
3	$9,800
4	$12,500
5	$14,900
6 or more	$16,600, plus $2,000 for each member over 6.

"(2) in the case of a married independent student when both the student and spouse were employed in the year for which income is reported, or in the case of a student who qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1986, an employment expense offset determined in accordance with section 480(b)(3)).

"(e) ASSESSMENT OF DISCRETIONARY INCOME.—

"(1) IN GENERAL.—

"(A) The discretionary income that is assessed under this subsection is equal to—

"(i) the effective family income (as determined under subsection (c)); minus

"(ii) the total offsets to such income (as determined under subsection (d)).

"(B) If the discretionary income described in subparagraph (A) is a negative amount, the contribution from the student's (and spouse's) income is zero.

"(2) STANDARD CONTRIBUTION.—If such discretionary income is a positive amount, the standard contribution from discretionary income is determined in accordance with the following chart:

"Discretionary income:	Expected contribution:
$0 to $5,000	11% of discretionary income.

"Discretionary income:	Expected contribution:
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

"(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—The standard contribution from student's (and spouse's) assets is determined in accordance with paragraphs (1) through (6) as follows:

"(1) PRINCIPAL PLACE OF RESIDENCE.—If the student's (and spouse's) assets include a principal place of residence, deduct $30,000 from the net value of the principal place of residence, except that the net value of a principal place of residence shall be considered to be zero when the adjusted gross income of the student (and spouse) is $50,000 or less. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(2) OTHER ASSETS.—If the student's (and spouse's) assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(3) FARM OR BUSINESS ASSETS.—If the student's (and spouse's) assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both, except that the net value of farm assets shall be considered to be zero when the adjusted gross income of the student (and spouse) is $50,000 or less. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4) SPECIAL RULE.—If the sum of the farm and business deduction and the deductions in paragraphs (1) and (2) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that the sum exceeds $110,000, or $130,000, as the case may be.

"(5) EXPECTED CONTRIBUTION FROM STUDENT'S ASSETS.—(A) The expected contribution from student's (and spouse's) assets equals 5 percent of the total of the amounts obtained under paragraphs (1), (2), and (3).

"(B) If the assessment of discretionary income under subsection (c) produces a negative number, the expected contribution from student's (and spouse's) assets, calculated under this paragraph, shall be reduced by the amount of that negative effective family income. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(6) SEPARATED OR DIVORCED.—If the married independent student with dependents is separated or divorced, only assets of the independent student shall be considered.".

SEC. 467. EXPECTED FAMILY CONTRIBUTION FOR SINGLE INDEPENDENT STUDENTS OR FOR MARRIED INDEPENDENT STUDENTS WITHOUT OTHER DEPENDENTS.

Section 477 of the Act (20 U.S.C. 1087qq) is amended to read as follows:

"SEC. 477. EXPECTED FAMILY CONTRIBUTION FOR SINGLE INDEPENDENT STUDENTS OR FOR MARRIED INDEPENDENT STUDENTS WITHOUT OTHER DEPENDENTS.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For single independent students or married independent students without other dependents, the expected family contribution is equal to—

"(1) the sum of—

"(A) the standard contribution from student's (and spouse's) income determined in accordance with subsection (b); plus

"(B) the contribution from student's (and spouse's) assets determined in accordance with subsection (f); divided by

"(C) the number of family members who meet the requirements of section 484(a)(1) during the award period for which aid under this subpart is requested.

"(b) COMPUTING THE STANDARD CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The standard contribution from the student's (and spouse's) income is determined by—

"(1) computing the sum of—

"(A) the effective family income in accordance with subsection (c); minus

"(B) the total offsets against income, as determined in accordance with subsection (d); and

"(2) assessing the results in accordance with subsection (e).

"(c) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to the annual adjusted family income minus the sum of—

"(1) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year; and

"(2) an allowance for State and other taxes as determined by multiplying the student's (and spouse's) total income by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000 the percentage is	$15,000 or more the percentage is
Alaska, Puerto Rico, Wyoming.	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands.	4	3
Florida, South Dakota, Tennessee, New Mexico.	5	4
North Dakota, Washington.	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia.	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky.	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico.	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island.	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(d) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are determined by deducting—

"(1) a family size offset as determined by the following table:

"Family Size Offsets

Family Members:	Amount:
1	$6,400
2	$8,000

"(2) in the case of a married independent student when both the student and spouse were employed in the year for which income is reported, or in the case of a student who qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1986, an employment expense offset determined in accordance with section 480(b)(3).

"(e) ASSESSMENT OF DISCRETIONARY INCOME.—

"(1) IN GENERAL.—(A) The discretionary income that is assessed under this subsection is equal to—

"(i) the effective family income (as determined under subsection (c)); minus

"(ii) the total offsets to such income (as determined under subsection (d)).

"(B) If the discretionary income described in subparagraph (A) is a negative amount, the contribution from the student's (and spouse's) income is zero.

"(2) STANDARD CONTRIBUTION.—If such discretionary income is a positive amount, the standard contribution from student's (and spouse's) income is equal to 75 percent of such discretionary income, except that for a first-year undergraduate student or a first-year graduate student, who was not enrolled at least half-time in the previous academic year and who was not in attendance at a secondary school, the standard contribution from a student's and spouse's income is equal to 50 percent of such student's discretionary income.

"(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—

"(1) INDEPENDENT STUDENT ASSET CONTRIBUTION.—The asset contribution amount of an independent student and the student's spouse is equal to 5 percent of the sum of the amounts computed under paragraphs (3) and (4), reduced by the amount, if any, by which effective family income as computed under subsection (c) is less than zero. If the result of such subtraction is a negative amount, the family asset contribution amount is zero.

"(2) FAMILY ASSET CONTRIBUTION.—The family asset contribution amount of a single independent student is equal to 33 percent of such student's net asset value, reduced by the amount, if any, by which effective family income as computed under subsection (c) is less than zero. If such value minus such amount is a negative amount, the family asset contribution amount is zero.

"(3) PRINCIPAL PLACE OF RESIDENCE.—If the asset of an independent student with a spouse include a principal place of residence, deduct $30,000 from the net value of the principal place of residence, except that the net value of a principal place of residence shall be considered to be zero when the adjusted gross income of the student (and spouse) is $50,000 or less. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4) OTHER ASSETS.—(A) If the assets of an independent student with a spouse include assets other than a principal place of residence and other than a farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction re-

quired by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(B)(i) If the assets of an independent student with a spouse include a farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both, except that the net value of farm assets shall be considered to be zero when the adjusted gross income of the student (and spouse) is $50,000 or less. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(ii) If the sum of the farm and business deduction and the deductions in paragraphs (3) and (4)(A) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that such sum exceeds $110,000, or $130,000, as the case may be.".

SEC. 468. REGULATIONS; UPDATED TABLES.

The text of section 478 of the Act (20 U.S.C. 1087rr) is amended to read as follows:

"(a) AUTHORITY TO PRESCRIBE REGULATIONS RESTRICTED.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this subpart except—

"(A) to prescribe updated tables under sections 475, 476 and 477; or

"(B) to propose modifications in the student aid methodology required by this subpart.

"(2) SPECIAL RULE.—Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsection (b), or (B) proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsection (b) of this section.

"(b) PROVISION FOR GOVERNING UPDATED TABLES.—

"(1) ADJUSTMENTS.—(A) Each of the amounts allowed as an offset for family size for dependent and independent students shall, for each academic year after academic year 1991–1992, be adjusted by the Secretary by increasing (or decreasing) the comparable amount for the preceding academic year by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, and rounded to the nearest $100.

"(B) The Secretary shall publish in the Federal Register a revised table for an offset for family size in accordance with section 482.

"(2) REVISIONS.—(A) The Secretary shall, for each academic year after academic year 1991–1992, publish in the Federal Register such revisions in offsets against income, asset determination, and assessment rates as are necessary to reflect the most recent and relevant data.

"(B) The Secretary shall publish in the Federal Register the revised determinations required by subparagraph (A) in accordance with section 482.".

SEC. 469. SIMPLIFIED NEEDS TEST.

Section 479 of the Act (20 U.S.C. 1087ss) is amended—

(1) in subsection (a)—

(A) by striking "The Secretary" and inserting "Except as provided in subsection (c), the Secretary";

(B) by striking "$15,000" and inserting "$50,000 (excluding a dependent student's income)";

(C) by striking "who file" and inserting "who file or are eligible to file"; and

(D) by inserting: "or who file or are eligible to file an income tax return pursuant to the tax code of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau, or who are not required to file pursuant to such tax code" after "1986".

(2) in subsection (b)—

(A) by striking "475(c)(2)" and inserting "475(d)(2)";

(B) by striking "477(b)(2)" and inserting "477(c)(2)"; and

(C) by striking "476(b)(2)" and inserting "476(c)(2)";

(3) by redesignating subsection (c) as subsection (d) and inserting a new subsection (c) to read as follows:

"(c) SPECIAL TREATMENT OF AFDC/ADC RECIPIENTS.—The expected family contribution shall be zero for the purpose of awarding assistance under part A (other than under subpart 3 of part A), and parts B, C and E for any applicant receiving aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, or aid to dependent children."; and

(4) by amending subsection (d) (as redesignated in paragraph (3)) to read as follows:

"(d) SIMPLIFIED APPLICATION FORM.—

"(1) IN GENERAL.—The Secretary shall develop and use an easily identifiable simplified application form as part of the common financial reporting form prescribed in section 483(a) for families described in this section to qualify for the use of a simplified student aid methodology and zero family contribution.

"(2) REDUCED DATA REQUIREMENTS.—The simplified application form shall reflect the reduced data requirements described in subsections (b) and (c).".

SEC. 470. DISCRETION OF STUDENT FINANCIAL AID OFFICER.

Section 479A of the Act (20 U.S.C. 1087tt) is amended—

(1) in subsection (a)—

(A) by inserting after the second sentence thereof the following new sentence: "Furthermore, a financial aid administrator shall make necessary adjustments in accordance with subsection (c)."; and

(B) by adding at the end thereof the following new sentence: "No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.";

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(C) by inserting at the end the following new paragraphs:

"(4) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability;

"(5) the administrator restores grant or work-study eligibility to a borrower whose liability on a loan received under this title has been discharged by the Secretary or canceled on account of permanent and total disability; or

"(6) In calculating the expected family contribution for any student in accordance with sections 474, 475, 476, and 477, the financial aid administrator excludes from such contribution or from calculation as an asset of such student, such student's spouse, or either parent of such student with whom such student maintains a residence, any value for a residence which is itself, or is located upon land restricted against alienation without the consent of the Federal Government or is held in trust by the United States or a federally recognized tribe for the benefit of an individual member or members of an Indian tribe or is held in trust by the United States for the benefit of an Indian tribe.".

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting the following new subsection (c) after subsection (b):

"(c) SPECIAL ADJUSTMENTS.—A student financial aid administrator shall make a necessary adjustment described in subsection (a) under the following circumstances:

"(1) In the case of dislocated workers, as defined in section 480(a)(5))—

"(A) the administrator shall use the income for the year in which the determination is made (the award year) rather than the income reported in the preceding tax year; and

"(B) the administrator shall exclude the net value of investments and real estate, including the primary residence, in the calculation of the expected family contribution.

"(2) In the case of a displaced homemaker, as defined in section 480(a)(6)), the administrator shall exclude the net value of investments and real estate, including the primary residence, from the calculation of the expected family contribution.

"(3) In the case of unreimbursed medical or dental expenses, the administrator shall reduce available income by the amount of unreimbursed medical expenses in excess of 5 percent of total income in calculating the expected family contribution.

"(4) In the case of elementary and secondary tuition and fees, the administrator shall reduce available income by the unreimbursed tuition and fees paid by the parents for dependents which shall not exceed for each dependent the national average per pupil instructional cost published by the National Center for Educational Statistics using the most recent data available.".

SEC. 471. DISREGARD OF STUDENT AID IN OTHER FEDERAL PROGRAMS.

Section 479B of the Act (20 U.S.C. 1087uu–1) is amended to read as follows:

"SEC. 497B. DISREGARD OF STUDENT AID IN OTHER FEDERAL PROGRAMS.

"Notwithstanding any other provision of law, student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.".

SEC. 472. DEFINITIONS; GENERAL CALCULATION RULES.

Section 480 of the Act (20 U.S.C. 1087vv) is amended to read as follows:

"SEC. 480. DEFINITIONS; GENERAL CALCULATION RULES.

"(a) DEFINITIONS.—As used in this part (except subpart 3 of part A):

"(1) ASSETS.—The term 'assets' means cash on hand, including amounts in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

"(2) AWARD YEAR.—The term 'award year' is the period of time between July 1 of the first year and June 30 of the following year.

"(3) BUSINESS ASSETS.—The term 'business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights and copyrights.

"(4) DEPENDENT.—The term 'dependent'—

"(A) when used with respect to a student and except as otherwise provided, means the student's spouse, the student's dependent children, and other persons who live with and receive more than one-half of their support from the student and will continue to receive more than one-half of their support from the student during the award year; and

"(B) when used with respect to a parent, means the parents of the student, the student, any of the student's dependent children, dependent children of the student's parents (including those children who are deemed to be dependent students when applying for aid under this title) and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than one-half of their support from the parents during the award year.

"(5) DISLOCATED WORKER.—The term 'dislocated worker' means a worker identified pursuant to section 301(a) of the Job Training Partnership Act.

"(6) DISPLACED HOMEMAKER.—The term 'displaced homemaker' means an individual who—

"(A) has not worked in the labor force for a substantial number of years but has, and during those years, worked in the home providing unpaid services for family members;

"(B)(i) has been a dependent on public assistance or on the income of another family member but is no longer supported by that income, or

"(ii) is receiving public assistance on account of dependent children in the home; and

"(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(7) FARM ASSETS.—The term 'farm assets' means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"(8) INDEPENDENT.—The term 'independent', when used with respect to a student, means any individual who—

"(A) is 24 years of age or older by December 31 of the first calendar year of the award year;

"(B) is an orphan or ward of the court;

"(C) is a veteran of the Armed Forces of the United States;

"(D) is a graduate or professional student;

"(E) is married or has legal dependents; and

"(F) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"(9) NET ASSETS.—The term 'net assets' means the current market value at the time of application of assets (as defined in paragraph (1)) minus the outstanding liabilities (indebtedness) against such assets.

"(10) SPECIAL TAXES AND REFERENCES.—(A) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as United States income taxes.

"(B) References in this subpart to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in subparagraph (A), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

"(11) UNTAXED INCOME AND BENEFITS.—The term 'untaxed income and benefits' means—

"(A) child support received;

"(B) welfare benefits, excluding aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(C) workman's compensation;

"(D) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(E) interest on tax-free bonds;

"(F) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(G) cash support or any money paid on the student's behalf;

"(H) the amount of earned income credit claimed for Federal income tax purposes;

"(I) untaxed portion of pensions;

"(J) credit for Federal tax on special fuels;

"(K) the amount of foreign income excluded for purposes of Federal income taxes;

"(L) untaxed social security benefits;

"(M) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(N) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.

"(b) GENERAL CALCULATION RULES.—

"(1) ANNUAL ADJUSTED FAMILY INCOME.—The term 'annual adjusted family income' means the sum received in the year immediately preceding the award year, by the student's parents (in the case of a dependent student), or by the student and, if applicable, the student's spouse (in the case of an independent student), except excludable income under paragraph (4) of this subsection, from the following sources and calculated as follows:

"(A) Adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1986.

"(B) Untaxed income and benefits, as defined in paragraph (a)(11).

"(C) Income for a student whose parents are divorced or separated determined as follows:

"(i) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

"(ii) If the criterion described in clause (i) does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

"(iii) If neither of the criteria described in clauses (i) or (ii) apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

"(D) Income in the case of the death of any parent is determined as follows:

"(i) If either of the parents have died, the student shall include only the income of the surviving parent.

"(ii) If both parents have died, the student shall not report any parental income.

"(E) If income in the case of a parent whose income is taken into account under subparagraph (C) of this paragraph, or a parent who is a widow or widower and whose income is taken into account under clause (i) of this subparagraph, has remarried, then the income of that parent's spouse shall be included in determining the student's annual adjusted family income only if—

"(i) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

"(ii) the student is not an independent student.

"(2) EFFECTIVE FAMILY INCOME.—The effective family income shall be determined on the basis of the annual adjusted family income minus the Federal taxes and imputed State and other taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's expected family contribution.

"(3) EMPLOYMENT EXPENSE OFFSET.—(A) The employment expense offset is determined as follows:

"(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $2,100 or 35 percent of the earned income (income earned by work) of the parent with the lesser earned income.

"(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1986, such offset is equal to the lesser of $2,100 or 35 percent of the parent's earned income.

"(B) The employment expense offset in the case of an independent student with dependents or married independent student is determined as follows:

"(i) If both the student and the student's spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $2,100 or 35 percent of the earned income (income earned by work) of the spouse with the lesser earned income.

"(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1986, such offset is equal to the lesser of $2,100 or 35 percent of the student's earned income.

"(C) For any award year after award year 1987–1988, this paragraph shall be applied by increasing the dollar amount specified in subparagraphs (A) and (B) to reflect increases in the amount and percent of the Bureau of Labor Standards Budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-person worker versus one-worker family.

"(4) EXCLUDABLE INCOME.—(A) The term 'excludable income' means the income de-

scribed in subparagraph (B) which shall be excluded for the purpose of determining 'annual adjusted family income' under paragraph (1).

"(B) For the purpose of determining adjusted family income exclude the following:

"(i) For a Native American student, the annual adjusted family income does not include any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Act commonly referred to as the Per Capita Act (25 U.S.C. 117b) or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) or any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) or the Maine Indians Claims Settlement Act (25 U.S.C. 1721 et seq.).

"(ii) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

"(iii) The annual adjusted family income does not include any student financial assistance (including any income earned from work under part C of this title) except veterans' or social security benefits set forth in paragraph (6) of this subsection.

"(5) FAMILY SIZE DETERMINATION.—(A) In determining family size in the case of a dependent student—

"(i) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

"(ii) if the parents are divorced or separated, family members include the parent whose income is included in computing the effective family income and that parent's dependents, including the student; and

"(iii) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining effective family income.

"(B) In determining family size in the case of an independent student with dependents—

"(i) family members include the student, the student's spouse, and the student's dependents; and

"(ii) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.".

SEC. 473. DEFINITIONS.

Section 481 of the Act (20 U.S.C. 1088) is amended—

(1) in paragraph (1) of subsection (a)—

(A) in the matter preceding subparagraph (A), by striking "subsection (e), for the purposes of this title, except subpart 6 of part A and part B," and inserting "subsection (e) and subparagraph (B), for the purposes of this title";

(B) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(C) by inserting "(A)" after "(1)";

(D) by inserting at the end thereof the following new subparagraph:

"(B) Any entity shall not be considered to be an institution of higher education pursuant to subparagraph (A), if such entity—

"(i) offers more than 50 percent of such entity's courses by correspondence;

"(ii) has a student enrollment in which more than 25 percent of the students are incarcerated;

"(iii) employs or uses commissioned salesmen in any phase of its operation; or

"(iv) has a student enrollment in which more than 50 percent of the students are admitted pursuant to section 484(d).";

(2) in paragraph (1) of subsection (b), by striking "not less than a 6-month program" and inserting "an eligible program";

(3) in paragraph (1) of subsection (c), by striking "not less than a 6-month program" and inserting "an eligible program"; and

(4) by amending subsection (d) to read as follows:

"(d) ACADEMIC YEAR.—For the purpose of this title, the term 'academic year' shall mean at least—

"(1) 900 clock hours;

"(2) 36 quarter credit hours; or

"(3) 24 semester or trimester credit hours."; and

(5) by adding at the end thereof the following new subsections:

"(f) ELIGIBLE PROGRAM.—For the purpose of this title the term 'eligible program' means a program of at least—

"(1) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

"(A) provides educational training; and

"(B) admits students who have not completed the equivalent of an associate's degree; or

"(2) 300 clock hours of instruction, 8 semester hours, or 12 quarter hours, offered during a minimum of 10 weeks, in the case of—

"(A) undergraduate programs that require the equivalent of an associate degree for admissions; and

"(B) all graduate and professional programs.

"(g) PERSONAL ASSISTANCE.—The term 'personal assistance' means one person assisting another individual with tasks which such individual would typically do if such individual did not have a disability and which are necessary to enable the individual with a disability to participate fully in postsecondary opportunities, including assisting such individuals with major life activities.".

SEC. 474. MASTER CALENDAR.

Subsection (c) of section 482 of the Act (20 U.S.C. 489(c)) is amended by striking "the general administration of".

SEC. 475. FORMS AND REGULATIONS.

Section 483 of the Act (20 U.S.C. 1090) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting ", publish and distribute free of charge" after "shall prescribe";

(ii) by inserting ", to identify students for mandatory adjustments under section 479A(c)" before "and to determine the need";

(iii) by inserting after the first sentence thereof the following: "The Secretary shall print, distribute and process one such reporting form. The Secretary shall prescribe a common reapplication form and process, including an electronic reapplication process, for students who have completed the common financial reporting form in a prior year.";

(iv) by inserting "on at least a half-time basis" after "are enrolled or accepted for enrollment"; and

(v) by striking the period at the end of the paragraph and inserting a comma and the following: "except that such State data may not be combined with the required Federal data on the common form."; and

(B) in paragraph (2), by inserting after the first sentence thereof "The Secretary is authorized to use such contracts to assist States with collection of data required to award State grants.";

(C) by redesignating paragraphs (3), (4) and (5) as paragraphs (4), (5) and (7), respectively;

(D) by inserting the following new paragraph after paragraph (2):

"(3) As part of the procurement process for the 1993-1994 award year, and for all procurements thereafter pertaining to the contracts identified in paragraph (2) of this subsection, the Secretary shall require all entities competing for such contracts to—

"(A) use a common financial reporting form as prescribed in paragraph (1), which shall be clearly identified as the "Free Application for Federal Student Aid" and shall be clearly distinguished from the non-Federal portion of the form by means of a bold line, bold print, clear instructions, or other appropriate means;

"(B) use a common, simplified reapplication form as the Secretary shall prescribe in each award year; and

"(C) provide the estimated marginal cost of collecting and processing additional non-Federal data elements that may be used by States for the purpose of awarding State assistance."; and

(E) by inserting after paragraph (5) (as redesignated in subparagraph (C)) the following new paragraph:

"(6) No approved contractor shall enter into exclusive arrangements with guarantors, lenders, secondary markets, or institutions for the purpose of reselling or sharing of data collected for the multiple data entry process. All data collected under a contract issued by the Secretary pursuant to paragraph (2) for the multiple data entry process is the exclusive property of the Secretary and may not be transferred to a third party by an approved contractor without the Secretary's expressed written approval.";

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "the Secretary is authorized to enter into contracts with States, institutions of higher education and private organizations for the purpose of—" and inserting "the Secretary, as part of the contracts described in subsection (a)(2), shall—";

(B) in paragraph (1) by striking "developing" and inserting "develop and process";

(C) in paragraph (2)—

(i) by striking "distributing and processing" and inserting "distribute and process"; and

(ii) by inserting "and parents" after "students"; and

(D) in paragraph (3)—

(i) by striking "issuing" and inserting "issue"; and

(ii) by striking "index designed to estimate" and inserting "expected family contribution figure and an estimate of";

(3) by amending subsection (f) to read as follows:

"(f) NOTICE OF STUDENT AID RECEIPT.—

"(1) NOTICE.—Each student receiving assistance under this title shall receive notice of receipt of such assistance.

"(2) DISTRIBUTION.—The notice described in paragraph (1) shall be distributed by participating institutions without limit to format, except that the program name, including the 'Federal' designation, shall be specified on such notice.";

(4) by redesignating subsections (b), (c), (d), (e) and (f) (as amended in paragraphs (1), (2) and (3)) as subsections (c), (d), (e), (f) and (g), respectively;

(5) by inserting after subsection (a) the following new subsection:

"(b) COMMON GUARANTEED STUDENT LOAN APPLICATION FORM AND PROMISSORY NOTE.—

"(1) IN GENERAL.—The Secretary, in cooperation with representatives of guaranty agencies, eligible lenders, and organizations involved in student financial assistance, shall prescribe a common application form and promissory note to be used for applying for loans under part B of this title.

"(2) REQUIREMENTS.—The form prescribed by the Secretary shall, to the maximum extent practicable—

"(A) use plain English to facilitate understanding of loan terms and conditions by applicants;

"(B) be formatted to require the submission of the form directly by the applicant or the eligible institution in which the student is enrolled or has been accepted for enrollment and on which the applicant shall clearly indicate a choice of lender; and

"(C) permit application for any loan under part B other than loans under section 428C.

"(3) DRAFT FORM.—The Secretary shall circulate a draft of the form developed pursuant to this subsection not later than 180 days after the date of enactment of the Higher Education Amendments of 1992 and shall approve a form for use not later than 360 days after the date of such Act.

"(4) SPECIAL RULE.—Nothing in this subsection shall be construed to limit the development of electronic forms and procedures."; and

(6) by adding at the end the following new subsections:

"(h) COMMON DEFERMENT FORM.—The Secretary, in cooperation with representatives of guaranty agencies, institutions of higher education, and lenders involved in loans made under part B of this title, shall prescribe a common deferment reporting form to be used for the processing of deferments of loans made under this title.

"(i) SPECIAL RULE.—Any financial aid application required to be made under this title shall include the name, signature, address, social security number, and organizational affiliation of the preparer of such financial aid application.".

SEC. 476. STUDENT ELIGIBILITY.

Section 484 of the Act (20 U.S.C. 1091) is amended—

(1) in paragraph (1) of subsection (a), by inserting "(including a program of study abroad approved for credit by the eligible institution at which such student is enrolled)" after "or other program";

(2) in subsection (b), by adding at the end the following new paragraph:

"(5) In order to be eligible to receive a loan made, insured or guaranteed under this title, a student may not be incarcerated.";

(3) in subsection (d), by striking "approved by the Secretary" and inserting "that meets such standards for development, administration, and scoring as the Secretary may prescribe in regulations";

(4) in subsection (g)—

(A) by inserting "fraudulently" before "borrowed" each place such term appears; and

(B) by adding at the end thereof the following: "If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this title.";

(5) by amending subsection (h) to read as follows:

"(h) VERIFICATION OF IMMIGRATION STATUS.—

"(1) IN GENERAL.—The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this title.

"(2) SPECIAL RULE.—The documents collected and maintained by an eligible institution in the admission of a student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a) to verify eligibility to participate in work-study programs under part C of this title.

"(3) VERIFICATION MECHANISMS.—The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.";

(6) by redesignating subsection (k) as subsection (m); and

(7) by inserting after subsection (j) the following new subsections:

"(k) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant, loan or work assistance under this title for a correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree.

"(l) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by such institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of such courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student may have such student's eligibility to participate in a program under this title restricted or reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to such student.

"(3) SPECIAL RULE.—For award years prior to the date of enactment of this subsection, the Secretary shall not take any compliance, disallowance, penalty, or other action against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this title if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

"(m) STUDENTS WITH A FIRST BACCALAUREATE OR PROFESSIONAL DEGREE.—Notwithstanding any other provision of this Act, a student otherwise eligible for assistance under parts B, C, and E of this title shall be eligible for such assistance even though such student has previously received a baccalaureate or professional degree.".

SEC. 477. INFORMATION DISSEMINATION ACTIVITIES.

Section 485 of the Act (20 U.S.C. 1092) is amended—

(1) in paragraph (1) of subsection (a)—

(A) by striking "and" at the end of subparagraph (K);

(B) by striking the period at the end of subparagraph (L) (as added by section 1 of Public Law 101-542) and inserting a semicolon;

(C) by redesignating subparagraph (L) (as added by section 201 of Public Law 101-610) as subparagraph (M);

(D) by striking the period at the end of subparagraph (M) (as redesignated in paragraph (3)) and inserting a semicolon and "and"; and

(E) by adding at the end thereof the following new subparagraph:

"(N) that enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance.";

(2) in subsection (b)—

(A) by amending the subsection heading for subsection (b) to read as follows: "EXIT COUNSELING FOR BORROWERS; BORROWER INFORMATION.—";

(B) by striking "Each" and insert "(1) Each";

(C) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(D) by inserting at the end thereof the following new paragraph:

"(2) STUDENT INFORMATION.—(A) Each eligible institution shall require that the borrower of a loan made under part B or E submit to the institution, during the exit interview required by this subsection—

"(i) the borrower's expected permanent address after leaving the institution (regardless of the reason for leaving);

"(ii) the name and address of the borrower's expected employer after leaving the institution;

"(iii) the address of the borrower's next of kin; and

"(iv) any corrections in the institution's records relating the borrower's name, address, social security number, references, and driver's license number.

"(B) The institution shall, within 60 days after the interview, forward any corrected or completed information received from the borrower to the guaranty agency indicated on the borrower's student aid records.".

(3) in subsection (f), by adding at the end the following new paragraph:

"(7)(A) Each institution of higher education participating in any program under this title shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

"(i) such institution's campus sexual assault programs which shall be aimed at prevention of sex offenses; and

"(ii) the procedures followed once a sex offense has occurred.

"(B) The policy described in subparagraph (A) shall address the following areas:

"(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

"(ii) Procedures students should follow if a sex offense occurs, including who should be contacted and to whom the alleged offense should be reported.

"(iii) Procedures for on-campus disciplinary action in cases of alleged sexual assault which shall include—

"(I) a clear statement that the institution will impose sanctions on students and employees, and a description of those sanctions;

"(II) a clear statement that the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

"(III) a clear statement that both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

"(iv) Notification of victims of sexual assault of the applicable legal sanctions under Federal, State or local law for sexual assault.

"(v) Informing students of their options to notify proper law enforcement authorities, both on campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

"(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

"(vii) Notification of students of options for and available assistance in, if so requested by the victim, changing academic and living situations subsequent to an alleged sexual assault incident.

"(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.".

SEC. 478. NATIONAL STUDENT LOAN DATA SYSTEM.

Section 485B of the Act (20 U.S.C. 1093) is amended—

(1) in subsection (a)—

(A) by striking "and loans made under part E" and inserting "and loans made under part E, and for allowing electronic exchange of data between program participants and the system"; and

(B) by inserting after the first sentence thereof the following new sentence: "Such data system shall provide for monitoring enrollment, student status, and internship and residency information."; and

(2) by adding at the end the following new subsection:

"(e) STANDARDIZATION OF DATA REPORTING.—

"(1) IN GENERAL.—The Secretary shall promulgate standard regulations and procedures (including necessary rules and relevant definitions) that require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats in order to permit the direct comparison of data submitted by individual lenders, servicers or guaranty agencies.

"(2) ACTIVITIES.—For the purpose of establishing standards under this section, the Secretary shall—

"(A) consult with guaranty agencies, lenders, institutions of higher education, and organizations representing the groups described in paragraph (1);

"(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software; and

"(C) publish the specifications selected to be used to encourage the automation of exchanges of information between all parties involved in loans under this part.

"(3) MODERN DATA PROCESSING.—The Secretary is authorized to use modern data processing to reduce the administrative expenses of operating the data system assisted under this section.

Nothing in section 499C shall relieve processors of any or all obligations under this section.".

SEC. 479. SIMPLIFICATION OF THE LENDING PROCESS FOR BORROWERS.

Part G of title IV of the Act (20 U.S.C. 1088 et seq.) is amended by inserting after section 485B the following new section:

"SEC. 485C. SIMPLIFICATION OF THE LENDING PROCESS FOR BORROWERS.

"(a) ALL LIKE LOANS TREATED AS ONE.—To the extent practicable, and with the cooperation of the borrower, eligible lenders shall treat all loans made to a borrower under the same section of part B as one loan and shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. Any deferments on one such loan will be considered a deferment on the total amount of all such loans. In the case of a default, the entire amount of all such loans shall be considered to be in default.

"(b) ONE LENDER, ONE GUARANTY AGENCY.—To the extent practicable, and with the cooperation of the borrower, the guaranty agency shall ensure that a borrower only have one lender, one holder, one guaranty agency, and one servicer with which to maintain contact.".

SEC. 480. TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES.

Section 486 of the Act (20 U.S.C. 1093) is amended to read as follows:

"SEC. 486. EARLY AWARENESS INFORMATION PROGRAM.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to enter into contracts with appropriate public agencies, nonprofit private organizations, and institutions of higher education to conduct an information program designed to broaden the early awareness of postsecondary educational opportunities by secondary school students and their parents, including publicizing—

"(1) the availability of Federal student assistance under this Act;

"(2) the importance of postsecondary education in long-term career planning; and

"(3) the need and necessity to complete a secondary education program successfully in order to meet the requirements for college.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this section.".

SEC. 481. PROGRAM PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—Subsection (a) of section 487 of the Act (20 U.S.C. 1094(a)) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting before the period a comma and the following: "together with assurances that the institution will provide upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

"(A) the Secretary;

"(B) the appropriate State agency designated under section 495(c);

"(C) the appropriate guaranty agency; and

"(D) the appropriate accrediting agency or association"; and

(B) by adding at the end the following new paragraphs:

"(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this Act on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

"(14) In the case of any institution (other than a public nonprofit institution) participating in loan programs under this title for the first time such institution shall be allowed a total loan volume of no more than—

"(A) $1,000,000 for such institution's first year of participation; and

"(B) 150 percent of the previous year's total loan volume for such institution's second, third, and fourth years of participation,

if such institution's performance complies with the minimum standards of the Secretary or the guaranty agency.

"(15) The institution shall use the same definition of 'academic year' for all purposes authorized by this title.

"(16) The institution shall develop a default management plan for approval by the Secretary as part of such institution's initial application for certification as an eligible institution and shall implement such plan for 2 years thereafter.

"(17) Any institution which changes ownership and any institution which changes its status as a parent or subordinate institution shall develop a default management plan for approval by the Secretary and implement such plan for 2 years after such institution's change of ownership or status.

"(18) The institution will provide assurances that the institution will cooperate whenever the Secretary, a guaranty agency, an accrediting agency or association and a State agency designated under section 495(c) need to share information relating to the eligibility of the institution to participate in the programs authorized by this title.

"(19) The institution will comply with such other provisions as the Secretary deems necessary to the sound administration of financial aid programs.";

(2) in paragraph (2) of subsection (b), by striking "on the record"; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in clause (i) of subparagraph (A), by striking "2 years" and inserting "year";

(ii) in subparagraph (B), by inserting ", including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution" before the semicolon at the end thereof;

(iii) in subparagraph (D), by striking "on the record";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "on the record"; and

(ii) in the matter preceding subclause (I) of subparagraph (B)(i), by striking "on the record";

(C) in paragraph (3) by inserting ", after consultation with each State agency designated under section 495(c)," after "shall publish"; and

(D) by adding at the end the following new paragraph:

"(4) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State agencies designated under section 495(c), and accrediting agencies or associations the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).".

(b) CONSTRUCTION.—Section 487 of the Act, as amended by subsection (a), is further amended by adding at the end the following:

"(e) CONSTRUCTION.—Nothing in the amendments made by the Higher Education Amendments of 1991 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred

to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of section 487 to create a record of the hearing. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.".

SEC. 481A. HAZING.

Subsection (a) of section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by adding at the end the following new paragraph:

"(13)(A) The institution should adopt a policy that prohibits a member of a student organization operating on or near such institution for the purpose of participating in student activities of such institution, to intentionally commit an act of hazing or conspire to commit an act of hazing against a member, potential member, or person pledged to be a member of the organization as a condition of attaining membership in the organization or of attaining an office or other status within the organization.

"(B) For the purposes of this paragraph, the term 'act of hazing' means the subjection of a person to bodily danger or physical harm or a substantial likelihood of bodily danger or physical harm, or to require, encourage, authorize, or permit that a person be subject to—

"(i) total or substantial nudity of the person;

"(ii) compelled ingestion of any substance which, because of the nature, amount, or concentration of such substance, subjects the person to a substantial likelihood of physical harm;

"(iii) wearing or carrying of any obscene article by the person;

"(iv) a physical assault upon or offensive physical contact with the person;

"(v) participation by the person in a boxing match, an excessive number of calisthenics, or any other physical activity which involves a substantial likelihood of bodily danger or physical harm;

"(vi) transportation and intentional abandonment of the person;

"(vii) confinement of the person to unreasonably small, unventilated, unsanitary, or unlighted areas;

"(viii) intentional sleep deprivation; or

"(ix) assignment of pranks to be performed by the person which involve the violation of any Federal, State or local law, or which would subject the person or any other person to a substantial likelihood of bodily danger or physical harm.

"(C) This section shall not be construed to apply to legitimate curricular activities or activities of athletic teams of an institution of higher education.".

SEC. 482. ASSIGNMENT OF IDENTIFICATION NUMBERS.

Part G of title IV of the Act is further amended by inserting after section 487 the following new section:

"SEC. 487A. ASSIGNMENT OF IDENTIFICATION NUMBERS.

"The Secretary shall assign to each institution of higher education, lender and guaranty agency participating in a program assisted under this title an identification number to be used to identify each such entity's participation in any such program.".

SEC. 483. TRANSFER OF ALLOTMENTS.

Section 488 of the Act (20 U.S.C. 1095) is amended by striking "10 percent" and inserting "25 percent".

SEC. 484. CRIMINAL PENALTIES.

Section 490 of the Act (20 U.S.C. 1097) is amended to read as follows:

"(a) IN GENERAL.—Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under this title or attempts to so embezzle, misapply, steal, obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed $200, then the fine shall not be more than $5,000 and imprisonment shall not exceed one year, or both.

"(b) ASSIGNMENT OF LOANS.—Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) INDUCEMENTS TO LEND OR ASSIGN.—

"(1) IN GENERAL.—Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(2) SPECIAL RULE.—Nothing in this section shall prohibit an institution of higher education or other party from participating in programs authorized under section 492 of this Act.

"(d) OBSTRUCTION OF JUSTICE.—Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $20,000 or imprisoned not more than 5 years, or both.

"(e) USE OF FUNDS RECEIVED.—All funds received by the Department as a result of penalties assessed by this section shall be deposited into the account for subpart 1 of part A of title IV, and allocated to students through the Pell Grant Program.".

SEC. 485. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

Section 491 of the Act (20 U.S.C. 1098) is amended—

(1) in subsection (d)—

(A) by striking "and" at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting a semicolon and "and"; and

(C) by adding at the end the following new paragraph—

"(8) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.";

(2) in paragraph (4) of subsection (h)—

(A) by striking "in accordance with" and inserting "without regard to"; and

(B) by inserting "and to set pay in accordance with such section" before the period at the end;

(3) in subsection (i), by striking "$500,000" and inserting "$750,000"; and

(4) by amending subsection (j) to read as follows:

"(j) SPECIAL ANALYSES AND ACTIVITIES.—The committee shall—

"(1) monitor and evaluate the program modifications resulting from the enactment of the Higher Education Amendments of 1992, especially as such amendments relate to the student aid methodology;

"(2) monitor and evaluate the implementation of a free common form and process for determining eligibility and awards for programs under this title as well as a simplified reapplication process;

"(3) assess the adequacy of current methods for disseminating information about programs under this title and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

"(4) assess the adequacy of methods of monitoring student debt burden.".

SEC. 486. GENERAL PROVISIONS.

(a) IN GENERAL.—Part G of title IV of the Act is further amended by adding at the end the following new sections:

"SEC. 492. INSTITUTIONAL AND LENDER SUPPORT FOR DEFAULT REDUCTION.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, institutions of higher education, lenders (including secondary markets), and loan servicers are authorized to enter into contracts and make payments to any party to provide for—

"(1) collection on loans made under this title supplementing the collection efforts required under applicable program regulations;

"(2) additional borrower counseling;

"(3) support for programs authorized under section 432(k) regarding incentives for employer repayment of such loans; and

"(4) any other activity the Secretary determines to be in furtherance of the goal of reducing defaults on loans made, insured, or guaranteed under this title.

"(b) SPECIAL RULE.—Contracts and payments made under this part shall reflect the actual cost of services provided or received, as documented according to rules issued by the Secretary.

"SEC. 493. STUDY ABROAD.

"Nothing in this Act shall be construed to limit or otherwise prohibit access to study abroad programs approved by the institutions at which a student is enrolled. Students who are otherwise eligible who are engaged in a program of study abroad approved for academic credit by the home institution at which such students are enrolled are eligible for assistance under this title. It is not necessary for such a study abroad program to be required as part of the student's degree program to qualify for such assistance.

"SEC. 494. ASSISTANCE FROM THE COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION.

"The Commissioner of the Social Security Administration, or the Commissioner's designee, is authorized to assist the Secretary in determining if borrowers of loans under the Robert T. Stafford Student Loan Program are using true and correct social security numbers when applying for such loans.

"SEC. 494A. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

"(a) MEETINGS.—

"(1) IN GENERAL.—The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations implementing the amendments made to subparts 1 and 4 of part A, part B and part G of this title by the Higher Education Amendments of 1992. Such meetings shall include individuals and representatives

of the groups involved in student loan programs, such as students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

"(2) ISSUES.—During such meetings, the Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of the amendments made to this title by the Higher Education Amendments of 1992. The Secretary shall take into account the information received at such meetings in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

"(b) DRAFT REGULATIONS.—After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing the amendments made to this title by the Higher Education Amendments of 1992 and shall submit such regulations to a negotiated rulemaking process. The Secretary shall follow the guidance provided in sections 305.82-4 and 305.82-5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups participating in the regional meetings described in subsection (a)(1), and shall include both representatives of such groups from Washington, D.C., and industry participants. To the extent possible, the Secretary shall select individuals reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 240-day period described in section 431(g) of the General Education Provisions Act.

"(c) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Act shall not apply to activities carried out under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section.

"SEC. 494B. DATA BASE AND INFORMATION LINE.

"(a) IN GENERAL.—From the amounts appropriated pursuant to the authority of subsection (b), the Secretary shall award a contract to establish and maintain—

"(1) a computerized database of all public and private student financial assistance programs, to be accessible to schools and libraries through either modems or toll-free telephone information lines; and

"(2) a toll-free telephone information line to provide individualized student financial assistance information to parents, students, and other individuals.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this section.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 432(a) of the Act (20 U.S.C. 1082(a)) is amended by inserting "pursuant to section 494A" after "regulations".

SEC. 487. INSTITUTIONAL INTEGRITY PROGRAM REQUIRED.

(a) GENERAL RULE.—Part G of title IV of the Act (as amended in section 483) is further amended—

(1) by inserting after the heading for part G the following:

"Subpart 1—Miscellaneous General Provisions"; and

(2) by adding after section 494 (as added by section 483) the following new subpart:

"Subpart 2—Institutional Integrity

"SEC. 495. STATE IDENTIFICATION PROCESS.

"(a) IN GENERAL.—Each State shall assist the Secretary to identify institutions of higher education within the State, which have engaged in practices that lead to misuse of Federsl student aid funds, including but not limited to—

"(1) inadequate procedures to protect students enrolled at institutions of higher education in the event of school closure;

"(2) inadequate maintenance of student or other records;

"(3) inadequate procedures for resolution and investigation of student complaints;

"(4) misleading or inappropriate advertising and promotion, or student recruitment;

"(5) facilities that fail to comply with relevant safety and health standards such as fire, building and sanitation codes;

"(6) failure to provide relevant information to students by institutions of higher education which may include—

"(A) information relating to market and job availability for students in professional and vocational programs;

"(B) information regarding courses which exceed standards for State licensure in specific occupations, where appropriate; and

"(C) information regarding course cancellation procedures and rights;

"(7) the inflation of credit or clock hours required for the completion or programs or where 600-hour courses are not appropriate in length;

"(8) occupational or vocational programs which are inadequate to permit students to meet State licensing requirements in the occupation for which training is provided;

"(9) the actions of any owner, shareholder, or person exercising control over the educational institution which may adversely affect eligibility for programs under this title; or

"(10) the absence of a fair and equitable refund policy to protect students as established in section 498.

"(b) STATE PROCEDURES.—

"(1) In carrying out the purpose of this section, the State shall establish and publicize the availability of a process to permit students, faculty members and others to report complaints or instances of fraud and abuse;

"(2) The State shall notify the Secretary, in a timely manner, of any institution it has identified pursuant to this section. The Secretary shall take prompt, appropriate action based on such notification and report such action to the State; and

"(3) Each State shall designate, for purposes of this section, a single State entity or individual to be responsible for reporting information under this section to the Secretary.

"(c) PRIORITIES.—In identifying institutions of higher education pursuant to this section, the State shall give priority to institutions that have—

"(1) a cohort default rate as defined in section 435(m) equal to or greater than 10 percent; and

"(A) more than two-thirds of an institution of higher education's total undergraduate students enrolled on a half-time or more basis receive assistance under this title (except subparts 4 and 6 of part A); or

"(B) two-thirds or more of an institution of higher education's education and general expenditures are derived from funds provided to students enrolled at such institution from the programs assisted under this title (except subparts 4 and 6 of Part A and section 428B);

"(2) a limitation, suspension, or termination action by the Secretary against an institution pursuant to section 487(c)(1)(D), 487(C)(1)(E) or section 487(C)(2)(A) during the preceding 5 years; or

"(3) an audit finding during the two most recent audits of an institution of higher education's conduct of the programs assisted under this title that resulted in the repayment by such institution of amounts greater than 5 percent of the funds such institution received from the programs assisted under this title for any one year; or

"(4) a citation of an institution of higher education by the Secretary for failure to submit audits required by this title; or

"(5) a year-to-year fluctuation of more than 25 percent in the amounts received by students in Pell Grants or loans made, insured or guaranteed under sections 428 and 428A, which are not accounted for by changes in such loan programs; or

"(6) a change of ownership of the institution of higher education that results in a change of control, including—

"(A) the sale of such institution or the majority of its assets;

"(B) the transfer of the controlling interest of stock of such institution or its parent corporation;

"(C) the division of one or more such institutions into two or more institutions;

"(D) the transfer of the controlling interest of stock of such institution to its parent corporation; or

"(E) the transfer of the liabilities of such institution to its parent corporation; or

"(7) except with regard to any institution that is affiliated with a State system of higher education, participation in one or more of the programs established by this title for less than five years; or

"(8) any other institution which the State has reason to believe is engaged in fraudulent practice.

"(d) GRANTS.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to States to assist States in defraying the additional costs related to the development and implementation of this section.

"(2) SUPPLEMENTATION.—Grant funds under this subsection shall be used to supplement and not supplant any other funds available to a State to carry out the activities described in this section.

"(3) APPLICATION.—Each State desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(4) 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 6 succeeding fiscal years to carry out this subsection.

"SEC. 496. APPROVAL OF ACCREDITING AGENCY OR ASSOCIATION.

"(a) STANDARDS REQUIRED.—No accrediting agency or association may be approved by the Secretary for the purposes of establishing institutional eligibility under this title, unless the agency or association meets the standards established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a hearing, establish the standards. The standards shall require that—

"(1) the accrediting agency or association, shall be a State, regional or national agency or association, and shall demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region or nationally, as appropriate;

"(2) such agency or association—

"(A) has a voluntary membership of institutions of higher education and has as its principal purpose the accrediting of institutions of higher education;

"(B) is a State agency approved by the Secretary for the purpose described in subparagraph (A); or

"(C) is an agency or association that, for the purpose of determining eligibility for student assistance under this title, conducts accreditation of specialized educational programs within hospitals or clinics;

"(3) if such agency or association is an agency or association described in—

"(A) subparagraph (A) of paragraph (2), then such agency or association is separate and independent, both administratively and financially;

"(B) subparagraph (B) of paragraph (2), then such agency or association has been recognized by the Secretary on or before October 1, 1991; or

"(C) subparagraph (C) of paragraph (2) and such agency or association has been recognized by the Secretary on or before October 1, 1991, then the Secretary may waive the requirements for separate and independent, both administratively and financially, upon demonstration, that the existing relationship has not served to compromise the independence of its accreditation process;

"(4) such agency or association will apply standards of accreditation that ensure that the services, curricula, faculty, facilities, and fiscal resources of the institutions of higher education are of sufficient quality to ensure that each such institution can provide the education and training to be offered;

"(5) such agency or association will apply procedures throughout the accrediting process, including evaluation and withdrawal proceedings, that comply with due process including—

"(A) adequate specification of requirements and deficiencies at the institution of higher education being examined;

"(B) notice of an opportunity for a hearing to any such institution;

"(C) the right to appeal from any adverse action against any such institution; and

"(D) the right to representation by counsel for any such institution; and

"(6) such agency or association consistently applies and enforces standards of accreditation that ensure that the quality and content of studies offered by the institution of higher education may reasonably be expected to achieve the stated educational and operational objectives of the institution for the duration of the accreditation period.

"(b) SEPARATE AND INDEPENDENT DEFINED.—For the purpose of paragraph (3) of subsection (a), the term 'separate and independent', as applied to agencies and associations described in subparagraph (A) of subsection (a)(2), means that—

"(1) the members of the accrediting agency or association are not elected or selected by the board or chief executive officer of any associated or affiliated trade association or membership organization;

"(2) among the membership of the board of the accrediting agency or association there shall be one public member (not a member of the related trade or membership organization) for each six members of the board, with a minimum of one such public member, and guidelines are established for such members to avoid conflict of interest;

"(3) dues to the accrediting agency or association are paid separately from any dues payment to the trade or membership organization; and

"(4) the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.

"(c) OPERATING PROCEDURES REQUIRED.—No accrediting agency or association may be approved by the Secretary for the purpose of this title, unless the agency or association—

"(1) performs at regularly established intervals on-site inspections and reviews of institutions of higher education (at least one such visit at each institution that provides vocational education and training should be unannounced), with particular focus on educational quality and program effectiveness, and ensures that team members are well-trained and knowledgeable with respect to their responsibilities;

"(2) requires institutions of higher education subject to its jurisdiction which plan to establish a branch campus to submit a business plan, including projected revenues and expenditures, prior to opening the branch campus;

"(3) agrees to conduct within one year of the establishment of a new branch of an institution of higher education an on-site visit of that branch campus, and to conduct, within one year after a change of ownership of an institution of higher education, an on-site visit of that institution;

"(4) maintains and makes publicly available written materials regarding standards and procedures for accreditation, appeal procedures, and the accreditation status of each institution of higher education subject to its jurisdiction; and

"(5) discloses publicly whenever an institution of higher education subject to its jurisdiction is due for accreditation or reaccreditation.

"(d) REPORTING REQUIREMENTS.—No accrediting agency or association may be approved by the Secretary for the purpose of this title, unless the agency or association reports, within 30 days of—

"(1) any negative action with respect to the accreditation of an institution of higher education, including denial, suspension, or termination of such accreditation; and

"(2) the final results of any review of an institution of higher education together with the comments of the affected institution;

to the Secretary and to the agency designated under section 495 of the State in which the institution of higher education is located.

"(e) INITIAL ARBITRATION RULE.—Whenever the Secretary determines eligibility under section 481, the Secretary may not recognize the accreditation of any institution of higher education under either section, unless the institution of higher education agrees to submit any dispute involving the denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

"(f) JURISDICTION PROVISION.—Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association approved by the Secretary for the purpose of this title, involving the denial, withdrawal or termination of accreditation of the institution of higher education shall be brought in the appropriate United States district court.

"SEC. 497. SPECIAL ACCREDITATION RULES.

"(a) NEW ACCREDITATION RULE.—Whenever the Secretary determines eligibility under section 481, the Secretary may not recognize the accreditation of any eligible institution of higher education under either section if the institution of higher education is in the process of receiving a new institutional accreditation or changing its institutional accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior institutional accreditation, including materials demonstrating reasonable cause for changing the institutional accrediting agency or association.

"(b) DUAL ACCREDITATION RULE.—Whenever the Secretary determines eligibility under section 481 the Secretary shall not recognize the accreditation of any eligible institution of higher education if the institution of higher education is accredited by more than one accrediting agency or association which accredits institutions, unless the institution of higher education submits to each such agency and association and to the Secretary the reasons for the accreditation by more than one such institutional accrediting agency or association.

"(c) IMPACT OF LOSS OF ACCREDITATION.—An institution may not be certified or recertified as an institution of higher education under section 481(a) if such institution has—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) withdrawn from institutional accreditation voluntarily under a show cause or suspension order during the preceding 24 months unless—

"(A) such institution has been restored by the same accrediting agency which has accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.

"(d) ACCREDITATION ORDERLY PROCEDURE RULE.—

"(1) SUSPENSION OF APPROVAL.—The Secretary is authorized to suspend the approval of an accrediting agency or association if the Secretary determines, after notice and opportunity for a hearing, that the accrediting agency or association has accredited an institution of higher education in violation of paragraph (2).

"(2) VIOLATIONS.—Paragraph (1) applies if the institution of higher education seeks and receives accreditation from the accrediting agency or association during any period in which the institution is the subject of any interim action by another accrediting agency or association leading to the suspension, revocation, or termination of accreditation or the institution has been notified of the threatened loss of accreditation, and the due process procedures required by such suspension, revocation, termination, or threatened loss have not been completed.

"(e) SPECIAL RULE.—The standards and rules described in this section and section 496 only shall apply to an accrediting agency or association approved by the Secretary for the purpose of establishing institutional eligibility under this title. The Secretary may establish such standards as the Secretary deems appropriate for the recognition of an accrediting agency or association for other purposes.

"SEC. 498. ELIGIBILITY AND CERTIFICATION PROCEDURES.

"(a) GENERAL AUTHORITY.—In determining the legal authority to operate within a

State, the accreditation status, and the administrative capability and financial responsibility of an institution of higher education, the Secretary shall—

"(1) prepare and prescribe a single application form which—

"(A) requires sufficient information and documentation to ensure the requirements of eligibility, accreditation, and capability of the institution of higher education are met;

"(B) requires a specific description of the relationship of a main campus of an institution of higher education and all of its branches including a description of the student aid processing that is performed by the main campus and that which is performed at its branches;

"(C) requires a description of third party financial aid service providers of an institution of higher education, together with a copy of any contract with the institution of higher education and a financial aid service provider or loan servicer; and

"(D) requires such other information as the Secretary determines will assure that the requirements of this title with respect to eligibility, accreditation, administrative capability and financial responsibility will be met;

"(2) ensure prompt actions by the Department on the application required by this section and, a prompt on-site review of the institution of higher education by the Department prior to certification of initial eligibility;

"(3) provide for one year of provisional eligibility and certification of an institution of higher education for newly eligible institutions or institutions that undergo a change in ownership, except changes of ownership due to—

"(A) sale or transfer of less than 51 percent of the institution's corporate stock to existing stockholders, corporate employees, corporate officers or family members;

"(B) the death of an owner of an institution, when the owner's interest is sold or transferred to either a family member or a current stockholder of a corporation;

"(C) public offering of stock approved by the Securities and Exchange Commission; or

"(D) another cause determined by the Secretary to be a routine business practice;

"(4) provide for periodic renewal of eligibility and certification determination of institutions of higher education not less than every 5 years after the regulations implementing this section become effective including a review of the administrative capability and financial responsibility of the institution;

"(5)(A) establish requirements for the maintenance by an institution of higher education of sufficient cash reserves to ensure repayment of any required refunds; and

"(B) provide for a process under which the Secretary shall exempt an institution of higher education from the requirements described in subparagraph (A) if the Secretary determines that the institution—

"(i) is located in a State that has a tuition recovery fund such that the institution meets the requirements of subparagraph (A);

"(ii) contributes to the fund; and

"(iii) otherwise has legal authority to operate within the State; and

"(6) establish procedures and requirements relating to the financial and administrative capacities of institutions of higher education, including—

"(A) determination of sufficiency of operating funds;

"(B) establishment of minimum assets to liabilities ratios;

"(C) consideration of past performance of institutions or persons in control of such institutions with respect to student aid programs;

"(D) providing for independently audited financial reports; and

"(E) maintenance of records;

"(7) establish such other reasonable procedures as the Secretary determines will contribute to assuring that the institution of higher education will comply with administrative capability and financial responsibility standards required by this title; and

"(8) assure that the institution of higher education has a fair and equitable refund policy.

"(b) FAIR AND EQUITABLE REFUND POLICY.—

"(1) IN GENERAL.—An institution's education refund policy shall be considered to be fair and equitable for purposes of this section if the policy provides for a refund that meets—

"(A) the requirements of applicable State law;

"(B) the specific refund requirements established by an institution's nationally recognized accrediting agency and approved by the Secretary; or

"(C) the pro rata refund requirement described in paragraph (2), except that this paragraph shall not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the halfway point (in time) in the period of enrollment for which the student has been charged.

"(2) PRO RATA REFUND.—As used in this section, the term 'pro rata refund' means a refund by the institution to a student attending such institution for the first time of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last day of attendance by the student.

"(3) REFUND CREDIT.—For purposes of this section, a refund first shall be credited against any Part B loan assistance and second against any grant awarded a student under this title for the period of enrollment.

"(c) SPECIAL RULE.—Notwithstanding the provisions of section 103(b) of the Department of Education Organization Act, the Secretary shall have the responsibility to examine and guard against hour inflation and to ensure that all 600-hour courses are appropriate in length to the instructions involved.

"(d) CONTINUING ELIGIBILITY PROVISIONS.—Whenever the Secretary withdraws the approval of any accrediting agency of an institution of higher education which meets the requirements of accreditation, eligibility and certification on the day prior to such withdrawal the Secretary shall, notwithstanding the withdrawal, continue the eligibility of the institution of higher education to participate in the programs authorized by this title for a period not to exceed 18 months from the date of the withdrawal of approval.

"SEC. 499. PROGRAM REVIEW AND DATA.

"(a) GENERAL AUTHORITY.—In order to strengthen the administrative capability and financial responsibility provisions of this title, the Secretary—

"(1) shall provide for the conduct of program reviews on a systematic basis designed to include all institutions of higher education participating in programs authorized by this title;

"(2) is authorized to give priority for program review to institutions of higher education which are—

"(A) institutions with an annual default rate for loans under part B of this title in excess of 25 percent or which places such institutions in the highest 25 percent of such institutions;

"(B) institutions with a default rate in dollar volume for loans under part B of this title which places the institutions in the highest 25 percent of such institutions;

"(C) institutions with a significant fluctuation in Stafford Loan volume or Pell grant awards, or both, in the year for which the determination is made compared to the year prior to such year;

"(D) institutions reported to have deficiencies or financial aid problems as reported by the appropriate State agency designated under section 495(c) or by the appropriate accrediting agency or association; and

"(E) institutions with high annual dropout rates; and

"(3) shall establish and operate a central data base of information on institutional accreditation, eligibility, and certification including—

"(A) all information available to the Department;

"(B) all relevant information made available by the Secretary of Veterans Affairs;

"(C) all relevant information from accrediting agencies or associations;

"(D) all relevant information available from a guaranty agency; and

"(E) all relevant information available from States under section 495.

"(b) SPECIAL ADMINISTRATIVE RULES.—

"(1) In carrying out paragraphs (1) and (2) of subsection (a), the Secretary shall establish guidelines designed to assure uniformity of practice in the conduct of program reviews of institutions of higher education.

"(2) The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations.

"(c) DATA COLLECTION RULES.—The Secretary shall develop and carry out a plan for the data collection responsibilities described in paragraph (3) of subsection (a). The Secretary shall make the information obtained under such paragraph (3) readily available to all institutions of higher education, guaranty agencies, States, and other organizations participating in the programs authorized by this title.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'annual default rate' has the same meaning given that term by section 435(m);

"(2) the term 'withdrawal of accreditation' means denying accreditation to an institution, during the process of review and self-study of the institution, previously accredited by an accrediting agency or association recognized by the Secretary;

"(3) the term 'denial of accreditation' means the refusal of an accrediting agency or association recognized by the Secretary to extend its accreditation to an applicant institution; and

"(4) the term 'termination of accreditation' means terminating the accreditation of an institution, following a show-cause hearing, for one or more violations of the accrediting agency's rules and regulations.

"SEC. 499A. RECOMMENDATIONS OF INSTITUTIONAL PERFORMANCE STANDARDS.

"(a) IN GENERAL.—The Secretary shall, after consultation with institutions of higher education, guaranty agencies, educational associations representing postsecondary education, and other appropriate public agencies and nonprofit private organizations, develop

and recommend to Congress the appropriate legislative language necessary to provide objective performance standards for the administration of programs authorized by this title.

"(b) CONTENTS OF STANDARDS.—The institutional performance standards described in subsection (a) shall be designed to address—

"(1) the success of the program at the institution of higher education including—

"(A) rates of program completion and of graduation, taking into account—

"(i) the average length of time it takes to complete a course of study at the institution;

"(ii) the selectivity of the admissions policy at the institution; and

"(iii) the variety of completion goals, including transfer to another institution of higher education, full-time employment, and military service;

"(B) rates of withdrawal at the institution;

"(C) rates of student employment, after graduation, in the chosen field of study or in a related field, and acceptance of graduates, where appropriate, into graduate or professional study;

"(D) rates of licensure of graduates, where appropriate;

"(E) an evaluation of the adequacy of student services; and

"(F) the adequacy of resources and procedures for informing prospective students of licensure requirements, if appropriate, and of projections for employment opportunities in the field for which the proposed training is designed.

"SEC. 499B. DEFINITIONS AND TRAINING.

"(a) DEFINITIONS.—As used in this subpart the term 'institution of higher education' has the same meaning given to such term by section 481(a).

"(b) TRAINING.—The Secretary shall provide training to personnel of the Department, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews conducted under this title.

"SEC. 499C. AUTHORITY TO AWARD NEED BASED AID.

"(a) IN GENERAL.—Institutions of higher education may:

"(1) voluntarily agree with any other institution of higher education to award financial aid funds not covered by this Act to students attending those institutions only on the basis of demonstrated financial need for such assistance: *Provided*, That each institution of higher education shall apply its own standard of need which was adopted unilaterally and not in concert with any other institution of higher education;

"(2) voluntarily agree with any other institution of higher education to collect from students, from whom such data may be considered reasonable and relevant, in addition to the data elements for financial aid prescribed by the Secretary, other supplemental financial data elements for financial aid funds not covered by this Act: *Provided*, That the student's right to free processing under section 483 is not withheld and that such data will not affect eligibility or awards under this Act; and

"(3) unilaterally engage and consult with in good faith the same processors used by other institutions of higher education to collect and forward financial aid data on behalf of individual institutions: *Provided*, That the data forwarded to an institution relates only to applicants to that institution and the common processor does not disclose the identity of other institutions to which the applicant also applied, the standard of need adopted by those other institutions, or the financial aid or family contribution computed based on the standard of need adopted by those other institutions.

"(b) ANTITRUST LAWS.—Other than subsection (a)(1), nothing in subsection (a) shall affect the application of the antitrust laws to institutions of higher education or shall affect the prohibitions of the consent decree in United States V. Brown University et al., Civ. Action No. 91-3274 (E.D. Pa. 1991). No inference of unlawful contract, combination or conspiracy shall be drawn from the fact that institutions of higher education engage in the conduct authorized in subsection (a)(1).".

(b) TECHNICAL AMENDMENTS.—

(1) PART B DEFINITION.—Subsection (n) of section 435 of the Act (20 U.S.C. 1085(n)) is repealed.

(2) PART G DEFINITION.—Subsection (e) of section 481 of the Act (20 U.S.C. 1088(e)) is repealed.

SEC. 488. REPEAL OF CERTAIN PROVISIONS.

Sections 601, 602, 603, 604 and 606 of the Emergency Unemployment Compensation Act of 1991 are repealed.

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

SEC. 501. EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT.

(a) IN GENERAL.—Title V of the Act (20 U.S.C. 1101 et seq.) is amended to read as follows:

"TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

"SEC. 501. STATEMENT OF PURPOSE.

"It is the purpose of this title to—

"(1) address the Nation's teacher shortage, particularly in areas where there are heavy concentrations of low-income students, by encouraging talented persons, including the individuals already employed as school paraprofessionals and individuals who have been employed in other areas of endeavor, to enter the teaching profession;

"(2) provide assistance for professional development activities enabling teachers, school administrators, and institutions of higher education to work collaboratively to improve educational performance through school reform and restructuring;

"(3) encourage academically qualified students to become teachers through scholarship assistance;

"(4) support the recruitment of underrepresented populations into teaching careers;

"(5) encourage the establishment and maintenance of programs that provide professional teacher preparation to individuals who are moving to careers in education from other occupations;

"(6) promote partnerships between institutions of higher education and local educational agencies for the purpose of promoting the simultaneous restructuring and renewal of elementary and secondary schools and college-based teacher education programs;

"(7) provide assistance to our Nation's teaching force for the continued improvement of their professional skills; and

"(8) improve the leadership and administrative skills of elementary and secondary school administrators.

"PART A—TEACHER TRAINING FOR NONTRADITIONAL STUDENTS

"Subpart 1—New Careers for Teachers

"SEC. 511. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to establish and operate new career programs to attract minority candidates, who are in school support or paraprofessional positions or in occupations other than teaching, to careers teaching in elementary and secondary schools.

"SEC. 512. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—

"(1) IN GENERAL.—The Secretary is authorized to pay the Federal share of making grants to eligible recipients to enable such eligible recipients to pay the costs of establishing and operating programs to attract minority candidates to teaching careers.

"(2) PERCENTAGE.—The Federal share shall be 50 percent.

"(3) NON-FEDERAL SHARE.—The non-Federal share of each grant awarded under this subpart may be in cash or in kind fairly evaluated, including planned equipment or services.

"(b) DURATION OF GRANT.—Each grant awarded under this subpart shall be for a period of 2 years and may be renewed for periods not to exceed 3 years.

"(c) COMPETITIVE BASIS.—The Secretary shall award grants under this subpart on a competitive basis.

"(d) SPECIAL CONSIDERATION.—In awarding grants under this subpart, the Secretary shall give special consideration to programs designed to identify, recruit, and certify—

"(1) speakers of non-English languages who have been trained as teachers in their home country; or

"(2) individuals already employed in a local educational agency.

"SEC. 513. ELIGIBLE RECIPIENT.

"As used in this subpart the term 'eligible recipient' means a consortium of—

"(1) an institution of higher education, and

"(2) one or more local educational agencies,

working in conjunction with the State educational agency, and the appropriate State or local teacher credentialing body.

"SEC. 514. APPLICATION.

"(a) IN GENERAL.—A grant under this subpart may be made only to an eligible recipient which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) describe the activities and services for which assistance is sought;

"(2) set forth the number of expected participants in each program assisted under this subpart;

"(3) demonstrate steps on a career ladder leading to the position of fully credentialed teacher, ranging from nonskilled entry positions, extending through intermediate subprofessional functions, and terminating in full professional status as a certified teacher duly recognized by the appropriate State agency;

"(4) contain assurances that advancement within such career ladders would be based on merit, but that the opportunity for attainment of higher station is available to all;

"(5) demonstrate a plan for employing permanently individuals who have participated in the program at their new level of training, including individuals who terminate the program at a level below that of fully credentialed teacher;

"(6) demonstrate a plan for bringing a sizable portion of the educational program and coursework to the place of the participant's employment;

"(7) demonstrate a plan for providing academic credit for in-service training and other relevant experience as well as formal academic coursework;

"(8) provide for participation of individuals who have attained various levels of education, including individuals who have not completed high school, with special consideration for such participation given to individuals already serving within the school system;

"(9) provide assurances that the program assisted under this subpart will be available to individuals with disabilities; and

"(10) contain such other assurances as the Secretary may reasonably require.

"SEC. 515. USE OF FUNDS.

"(a) IN GENERAL.—Funds provided pursuant to this subpart may be used to—

"(1) pay tuition for participants in programs established under this subpart;

"(2) pay for the release time of participants in programs assisted under this subpart; and

"(3) provide stipends for child care to participants whose academic coursework takes place outside the normal workday.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of any grant provided pursuant to this subpart may be used for administrative expenses.

"SEC. 515A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 2—Minority Teacher Recruitment

"SEC. 516. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to pay the Federal share of making grants in accordance with the provisions of this subpart to carry out programs and activities designed to—

"(1) improve recruitment and training opportunities in education for minority individuals, including language minority individuals; and

"(2) increase the number of minority teachers, including language minority teachers, in elementary and secondary schools.

"(b) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(c) NON-FEDERAL SHARE.—The non-Federal share of each grant awarded under this subpart may be in cash or in kind fairly evaluated, including planned equipment or services.

"SEC. 517. USE OF FUNDS.

"Funds provided pursuant to this subpart may be used—

"(1) by—

"(A) 1 or more local educational agencies,

"(B) a State educational agency or a State higher education agency,

"(C) 1 or more institutions of higher education, or

"(D) community-based organizations,

to identify students from minority backgrounds, including language minority backgrounds, interested in teaching in middle and secondary schools, and to provide such students with activities and services which support and encourage the pursuit of teaching as a career;

"(2) by 2- and 4-year institutions of higher education with large concentrations of minority students, including language minority students, to—

"(A) identify students who indicate an interest in entering the teaching profession, and provide such individuals with support programs such as—

"(i) scholarship funds to meet expenses;

"(ii) remedial and tutoring programs;

"(iii) counseling and support services;

"(iv) teaching related activities;

"(v) academic advice and guidance in course selection to prepare for teacher certification;

"(vi) test taking skills; and

"(vii) information and advice regarding eligibility for membership in the Teacher Corps established under part E, and other financial assistance programs;

"(B) establish or strengthen teacher training programs;

"(C) establish or enhance early identification/articulation partnership programs with high schools and community colleges; and

"(D) establish partnerships with graduate schools of education to foster and facilitate the movement of minority students into post-graduate studies; and

"(3) by 2- and 4-year institutions of higher education or consortia thereof, State educational agencies, or State higher education agencies, to—

"(A) establish programs and activities which foster and facilitate the movement of students interested in pursuing teaching careers from 2-year institutions to 4-year institutions, focusing particular attention on facilitating the transfer of academic credit; and

"(B) improve existing assessment practices that determine an individual's qualifications to become a teacher.

"SEC. 518. APPLICATION.

"(a) APPLICATION REQUIRED.—Each institution of higher education, State educational agency, State higher education agency, local educational agency, community based organization, or consortium thereof, desiring a grant pursuant to this subpart, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

"(1) describe the activities and services for which assistance is sought;

"(2) set forth the individuals to be served; and

"(3) contain such assurances as the Secretary may reasonably require.

"(b) STATE EDUCATIONAL AGENCY REVIEW.—Each application from a local educational agency for a grant under this subpart shall be forwarded to the appropriate State educational agency for review and comment if the State educational agency requests the opportunity for such review. The State educational agency must complete the review of such application and comment to the Secretary within 30 calendar days of receipt. Failure of the State educational agency to submit comments to the Secretary shall not prejudice such application.

"SEC. 519. ADMINISTRATIVE COSTS.

"Not more than 10 percent of any grant provided pursuant to this subpart may be used for administrative expenses.

"SEC. 520. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"PART B—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

"SEC. 521. PURPOSE.

"It is the purpose of this part to encourage partnerships between institutions of higher education and secondary schools serving low-income and disadvantaged urban and rural students, to support programs that—

"(1) improve the retention and graduation rates at such secondary schools;

"(2) improve the academic skills of public and private nonprofit secondary school students;

"(3) increase such students' opportunities to continue a program of education after secondary school; and

"(4) improve such students' prospects for employment after secondary school.

"SEC. 522. PARTNERSHIP AGREEMENT.

"(a) PARTNERSHIP AGREEMENT.—To be eligible for a grant under this part, an institution of higher education or a State higher education agency and a secondary school or a local educational agency shall enter into a written partnership agreement. A partnership may include businesses, labor organizations, professional associations, community-based organizations, public television stations or other educational telecommunications entities, or other private or public agencies or associations. All partners shall sign the agreement.

"(b) CONTENTS OF AGREEMENT.—The agreement shall include—

"(1) a listing of all participants in the partnership, including a designation of the official representatives of each entity participating in the partnership;

"(2) a description of the responsibilities of each participant in the partnership; and

"(3) a listing of the resources to be contributed by each participant in the partnership.

"SEC. 523. GRANTS.

"(a) DIVISION BETWEEN SCHOOL-YEAR AND SUMMER PROGRAMS.—From the funds appropriated to carry out this part pursuant to section 525, the Secretary shall reserve 65 percent of such funds to carry out programs operating during the regular school year and 35 percent of such funds to carry out programs operating during the summer.

"(b) AMOUNT AND USE OF GRANTS.—

"(1) AMOUNT.—The Secretary shall make grants under this part in amounts which are not less than $250,000 and not more than $1,000,000.

"(2) USE OF GRANT.—Grants under this part may be used by the partnership for programs that—

"(A) use college students to tutor secondary school students and improve their basic academic skills or to involve secondary school students in community service-learning projects;

"(B) are designed to improve the basic academic skills of secondary school students;

"(C) are designed to increase the understanding of specific subjects of secondary school students;

"(D) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

"(E) are designed to increase the prospects for employment after graduation of secondary school students.

"(c) PREFERENCES.—In making grants under this part, the Secretary shall give a preference to—

"(1) programs which will serve predominantly low-income communities;

"(2) partnerships which will run programs during the regular school year and summer; and

"(3) programs which will serve educationally disadvantaged students; students with disabilities; potential dropouts; pregnant adolescents, and teenage parents; children of migratory agricultural workers or of migratory fishermen; or students whose native language is other than English.

"(d) DURATION.—Each grant awarded under this part may be awarded for a period not to exceed 3 years.

"(e) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this part in a manner that achieves equitable geographic distribution of such grants.

"SEC. 524. APPLICATION FOR GRANTS.

"(a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under this part shall submit an application to the Secretary.

"(b) CONTENTS OF APPLICATION.—The application shall include—

"(1) the written and signed partnership agreement;

"(2) a listing of the public and private nonprofit secondary school or schools to be involved in the program;

"(3) a description of the activities and services for which assistance is sought;

"(4) a description of the programs to be developed and operated by the partnership; and

"(5) assurances to the Secretary that—

"(A) the partnership will establish a governing body including one representative of each participant in the partnership;

"(B) Federal funds will provide no more than 70 percent of the cost of the project in the first year, 60 percent of such costs in the second year, and 50 percent of such costs in the third year and any subsequent year;

"(C) a local educational agency receiving funds under this subpart shall not reduce its combined fiscal effort per student or its aggregate expenditure on education; and

"(D) a local educational agency receiving funds under this part shall use the Federal funds so as to supplement and, to the extent practical, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in the project, and in no case may funds be used to supplant such non-Federal funds; and

"(5) provide such information and meet such conditions as may be required by the Secretary.

"(c) SPECIAL RULE.—The non-Federal share of grants awarded under this part may be in cash or in kind fairly evaluated, including services, supplies or equipment.

"(d) WAIVER.—The Secretary may waive the matching requirement described in paragraph (5)(B) for any eligible partnership that demonstrates to the satisfaction of the Secretary a unique hardship that prevents compliance with such matching requirement.

"SEC. 525. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with officials of the other Federal agencies and with non-Federal organizations to ensure that the panel membership shall be geographically balanced and be composed of representatives from public and private institutions of elementary, secondary, and higher education, labor, business, and State and local governments, who have expertise in community service or in education.

"SEC. 526. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this part.

"PART C—NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS

"SEC. 531. SHORT TITLE.

"This part may be cited as the 'National Board for Professional Teaching Standards Act of 1992'.

"SEC. 532. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the economic well-being and national security of the United States depend on efforts to strengthen the educational system to provide all children with an education which will ensure a well-educated work force;

"(2) improved teaching is central to the goal of ensuring a well-educated work force;

"(3) incentives to enhance the professionalism and status of teaching can be provided through the development and promulgation of voluntary standards of professional certification that are rigorous and unbiased, that complement and support State licensing practices and recognize the diversity of American society;

"(4) the National Board for Professional Teaching Standards, a private nonprofit organization, has been created to establish such voluntary standards, and a significant initial investment in research and development from non-Federal sources will be required to create such a system of professional certification; and

"(5) the Federal Government has played an active role in funding vital educational research and can continue to support this national effort by providing limited but essential support for critical research activities.

"(b) PURPOSE.—It is the purpose of this part to provide financial assistance to the National Board for Professional Teaching Standards to enable the Board to conduct independent research and development related to the establishment of national, voluntary professional standards and assessment methods for the public school teaching profession.

"SEC. 533. DEFINITIONS.

"(a) IN GENERAL.—For the purpose of this part—

"(1) the term 'Board' means the National Board for Professional Teaching Standards;

"(2) the term 'Committee' means the Fund for Improvement and Reform of Schools and Teaching Board established in section 3231 of the Fund for the Improvement and Reform of Schools and Teaching Act; and

"(3) the term 'Director' means the Director of the National Science Foundation.

"(b) SPECIAL RULE.—Nothing in this part shall be construed to infringe upon the practice or accreditation of home school or private school teaching.

"SEC. 534. PROGRAM AUTHORIZATION.

"(a) PROGRAM AUTHORIZED.—From sums appropriated pursuant to the authority of subsection (b) in any fiscal year, the Secretary is authorized and directed to provide financial assistance to the National Board for Professional Teaching Standards, in order to pay the Federal share of the costs of the activities described in section 536.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for the period beginning October 1, 1991, and ending September 30, 1995, to carry out the provisions of this part.

"(c) TERMS AND CONDITIONS.—(1) No financial assistance may be made available under this part except upon an application as required by section 537.

"(2) No financial assistance may be made available under this part unless the Secretary determines that—

"(A) the Board will comply with the provisions of this part;

"(B) the Board will use the Federal funds only for research and development activities in accordance with section 536, and such teacher assessment and certification procedures will be free from racial, cultural, gender or regional bias;

"(C) the Board—

"(i) will widely disseminate for review and comment announcements of specific research projects to be conducted with Federal funds, including a description of the goals and focus of the specific project involved and the specific merit review procedures and evaluation criteria to be used in the competitive award process; and

"(ii) will send such announcements to the Secretary, the Director, the National Research Council, and the educational research community;

"(D) will make arrangements with the Secretary to have the announcement described in subparagraph (C) published in the Federal Register (or such other publication deemed appropriate by the Secretary) and in publications of general circulation designed to disseminate such announcements widely to the educational research community;

"(E) the Board will, after offering any interested party an opportunity to make comment upon, and take exception to, the projects contained in the announcements described in subparagraph (C) for a 30-day period following publication, and after reconsidering any project on which comment is made or to which exception is taken, through the Secretary issue a request for proposals in the Federal Register (or such other publication deemed appropriate by the Secretary) containing any revised project information;

"(F) the Board will make awards of Federal funds competitively on the basis of merit, and, in the award process, the Board will select for such awards, to the extent practicable consistent with standards of excellence—

"(i) a broad range of institutions associated with educational research and development; and

"(ii) individuals who are broadly representative of the educational research and teaching communities with expertise in the specific area of research and development in question;

"(G) the Board will adopt audit practices customarily applied to nonprofit private organizations and will comply with the provisions of section 539(c);

"(H) the Board will not use Federal funds to meet the administrative and operating expenses of the Board;

"(I) the Board will submit an annual report to Congress in accordance with the provisions of section 539(a); and

"(J) the Board will, upon request, disseminate to States, local educational agencies, or other public educational entities the results of any research or research project produced with funds authorized by this part, upon the payment of the cost of reproducing the appropriate material.

"(d) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, funds appropriated to carry out the provisions of this part shall remain available for obligation and expenditure until the end of the second fiscal year succeeding the fiscal year for which the funds were appropriated.

"(2) LIMITATION.—No Federal funds shall be made available to the Board after September 30, 1995, except as authorized by paragraph (1) of this subsection.

"SEC. 535. CONSULTATION.

"The Board shall consult at least twice annually with the Committee on the design and execution of the overall research and development strategy of the Board, including procedures to assure compliance with the requirements of this part. The procedures shall include—

"(1) an outline of a specific research and development agenda and activities to be conducted with the Federal funds; and

"(2) provisions to ensure compliance with the open competition and merit review requirements of this part for proposals and projects assisted under this part.

"SEC. 536. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Federal funds received under this part may be used only for research and development activities directly related to the development of teacher assessment and certification procedures for public elementary and secondary school teachers.

"(b) PRIORITIES.—

"(1) IN GENERAL.—The Board shall give priority to research and development activities in—

"(A) mathematics;

"(B) the sciences;

"(C) foreign languages; and

"(D) literacy, including the ability to read, write and analyze.

"(2) SPECIAL RULE.—The Board shall give priority to research and development activities for the certification of public elementary and secondary school teachers and the need and ability of such teachers to teach special educational populations, including—

"(A) limited English proficient children;

"(B) gifted and talented children;

"(C) children with disabilities; and

"(D) economically and educationally disadvantaged children.

"SEC. 537. APPLICATION.

"(a) IN GENERAL.—The Board shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) describe the activities for which assistance is sought; and

"(2) provide assurances that the non-Federal share of the cost of activities of the Board shall be paid from non-Federal sources, together with a description of the manner in which the Board will comply with the requirements of this paragraph.

"(b) APPROVAL.—The Secretary shall approve an application submitted pursuant to subsection (a) unless such application fails to comply with the provisions of this part.

"SEC. 538. PAYMENTS; FEDERAL SHARE.

"(a) IN GENERAL.—The Secretary shall pay to the Board the Federal share of the costs of the activities described in the application approved pursuant to section 537 for the period for which the application is approved under such section.

"(b) AMOUNT OF FEDERAL SHARE.—The Federal share shall be 50 percent.

"SEC. 539. REPORTS AND AUDITING PROVISION.

"(a) NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS REPORT.—

"(1) IN GENERAL.—The Board shall submit an annual report to the appropriate committees of the Congress not later than June 30 of any fiscal year in which Federal funds are expended pursuant to this part. The Board shall disseminate the report for review and comment to the Secretary, the Director, the National Research Council, and the education research community. The report shall—

"(A) include a detailed financial statement and a report of the audit practices described in section 534(c)(2)(G);

"(B) include a description of the general procedure to assure compliance with the requirements of section 536; and

"(C) provide a comprehensive and detailed description of the Board's agenda, activities, and planned activities for the preceding and succeeding fiscal years, including—

"(i) the Board's overall research and development program and activities;

"(ii) the specific research and development projects and activities conducted with Federal funds during the preceding fiscal year, including—

"(I) a description of the goals and methodology of the project;

"(II) a description and assessment of the findings (or status and preliminary findings if the project is not yet complete);

"(III) a description of the competitive bidding process, the merit review procedures, and the evaluation criteria used to award project funds; and

"(IV) a description of the Board's plans for dissemination of the findings described in subclause (II);

"(iii) the specific research and development projects and activities planned to be conducted with Federal funds during the succeeding fiscal year, including the goals and methodologies to be used; and

"(iv) a listing of available publications of the Board, including publications related to policies, standards and general information, research reports, and commissioned papers of the Board.

"(2) FIRST REPORT.—The first annual report required by this subsection shall include a description of the Board's research and development agenda for the succeeding 5-year period. Such first report shall include, to the maximum extent practicable, a description of specific research and development projects and activities, and the goals and methodologies of such projects and activities.

"(b) ADDITIONAL REPORTS.—The Secretary, the Director, and the National Research Council shall report to the appropriate committees of the Congress on the compliance of the Board with the requirements of this part not later than 30 days after the Board submits each annual report described in subsection (a).

"(c) AUDITING PROVISION.—The Comptroller General of the United States, and any of his authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the Board, and to any recipient of funds from the Board, that are pertinent to the sums received and disbursed under this part.

"SEC. 540. CONSTRUCTION.

"Nothing in this part shall be construed to—

"(1) establish a preferred national curriculum or preferred teaching methodology for elementary and secondary school instruction;

"(2) infringe upon the rights and responsibilities of the States to license elementary and secondary school teachers;

"(3) provide an individual certified by the Board with a right of action against a State, local educational agency, or other public educational entity for any decisions related to hiring, promotion, retention or dismissal;

"(4) authorize the Secretary to exercise supervision or control over the research program, standards, assessment practices, administration, or staffing policies of the Board; and

"(5) authorize the Board to—

"(A) study, create, or promulgate separate standards applicable to home school or private school teachers;

"(B) take any action to require home school, private school, or public school teachers to participate in any program offered by the Board; or

"(C) take any action that infringes in any manner on the right of parents to direct the education of their children.

"SEC. 540A. VOLUNTARY PARTICIPATION.

"Notwithstanding any other provision of this part, voluntary participation in certification assessments by the Board shall be open to home school, private school, and public school teachers.

"PART D—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

"Subpart 1—Paul Douglas Teacher Scholarships

"SEC. 541. PURPOSE; DESIGNATION.

"(a) PURPOSE.—It is the purpose of this subpart to make available, through grants to the States, scholarships to individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the preschool, elementary or secondary level.

"(b) DESIGNATION.—Scholarships awarded under this subpart shall be referred to as the 'Paul Douglas Teacher Scholarships'.

"SEC. 542. ALLOCATION AMONG STATES.

"(a) PER CAPITA ALLOCATION.—From the sums appropriated for this subpart pursuant to section 550A for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

"(b) USE OF CENSUS DATA.—For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

"SEC. 543. GRANT APPLICATIONS.

"(a) SUBMISSION OF APPLICATIONS.—The Secretary is authorized to make grants to States in accordance with the provisions of this subpart. In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 541 in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) CONTENT OF APPLICATIONS.—The Secretary shall approve an application under this subpart only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this subpart which satisfy the provisions of this subpart;

"(2) designates as the State agency responsible for administering the grants received under this part the State agency which administers the program under subpart 3 of part A of title IV (relating to State student incentive grants), the State agency with which the Secretary has an agreement under section 428(b), or another appropriate State agency approved by the Secretary;

"(3) describes the outreach effort the State agency intends to use to publicize the availability of Paul Douglas Scholarships to high school students in the State;

"(4) provides assurances that each recipient eligible under section 545(b) of this subpart who receives a Paul Douglas Scholarship shall enter into an agreement with the State agency under which the recipient shall—

"(A) within the 10-year period after completing the postsecondary education for

which the Paul Douglas Scholarship was awarded, teach, for a period of not less than 2 years for each year for which assistance was received, in a public or private nonprofit preschool, elementary school, or secondary school in any State, or in a public or private nonprofit education program in any State, except that, in the case of individuals who teach in a shortage area established by the Secretary pursuant to section 428(b)(4), the requirements of this subparagraph shall be reduced by one-half;

"(B) provide the State agency evidence of compliance with section 546 as required by the State agency; and

"(C) repay all or part of a Paul Douglas Scholarship received under section 544 plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 547, in the event that the conditions of subparagraph (A) are not complied with, except as provided for in section 548;

"(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this subpart is provided and under which repayment may be required, including—

"(A) a description of the procedures required to be established under paragraph (6); and

"(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this subpart;

"(6) provides for procedures under which a recipient of assistance received under this subpart who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 547 and 548;

"(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this subpart; and

"(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds, ethnic and racial minority students, individuals with disabilities or other individuals historically underrepresented in teaching, or individuals who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students.

"(c) SELECTION CRITERIA AND PROCEDURES.—The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of early childhood and elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

"(d) PRIORITY CONSIDERATION.—The State shall give priority consideration in the selection of individuals to receive a scholarship under this subpart to individuals from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities who are underrepresented in the teaching profession or in the curricula areas in which they are preparing to teach.

"(e) SOLICITATION OF VIEWS ON SELECTION CRITERIA AND PROCEDURES.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

"(1) shall be solicited by means of—

"(A) written comments; and

"(B) publication of proposed selection criteria and procedures in final form for implementation; and

"(2) may be solicited by means of—

"(A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines, including early childhood education and development); or

"(B) such other methods as the State may determine to be appropriate to gather information on such needs.

"SEC. 544. AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE.

"(a) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (c), each Paul Douglas Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become a preschool, elementary or secondary teacher. No individual shall receive scholarship assistance for more than 4 years of postsecondary education, as determined by the State agency.

"(b) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for students assisted under title IV of this Act.

"(c) ASSISTANCE NOT TO EXCEED NEED.—Paul Douglas Scholarship assistance awarded by the statewide panel established pursuant to section 545 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending. If the amount of the Paul Douglas Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, then the Paul Douglas Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

"(d) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—No individual shall receive an award under the Paul Douglas Scholarship established under this subpart, in any academic year, which exceeds the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending.

"SEC. 545. SELECTION OF PAUL DOUGLAS SCHOLARS.

"(a) SELECTION BY STATEWIDE PANELS.—Paul Douglas Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, including preschool teachers, and parents.

"(b) ELIGIBILITY FOR SELECTION; SELECTION CRITERIA AND PROCEDURES.—Selections of Paul Douglas Scholars shall be made from students who have graduated or who are graduating from high school and who rank in the top 10 percent of their graduating class. The State educational agency shall make applications available to public and private nonprofit high schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Paul Douglas Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

"(c) WAIVER.—The Secretary may waive the requirements of section 543(d) for not more than 25 percent of all individuals receiving a scholarship under this subpart.

"SEC. 546. SCHOLARSHIP CONDITIONS.

"Recipients of scholarship assistance under this subpart shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is—

"(1) enrolled as a full-time student in an accredited postsecondary institution;

"(2) pursuing a course of study leading to teacher certification; and

"(3) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

"SEC. 547. SCHOLARSHIP REPAYMENT PROVISIONS.

"Recipients found by the State agency to be in noncompliance with the agreement entered into under section 543(b)(4) of this subpart shall be required to repay a pro rata amount of the scholarship awards received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of title IV of this Act) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

"SEC. 548. EXCEPTIONS TO REPAYMENT PROVISIONS.

"(a) DEFERRAL DURING CERTAIN PERIODS.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 543(b)(4)(C) during any period in which the recipient—

"(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

"(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

"(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or education program for a single period not to exceed 27 months; or

"(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

"(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

"SEC. 549. FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW.

"(a) DISAPPROVAL HEARING REQUIRED.—The Secretary shall not finally disapprove any

application for a State program submitted under section 543, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) SUSPENSION OF ELIGIBILITY.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State agency administering a State program approved under this subpart, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

"(c) COURT REVIEW.—

"(1) IN GENERAL.—If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) FINDINGS.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) JURISDICTION.—The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 550. EVALUATION.

"(a) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent evaluation of recipients of scholarship assistance under this subpart, which shall summarize and evaluate the State activities assisted under this subpart and the performance of such recipients. The evaluation shall assess the impact of the scholarship program assisted under this subpart to determine whether such program has brought into teaching a significant number of highly able individuals who otherwise would not have entered teaching.

"(b) CONTENTS.—The evaluation described in subsection (a) shall include—

"(1) a description of the characteristics, including the educational preparation and achievement, of recipients of scholarship assistance under this subpart compared to similar students participating in teacher training who do not receive such scholarships;

"(2) the rate at which such recipients successfully complete academic training and go on to teaching careers in preschool, elementary, or secondary education, compared to such rate for similar individuals who do not receive scholarship assistance under this subpart;

"(3) the extent to which it is possible to determine objectively that the receipt of scholarship assistance under this subpart was the primary reason for an individual's choice of a teaching education and career;

"(4) the extent to which such recipients comply with the provisions of this subpart;

"(5) the length of time such recipients remain in teaching careers, compared to similar teachers who do not receive scholarships;

"(6) the barriers to the effectiveness of the program assisted under this subpart; and

"(7) the cost-effectiveness of such program in improving teacher quality and quantity.

"(c) EVALUATION REPORTS.—The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report on or before January 1, 1995.

"(d) FUNDING.—The Secretary shall reserve a total of not more than $1,000,000 from the amounts appropriated pursuant to the authority of section 550A in fiscal years 1993 through 1999 to carry out this section.

"SEC. 550A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $27,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 2—Christa McAuliffe Career Teacher Corps

"SEC. 551. DECLARATION OF PURPOSE; DESIGNATION.

"(a) PURPOSE.—It is the purpose of this subpart to establish a national fellowship program for experienced teachers.

"(b) DESIGNATION.—

"(1) FELLOWSHIP.—A fellowship awarded under this subpart shall be known as a 'Christa McAuliffe Career Teacher Corps fellowship'.

"(2) MEMBERSHIP.—A recipient of a fellowship under this subpart shall be known as a 'Christa McAuliffe Career Teacher Corps member'.

"SEC. 552. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make grants, in accordance with the provisions of this subpart, to State educational agencies to enable such State educational agencies to—

"(1) conduct Christa McAuliffe Career Teacher Corps activities; and

"(2) award fellowships to Christa McAuliffe Career Teacher Corps members in accordance with the provisions of this subpart.

"(b) AMOUNT OF GRANTS.—The amount awarded to each State educational agency pursuant to paragraph (1) of subsection (a) shall be an amount awarded on the basis of the school-age population in the State compared to the school-age population in all States, except that the Secretary may adjust the awards to ensure that such awards are of sufficient size to carry out the purposes of this subpart.

"(c) STATE ACTIVITIES.—Each State educational agency receiving a grant pursuant to subsection (a) shall use not more than 10 percent of such grant to carry out the State activities described in section 559.

"SEC. 553. CHRISTA MCAULIFFE CAREER TEACHER CORPS FELLOWSHIPS.

"(a) AWARD DISTRIBUTION AND AMOUNT.—

"(1) AWARD DISTRIBUTION.—Each State educational agency receiving a grant under this subpart shall use such funds to award Christa McAuliffe Career Teacher Corps fellowships to public and private school teachers who have been employed as teachers for 8 or more years to enable such teachers to engage in the activities described in subsection (b).

"(2) AMOUNT.—Fellowships shall be in an amount equal to the annual salary the individual would earn in such individual's current place of employment for the award period.

"(3) RATABLE REDUCTION.—If an individual receives a fellowship award for less than a school year, such fellowship shall be ratably reduced to equal the salary forgone.

"(4) DURATION.—Each Christa McAuliffe Career Teacher Corps member may not receive an award for 2 consecutive years.

"(5) REQUIREMENT.—Subject to the repayment provisions of section 556(b), each Christa McAuliffe Career Teacher Corps member shall be required to return to a teaching position in their current place of employment for at least 2 years following the fellowship award, except that such member may work in another State with a Christa McAuliffe Career Teacher Corps Program upon approval of both the sending and receiving State.

"(b) USE OF FELLOWSHIPS.—Each Christa McAuliffe Career Teacher Corps fellowship may be used for—

"(1) sabbaticals for study, research or academic improvement to—

"(A)(i) improve such teacher's knowledge base in an area of expertise; or

"(ii) learn a new area of expertise;

"(B) increase skills and professional ability; and

"(C) enhance the ability of teachers to work with special education populations, including—

"(i) gifted and talented children;

"(ii) limited-English proficient children;

"(iii) children with disabilities; and

"(iv) economically and educationally disadvantaged children;

"(2)(A) consultation with or assistance to other school districts or private school systems; or

"(B) development of special innovative programs for the purpose of improving—

"(i) in-service training for teachers and other school personnel; or

"(ii) student achievement; or

"(3) expanding or replicating model programs of staff development.

"SEC. 554. SELECTION OF CHRISTA MCAULIFFE CAREER TEACHER CORPS MEMBERS.

"(a) IN GENERAL.—Christa McAuliffe Career Teacher Corps members in each State shall be selected (in accordance with section 555) by a 7-member statewide panel appointed by the chief State school officer, or by an existing panel designated by the chief State school officer. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

"(b) SPECIAL RULE.—Each State educational agency may choose to administer the program assisted under this subpart through a pre-existing panel which is experienced in administering similar programs.

"SEC. 555. EVALUATION OF APPLICATIONS.

"(a) SUBMISSION TO AND REVIEW BY STATEWIDE PANEL.—An applicant for a Christa McAuliffe Career Teacher Corps fellowship shall submit a proposal for a project under section 553(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such a proposal to the local educational agency for comment prior to submission to the statewide panel (appointed under section 554) for the State in which the teacher is employed. Each such application shall contain such information as such State educational agency may reasonably require.

"(b) CONSULTATION AND CONSIDERATION.—

"(1) IN GENERAL.—In evaluating proposals, the statewide panel shall consult with the local educational agency, and shall consider—

"(A) evaluations during employment as a teacher;

"(B) demonstrated commitment to teaching in the future; and

"(C) intended activities during the award period;

"(2) RECOMMENDATIONS.—The statewide panel may request recommendations from teaching peers and the applicant's principal and superintendent on the quality of the proposal, the benefit of such proposal to education, and any other criteria for awarding fellowships as are considered appropriate by such statewide panel.

"(3) SELECTION.—Selection of members of the statewide panel shall be made in accordance with regulations prescribed by the Secretary.

"(c) SPECIAL CONSIDERATION.—The statewide panel shall give special consideration, in the selection of Christa McAuliffe Career Teacher Corps members, to individuals who intend to use an award period to improve or acquire skills—

"(1) in the subject areas of science or mathematics; or

"(2) in order to teach or provide related services to students with disabilities, limited English proficient students or preschool age students.

"(d) PUBLIC ANNOUNCEMENT.—Announcement of fellowship awards shall be made in a public ceremony.

"SEC. 556. FELLOWSHIP AGREEMENT AND REPAYMENT PROVISIONS.

"(a) AGREEMENT.—Each individual who receives a Christa McAuliffe Career Teacher Corps fellowship shall enter into a written agreement with the State educational agency. Each such agreement shall provide assurances that the Christa McAuliffe Career Teacher Corps member—

"(1) will spend up to a one-year award period during which the Christa McAuliffe Career Teacher Corps member is released from teaching responsibilities to participate in programs and activities allowed under section 553(b), approved pursuant to section 555 by the statewide panel;

"(2) shall be encouraged, subject to the approval of the local educational agency, during the 2 years following the award period through the Professional Development Academy, if one exists, to—

"(A)(i) participate in an induction program for new teachers by acting as a mentor to new Teacher Corps members under part E or other new teachers with the same substantive field of expertise as the Christa McAuliffe Career Teacher Corps member where practicable; or

"(ii) make some other contribution to the Teacher Corps programs conducted pursuant to part E; and

"(B) assist in the development of in-service training programs through the Professional Development Academy, if such school exists; and

"(3) shall be given the opportunity to participate in activities developed by the Secretary and the State educational agency through which the individual was selected as a Christa McAuliffe Career Teacher Corps member which are intended to foster communication among, and bring together, members of the Christa McAuliffe Career Teacher Corps.

"(b) FELLOWSHIP REPAYMENT.—

"(1) IN GENERAL.—Individuals found by the State educational agency to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay to the State educational agency a pro rata amount of the Christa McAuliffe Career Teacher Corps fellowships received, plus interest at the highest rate applicable to loans under part B of title IV of this Act and, where applicable, reasonable collection fees.

"(2) EXCEPTION.—An individual shall not be considered to be in violation of the agreement entered into pursuant to subsection (a) during any period in which such individual meets the exception to repayment provisions set forth in section 548(a)(2), 548(a)(3) or 548(b) of this Act, or if the individual dies.

"(c) WAIVER.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or repayment by an individual who received a Christa McAuliffe Career Teacher Corps fellowship whenever compliance by such individual is impossible or would involve extreme hardship to such individual, or if enforcement of such obligation with respect to such individual would be unconscionable.

"SEC. 557. SECRETARY'S RESPONSIBILITIES.

"The Secretary shall—

"(1) make awards to State educational agencies having applications approved under section 558; and

"(2) in cooperation with the State educational agency, conduct activities which foster communication among and bring together members of the Christa McAuliffe Career Teacher Corps including activities such as written communications, meetings, or training sessions.

"SEC. 558. STATE APPLICATION.

"(a) APPLICATION REQUIRED.—Each State educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) provide assurances that Christa McAuliffe Career Teacher Corps members will be released from teaching responsibilities for up to one school year without jeopardizing the rights such members would have had without participating in the program assisted under this subpart;

"(2) provide assurances that the State educational agency, or its designee, in cooperation with local educational agencies, shall maintain accurate records regarding the activities of Christa McAuliffe Career Teacher Corps members within the State to ensure that such members are meeting all conditions of the fellowships provided pursuant to this subpart, and shall notify the Secretary immediately upon a change in a Christa McAuliffe Career Teacher Corps member's status rendering such Christa McAuliffe Career Teacher Corps member in violation of the conditions of the fellowship; and

"(3) provide assurances that the State educational agency has consulted with local educational agencies in designing and developing the Christa McAuliffe Career Teacher Corps program.

"SEC. 559. STATE USE OF FUNDS.

"(a) IN GENERAL.—Each State educational agency awarded a grant under this subpart may use such funds to—

"(1) establish, operate, and expand in-service programs and activities for Christa McAuliffe Career Teacher Corps members at the State and local levels, through Professional Development Academies if such entities exist, or other entities, to improve knowledge of subject matter, and to increase skills and professional ability, in coordination with local educational agencies;

"(2) award Christa McAuliffe Career Teacher Corps fellowships;

"(3) provide funds to statewide panels to administer programs in accordance with section 555;

"(4) award grants to local educational agencies to establish programs and activities described in paragraph (1) through professional development schools if such entities exist or other entities;

"(5) publicize the availability of fellowships pursuant to this subpart; and

"(6) ensure that each Christa McAuliffe Career Teacher Corps member understands the obligation to repay the fellowship in accordance with section 556(b).

"(b) PUBLICATION AND RECRUITMENT.—Each State educational agency receiving assistance under this subpart shall publicize the availability of Christa McAuliffe Career Teacher Corps fellowships in local educational agencies throughout the State, particularly in local educational agencies with minority enrollment in excess of the statewide average minority enrollment, and shall recruit minority teachers to participate in such program. Such publication shall contain a description of programs and activities available to Christa McAuliffe Career Teacher Corps members through Professional Development Academies if such entities exist, institutions of higher education or other approved entities.

"SEC. 560. EVALUATION.

"(a) IN GENERAL.—

"(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent evaluation of—

"(A) Christa McAuliffe Career Teacher Corps members; and

"(B) the impact of the activities undertaken by the Christa McAuliffe Career Teacher Corps members on teachers, teacher research, curricula, staff development, improvement of programs and improvement of student achievement.

"(2) COMPETITIVE BASIS.—The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

"(b) CONTENTS.—The evaluation shall—

"(1) include information on the nature of projects developed and implemented by Christa McAuliffe Career Teacher Corps members;

"(2) assess the measurable effects of such projects on the academic performance of the students served by such projects;

"(3) assess the effect of the fellowship program assisted under this subpart on the postfellowship experiences of Christa McAuliffe Career Teacher Corps members;

"(4) identify the barriers to such program's effectiveness;

"(5) assess the extent to which successful projects were disseminated and adopted by other teachers and schools without further Federal assistance; and

"(6) determine and explore ways to improve the cost-effectiveness of such program.

"(c) EVALUATION REPORTS.—The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report on or before January 1, 1995.

"(d) FUNDING.—The Secretary shall reserve a total of not more than $1,000,000 from the amounts appropriated pursuant to the authority of section 560A in fiscal years 1993 through 1999 to carry out this section.

"SEC. 560A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $27,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 suc-

ceeding fiscal years to carry out this subpart.

"Subpart 3—Faculty Development Grants

"SEC. 567. TRAINING GRANTS.

"(a) GRANTS AUTHORIZED.—The Secretary is authorized to award grants to institutions of higher education to enable such institutions to—

"(1) develop model programs that provide training to secondary school faculty to prepare students with disabilities for post-secondary educational opportunities; and

"(2) establish programs of faculty development for faculty who teach in an institution of higher education to prepare such faculty for the enrollment of students with disabilities at such institution.

"(b) USE OF GRANTS.—The grants described in subsection (a) may be used to—

"(1) provide scholarships, including stipends and allowances, to faculty described in paragraph (1) or (2) of subsection (a);

"(2) develop materials and inservice programs to assist such faculty in making the curriculum at an institution of higher education accessible to students with disabilities; and

"(3) provide funds to support the release of such faculty from teaching assignments for the purpose of educating such faculty regarding the needs of students with disabilities.

"(c) SPECIAL RULES.—The Secretary shall ensure that grants awarded under subsection (a)(1) are used for programs that are in compliance with State and professionally recognized standards for the training of special education personnel.

"(d) APPLICATION.—Each institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART E—TEACHER CORPS

"SEC. 561. TEACHER CORPS PROGRAM AUTHORIZED.

"(a) GRANTS BY THE SECRETARY.—In any fiscal year in which the appropriations for this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants, on a competitive basis, to State educational agencies to carry out Teacher Corps activities.

"(b) STATE GRANT PROGRAM.—In any fiscal year in which the appropriations for this part equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to State educational agencies from allocations under subsection (c) to carry out Teacher Corps activities.

"(c) ALLOCATION.—Except as provided in subsection (a), each State educational agency shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the amount appropriated under section 568 in that fiscal year as the school-age population of the State bears to the school-age population of all States.

"(d) TEACHER CORPS SCHOOL.—For the purpose of this part the term 'Teacher Corps school' means a public elementary or secondary school identified by the State educational agency as having the highest levels of poverty and the lowest levels of student achievement based on a ranking of such elementary schools and secondary schools in the State according to the number of children living in poverty and the levels of student achievement. In carrying out the preceding sentence, the State educational agency shall identify and inform not more than 10 percent of such elementary schools and not more than 10 percent of such secondary schools in the State which have the highest levels of poverty and the lowest levels of student achievement.

"(e) DESIGNATION.—

"(1) SCHOLARSHIP.—A scholarship awarded under this part shall be referred to as a 'Teacher Corps scholarship'.

"(2) RECIPIENT.—A recipient of a scholarship under this part shall be referred to as a 'Teacher Corps member'.

"SEC. 562. USE OF FUNDS.

"(a) SECRETARY.—The Secretary shall use funds provided pursuant to this part to—

"(1) disseminate information nationally about the availability of scholarships under this part;

"(2) conduct activities, with the cooperation of the State and local educational agencies, which foster communication among, and bring together, members of the Teacher Corps, including activities such as written communications, meetings, or training sessions;

"(3) establish and conduct summer preservice orientation programs for Teacher Corps members about to begin teaching;

"(4) ensure that Teacher Corps members recognize the challenges of teaching in a Teacher Corps school;

"(5) inform Teacher Corps members of Teacher Corps schools and facilitate the hiring and placement of Teacher Corps members at Teacher Corps schools;

"(6) evaluate applications from and award grants to State educational agencies to enable such agencies to award Teacher Corps scholarships in accordance with the provisions of this part; and

"(7) collect scholarship repayments from individual Teacher Corps members, in accordance with the provisions of section 566.

"(b) STATE EDUCATIONAL AGENCY.—Each State educational agency receiving a grant under this part shall use such grant funds to—

"(1) evaluate applications for Teacher Corps membership and award scholarships to Teacher Corps members;

"(2) provide technical assistance to local educational agencies establishing and operating induction programs;

"(3) ensure that Teacher Corps members understand the obligation to repay the scholarships received under this part upon failure to comply with the conditions of the scholarship; and

"(4) ensure that Teacher Corps members are fulfilling the obligation to repay scholarships received under this part, and provide the Secretary with the names and addresses of Teacher Corps members who have not fulfilled such obligation.

"(c) SPECIAL RULE.—The Secretary may enter into contracts with or make grants to nonprofit educational organizations for—

"(1) recruiting members of the Teacher Corps;

"(2) establishing and conducting summer pre-service training programs; and

"(3) conducting activities that foster communications among and bring together members of the Teacher Corps.

"(d) RESERVATIONS.—Each State receiving a grant under this part may reserve—

"(1) 5 percent of such grant funds to provide technical assistance to local educational agencies and to pay administrative costs; and

"(2) 5 percent of such grant funds to provide for induction and mentoring programs.

"(e) SPECIAL RULE.—Each State educational agency receiving a grant under this part may enter into contracts with or award grants to nonprofit educational agencies to conduct the activities described in subsection (b).

"SEC. 563. TEACHER CORPS.

"(a) SELECTION.—The State educational agency shall select Teacher Corps members.

"(b) CRITERIA.—

"(1) IN GENERAL.—The State educational agency shall establish criteria to select Teacher Corps members that are intended to—

"(A) attract highly qualified individuals to teaching; and

"(B) meet the needs of Teacher Corps schools in addressing teacher shortages.

"(2) CRITERIA.—The criteria described in paragraph (1) may include—

"(A) in the case of students or recent graduates, outstanding academic records, or in other cases, contributions which may be made by individuals working in other careers; and

"(B) a demonstrated commitment to teaching or professional experience in substantive fields of expertise in which the State is experiencing or expects to experience teacher shortages.

"(c) SPECIAL CONSIDERATION.—The State educational agency, in selecting Teacher Corps members, shall give special consideration to individuals who—

"(1) intend to teach or provide related services to students with disabilities;

"(2) intend to teach limited-English proficient students;

"(3) intend to teach preschool age children;

"(4) are from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities;

"(5) are members of populations that are underrepresented in the teaching profession or in the curricular areas in which such individuals are preparing to teach;

"(6) intends to teach in the areas of science or math; or

"(7) intends to teach on Indian reservations or in Alaska Native villages named or certified pursuant to section 3(c) of the Alaska Native Claims Settlement Act, Public Law 92-203, or in areas with high concentrations of Native Hawaiians.

"(d) APPLICATION.—Each individual desiring to participate in the program assisted under this part shall submit an application at such time, in such manner, and containing such information as the State educational agency may reasonably require.

"SEC. 564. STATE APPLICATION.

"In order to receive funds under this part, a State educational agency, in consultation with the Governor, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

"(1) describe how the State educational agency shall select Teacher Corps members;

"(2) identify Teacher Corps schools within the State, where Teacher Corps members shall be assigned, provided that not more than 10 percent of all public schools in the State may be designated Teacher Corps schools;

"(3) provide assurances that the State educational agency, in cooperation with local educational agencies, shall assist in employment placement within such State for Teacher Corps members in Teacher Corps schools;

"(4) provide assurances that the State educational agency, in cooperation with local educational agencies, shall ensure that Teacher Corps members are paid at rates comparable to other entry level teachers in the school district where the Teacher Corps member is assigned;

"(5) provide assurances that the local educational agencies in which the Teacher Corps members shall be placed shall establish or expand induction programs that assist Teacher Corps members in adjusting to the new school and community where such members shall teach, including working with a mentor teacher in the school building where the Teacher Corps members are placed; and

"(6) describe how the State educational agency shall monitor and report to the Secretary not less than annually on the operation of programs assisted under this part and on the compliance of individuals who receive Teacher Corps scholarships with the provisions of this part.

"SEC. 565. SCHOLARSHIPS.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—An individual is eligible to receive Teacher Corps scholarships for a maximum of 3 years during enrollment in any of the following programs of study, or a combination thereof:

"(A) a program of study leading to a baccalaureate degree;

"(B) a 1- or 2-year postbaccalaureate program of study leading to a master's or specialist degree or a teaching certificate; or

"(C) a 2-year program of study leading to an associate's degree in early childhood education or early childhood development, or a 1-year program of study leading to a child development associate credential.

"(2) SPECIAL RULES.—(A) An individual pursuing a program of study described in subparagraph (B) of paragraph (1) is eligible to receive a Teacher Corps scholarship during any of the first 3 years that such individual is employed as a teacher to defray the costs of pursuing such postbaccalaureate instruction.

"(B) An individual in possession of a bachelor's degree, who wishes to enter teaching from another profession, is eligible to receive a Teacher Corps scholarship to enable such individual to receive the instruction necessary to enter the teaching profession, as determined by the State in which the individual wishes to teach. Such instruction may be provided while the individual is employed as a provisional teacher.

"(b) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (d), each Teacher Corps member shall receive a $5,000 scholarship for each academic year of postsecondary education, except that no individual shall receive scholarship assistance for more than 3 years of postsecondary education (including postbaccalaureate), as determined by the Secretary.

"(c) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Each Teacher Corps scholarship awarded pursuant to this part shall be considered as student financial assistance in determining eligibility for student assistance under title IV.

"(d) ASSISTANCE NOT TO EXCEED NEED.—Each Teacher Corps scholarship, when added to assistance received under title IV, if any, shall not exceed the cost of attendance, as defined in section 472, at the institution the individual is attending. If the amount of the Teacher Corps scholarship and assistance received under title IV exceeds the cost of attendance, loans received under parts B, D, or E of such title shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

"(e) CONTINUED ELIGIBILITY.—Each individual who receives a Teacher Corps scholarship shall continue to receive such scholarship payments only during such periods that the State educational agency finds that such individual is—

"(1) enrolled as a full-time student in an accredited postsecondary institution; and

"(2) maintaining satisfactory progress defined under section 484.

"SEC. 566. SCHOLARSHIP CONDITIONS.

"(a) SCHOLARSHIP AGREEMENT.—Each individual receiving a scholarship under this part shall enter into a written agreement with the State educational agency which shall provide assurances that each such individual—

"(1) shall pursue a course of study which meets State requirements for teacher preparation;

"(2) has completed at least 2 years of undergraduate education at an institution of higher education;

"(3) shall maintain satisfactory academic progress and participate in teaching-related activities while in undergraduate or postbaccalaureate programs;

"(4) shall work as a teacher upon completion of such individual's education for 3 years in a Teacher Corps school, as identified by the State educational agency pursuant to section 561(d), except that Teacher Corps members may transfer to another such school within the State or in another State upon approval of the State educational agency;

"(5) in carrying out the obligation described in paragraph (4), shall meet the performance requirements of—

"(A) the school in which such individual teaches; and

"(B) the local educational agency exercising administrative control or direction of, or performing a service function for such school;

"(6) shall repay all or part of a Teacher Corps scholarship received under section 562(b) plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under subsection (b), in the event that the conditions of this subsection are not complied with, except as provided for in subsection (c);

"(7) at least during the first year of employment, shall participate in an induction program which includes working with a mentor teacher selected by the local educational agency in which the Teacher Corps member is employed and who, to the extent practicable, is teaching in the same subject as the Teacher Corps member; and

"(8) who is not enrolled in a program of study as set forth in section 565(a)(1)(C) shall obtain State teacher certification during the period of employment or as soon as possible as State law requires.

"(b) SCHOLARSHIP REPAYMENT.—

"(1) IN GENERAL.—Individuals found by the State educational agency to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay to the Secretary a pro rata amount of the scholarship awards received, plus interest at the highest rate applicable to loans under part B of title IV and, where applicable, reasonable collection fees, in accordance with the provisions of paragraph (3).

"(2) EXCEPTIONS TO REPAYMENT.—An individual shall not be considered to be in violation of the agreement entered into pursuant to subsection (a) during any period in which such individual meets the exceptions to repayment provisions set forth in section 548(a)(2), 548(a)(3) or 548(b), or if the individual dies.

"(3) REPAYMENT PERCENTAGES.—Each individual found by the Secretary to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay—

"(A) 100 percent of the total amount of scholarships awarded under this part if such individual does not teach pursuant to the agreement described in subsection (a) or teaches pursuant to such agreement for less than 1 year;

"(B) 67 percent of such amount if such individual teaches pursuant to such agreement for at least 1 year but less than 2 years; and

"(C) 34 percent of such amount if such individual teaches pursuant to such agreement for at least 2 years but less than 3 years.

"(4) INTEREST.—If a portion of scholarship is repaid under this subsection in any year, the entire amount of interest on such portion of such scholarship which accrues for such year shall be repaid.

"(5) USE OF REPAYMENTS.—Any repayments of scholarships made to the Secretary pursuant to the provisions of this section shall be used by the Secretary to make additional grants in accordance with the provisions of this part.

"(c) WAIVER.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or repayment by an individual who received a Teacher Corps scholarship whenever compliance by such individual is impossible or would involve extreme hardship to such individual.

"SEC. 567. PUBLICATION AND RECRUITMENT.

"(a) IN GENERAL.—The Secretary shall—

"(1) publicize the availability of, and procedure to apply for, Teacher Corps scholarships, particularly among students participating in teaching-related activities through summer teaching institutes, future teacher clubs, and other teaching-related activities, at institutions of higher education nationwide, particularly in institutions of higher education with large minority enrollments, historically black colleges and universities, secondary schools nationwide (especially such schools with minority enrollment in excess of the statewide average minority enrollment), and with—

"(A) individuals participating in programs assisted under subpart 4 of part A of title IV;

"(B) individuals leaving the armed services, the Peace Corps, VISTA, and programs funded under the National and Community Service Act of 1990;

"(C) community-based organizations working in minority education; and

"(D) other agencies and entities likely to attract individuals interested in entering teaching from another career;

"(2) recruit minority students to participate in the program assisted under this part; and

"(3) recruit students with outstanding academic records to participate in such program.

"(b) SPECIAL RULE.—The publications required under subsection (a) shall describe substantive fields of expertise and geographic areas experiencing teacher shortages within the Nation.

"SEC. 568. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of this part.

"PART F—STATE ACADEMIES FOR EDUCATORS

"SEC. 570. PURPOSES.

"It is the purpose of this part to establish State Academies for Educators that—

"(1) upgrade, enhance and renew teacher knowledge of subject matter in key academic subjects;

"(2) improve the training and performance of current and prospective school leaders in instructional leadership, school-based management, school reform strategies, and implementation of school-level accountability mechanisms;

"(3) improve teacher training by providing prospective and novice teachers an opportunity to work in school-based settings under the guidance of experienced mentor teachers; and

"(4) enhance the ability of teachers and administrators to work with parents or social service agencies, especially in localities with high concentrations of special education populations.

"Subpart 1—General Provisions

"SEC. 571. ALLOTMENT OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

"(a) ALLOTMENT OF FUNDS.—

"(1) RESERVATION.—From the total amount appropriated pursuant to the authority of subsection (b) in each fiscal year, the Secretary may reserve an amount not to exceed two percent of such amount for evaluation and dissemination of activities assisted under subparts 2, 3, and 4 of this part.

"(2) ALLOTMENT.—From the funds appropriated pursuant to the authority of subsection (b) for each of subparts 2, 3, 4, and 5 of this part and not reserved pursuant to subsection (a), the Secretary shall allot to each State educational agency—

"(A) 50 percent of the funds available for each such subpart on the basis of the number of full-time equivalents of public school teachers in the State compared to the total number of full-time equivalents of public school teachers in all States;

"(B) 25 percent of the funds available for each such subpart on the basis of the amount the State receives under sections 1005 and 1006 of chapter 1 of title 1 of the Elementary and Secondary Education Act of 1965 compared to the total amount that all States receive under such sections; and

"(C) 25 percent of the funds available for each such subpart on the basis of the number of individuals in the State aged 5 through 17 compared to the number of all such individuals in all States.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SUBPARTS 2, 3, AND 4.—There are authorized to be appropriated $132,000,000 for fiscal year 1993 and such sums as may be necessary for the 6 succeeding fiscal years to carry out subparts 2, 3, and 4 of this part, of which—

"(A) 50 percent of the amount appropriated in any fiscal year shall be available to carry out subpart 2;

"(B) 15 percent of such amount shall be available to carry out subpart 3; and

"(C) 35 percent of such amount shall be available to carry out subpart 4.

"(2) SUBPART 5.—There are authorized to be appropriated $8,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of subpart 5.

"SEC. 572. PLAN.

"(a) IN GENERAL.—Each State educational agency desiring assistance under this part shall prepare a plan, in consultation with the Governor, and submit such plan to the Secretary.

"(b) CONTENTS.—Each plan submitted pursuant to subsection (a) shall contain—

"(1) a description of the Academies to be established under this part and the goals and objectives for each such Academy;

"(2) a description of how the Academies assisted under this part shall relate to the overall plan for the attainment of the National Education Goals by the State;

"(3) a description of the competitive process that shall be used to select applicants to operate the Academies assisted under this part, including the role of the Governor in making such selections;

"(4) an assurance that the Academies for Teachers shall provide instruction in the key academic subjects;

"(5) a description of how the State shall monitor the activities of the Academies assisted under this part;

"(6) a description of plans to conduct an independent evaluation, at least once every 2 years, of the impact of the Academies assisted under this part on participants;

"(7) a description of how the State shall meet the cost-sharing requirements of this part and an assurance that the State educational agency, or other State agency, shall provide the non-Federal share of funds required under this part for all 5 years in which an allotment under this part is received;

"(8) an assurance that the State shall continue to operate the Academies assisted under this part when Federal funds provided pursuant to this title are no longer available;

"(9) a description of the steps to be taken by the Academies assisted under this part to recruit individuals from minority groups, bilingual individuals, individuals with disabilities, and individuals from areas with high numbers or concentrations of disadvantaged students to participate in the activities of the Academies assisted under this part;

"(10) an assurance that Federal funds provided under this part shall not be used for construction of new facilities or substantial remodeling;

"(11) a description of how the activities assisted under this part shall be coordinated with other teacher training activities in the State;

"(12) identification of the State agency that shall administer the programs assisted under this part, if the State educational agency does not administer such programs;

"(13) an assurance that the State shall use an amount not to exceed 5 percent of all Federal funds received under this part for administrative purposes;

"(14) an assurance that programs offered by the Academies assisted under this part shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge;

"(15) an assurance that the Academies for Teachers shall provide activities designed to enhance the ability of teachers to work with special educational populations, including—

"(A) limited-English proficient children;

"(B) children with disabilities;

"(C) economically and educationally disadvantaged children; and

"(D) gifted and talented children; and

"(16) other assurances and information as the Secretary may reasonably require.

"SEC. 573. MULTISTATE OR REGIONAL PROJECTS.

"Each State receiving assistance under this part may combine resources with any other State to operate Academies assisted under this part on a multistate or regional basis.

"SEC. 574. PAYMENT RULES.

"(a) DURATION.—The Secretary shall not make allotments to any State under section 571 for a period that exceeds 5 years.

"(b) SECRETARY'S REVIEW.—The Secretary shall only make the allotment described in section 571 to a State if the Secretary determines that—

"(1) the State educational agency is carrying out the activities described in the application submitted pursuant to section 572 and making reasonable progress in achieving the goals contained in such application;

"(2) each such Academy shows promise of continuing to meet such goals; and

"(3) the State educational agency is providing its share of the cost-sharing requirements.

"SEC. 575. DEFINITIONS.

"(a) ACADEMY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and unless otherwise specified, the term 'Academy'—

"(A) as used in subpart 2, means a course of instruction and related activities to increase a teacher's knowledge of a specific subject area, a teacher's ability to impart such knowledge to students, and a teacher's ability to address any other issue described in section 579;

"(B) as used in subpart 3, means a course of instruction and related activities to increase a school leader's knowledge of the tools and techniques of school management and leadership, and such leader's ability to exercise such tools and techniques in the school setting, and may include a course of instruction for district-level school system leaders separately or in combination with school leaders and teachers; and

"(C) as used in subpart 4, means school-based teacher training operated as a partnership between one or more elementary or secondary schools and one or more institutions of higher education that provides prospective and novice teachers an opportunity to work under the guidance of master teachers and college faculty members.

"(2) SCHOOL RESTRUCTURING AND TEAM MANAGEMENT.—The term 'Academy' may include a course of joint instruction for teachers and school leaders on the methods of school restructuring and school-based management.

"(3) SPECIAL RULES.—The term 'Academy'—

"(A) does not mean a physical facility; and

"(B) does not require a separate location from another Academy or other training program.

"(b) ELIGIBLE ENTITY.—The term 'eligible entity'—

"(1) as used in subpart 2, means a local educational agency, an institution of higher education, a museum, a private nonprofit educational organization of demonstrated effectiveness, or a consortium of any 2 or more such entities;

"(2) as used in subpart 3, means a technical assistance center assisted under subpart 2 of part C of title V of this Act as such Act was in effect on the day before the date of enactment of the Higher Education Amendments of 1992, a local educational agency, an institution of higher education, a museum, a private nonprofit educational organization of demonstrated effectiveness, or a consortium of any 2 or more such entities; and

"(3) as used in subpart 4, means a partnership that includes one or more local educational agencies and one or more institutions of higher education.

"(c) KEY ACADEMIC SUBJECTS.—For purposes of subparts 1, 3, 4, and 5, the term 'key academic subjects' means English, mathematics, science, history, geography, foreign languages, and civics and government. For purposes of subpart 2, the term 'key academic subjects' means English, mathematics, science, history, geography, foreign languages, civics and government, and economics.

"(d) STATE.—For purposes of this part, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau (until the Compact of Free Association is ratified).

"SEC. 575A. EVALUATION AND REPORT.

"(a) REPORT TO SECRETARY.—Each State educational agency receiving an allotment under this part shall evaluate the work of each Academy that is located in the State and assisted under this part every 2 years including the impact of each Academy's programs on participants, and report the findings of such evaluation to the Secretary. The initial report shall be submitted 3 years after funds are first allotted to such State educational agency under section 571 and subsequent reports shall be submitted every 2 years thereafter. Such report shall also describe the characteristics of the participants and activities provided at each Academy assisted under this part.

"(b) REPORT TO CONGRESS.—The Secretary shall submit to the Congress a summary of the reports required under subsection (a). The initial summary shall be submitted 60 days after the due date of the first report described in subsection (a) and subsequent summaries shall be submitted every 2 years thereafter.

"Subpart 2—State Academies for Teachers

"SEC. 576. PURPOSE.

"It is the purpose of this subpart to improve elementary and secondary school teacher subject matter knowledge and teaching skills in each of the key academic subjects by establishing one or more Academies in the key academic subjects in every State.

"SEC. 577. APPLICATION REQUIRED.

"(a) IN GENERAL.—Each eligible entity desiring to operate an Academy under this subpart shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall describe—

"(1) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches its goals;

"(2) the curriculum to be used or developed by the Academy;

"(3) steps to be taken to recruit teachers for the Academy's program, including outreach efforts to identify and attract—

"(A) minority group members;

"(B) individuals with disabilities;

"(C) individuals from areas with large numbers or concentrations of disadvantaged students; and

"(D) other teachers with the potential to serve as mentor teachers;

"(4) steps to be taken to ensure that faculty members teaching at the Academy shall be of exceptional ability and experience, including outreach efforts to identify and attract as faculty members—

"(A) minority group members;

"(B) individuals with disabilities; and

"(C) individuals from areas with large numbers or concentrations of disadvantaged students.

"(5) efforts to be undertaken to disseminate information about the Academy;

"(6) selection criteria to be used in identifying teachers to participate in the Academy;

"(7) steps to be taken to assure that the programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge; and

"(8) efforts to be undertaken to evaluate the impact of the Academy on participants.

"SEC. 578. USE OF ALLOTTED FUNDS.

"(a) GRANTS.—Each State educational agency receiving an allotment under this part shall use such allotment to award one or more competitive grants to eligible entities to enable such eligible entities to operate an Academy in accordance with the provisions of this subpart.

"(b) COSTS.—Each eligible entity receiving a grant under this subpart shall use such funds to meet the operating costs of carrying out the activities described in section 579, which may include reasonable startup and initial operating costs, and stipends, travel, and living expenses for teachers who participate in the Academy's program if no other funds are available to pay such costs.

"SEC. 579. AUTHORIZED ACTIVITIES.

"Each eligible entity receiving a grant to operate an Academy under this subpart shall use such grant funds for—

"(1) enhancement of participants' knowledge in key academic subjects;

"(2) skills and strategies to improve academic achievement of students, especially students who are economically disadvantaged, are limited-English proficient, are drug- or alcohol-exposed, or have disabilities;

"(3) improved teaching and classroom management skills;

"(4) techniques for the integration of academic and vocational subject matter, including the application of such techniques in tech/prep education programs;

"(5) specialized training for teachers so that such teachers may counsel students about college opportunities, precollege requirements, the college admissions process, and financial aid opportunities; and

"(6) any other purpose described in the plan submitted pursuant to section 572 and approved by the Secretary.

"SEC. 580. COST-SHARING.

"Funds received under this subpart may be used to pay not more than 75 percent of the cost of operating an Academy in the first year an eligible entity receives a grant under this subpart, 65 percent of such cost in such second year, 55 percent of such cost in such third year, 45 percent of such cost in such fourth year, and 35 percent of such cost in such fifth year. The remaining share shall be provided from non-Federal sources, and may be in cash or in-kind contributions, fairly valued.

"SEC. 580A. SPECIAL RULES.

"(a) USES OF FUNDS.—

"(1) KEY ACADEMIC SUBJECTS.—At least 70 percent of funds received under this subpart shall be used for enhancement of participant knowledge in key academic subjects.

"(2) OTHER SUBJECTS.—At least 20 percent of the funds received under this subpart shall be used for enhancement of participant knowledge in areas not related to academic subjects.

"(b) SPECIAL RULE.—In awarding grants under this part the State educational agency may provide for training in 2 or more key academic subjects at a single site.

"SEC. 580B. SELECTION PANEL.

"(a) ESTABLISHMENT.—Each Academy established under this subpart shall establish a 10-member selection panel to select teachers to attend the National Teacher Academies established pursuant to part G.

"(b) COMPOSITION AND REPRESENTATION.—

"(1) COMPOSITION.—At least 50 percent of the membership of each selection panel shall be classroom teachers, selected in consultation with teacher organizations, if any, in the State.

"(2) REPRESENTATION.—The composition of each selection panel shall be broadly representative of the elementary and secondary schools and the local educational agencies served by the Academy.

"(c) FUNCTION.—Each selection panel shall—

"(1) annually select the State delegations in accordance with section 595; and

"(2) involve the individuals selected pursuant to paragraph (1) in the operation of the Academy, if any, or other in-service training activities in the local educational agency in which such individuals teach.

"Subpart 3—State Academies for School Leaders

"SEC. 581. PURPOSE.

"It is the purpose of this subpart to improve the training and performance of school principals and other school leaders and to increase the number of persons who are highly trained to be principals and school leaders by establishing an Academy for current and prospective school leaders in every State.

"SEC. 582. APPLICATION REQUIRED.

"(a) IN GENERAL.—Each eligible entity desiring to operate an Academy under this subpart shall submit an application to the State educational agency at such time, in such manner and accompanied by such information as the State may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall describe—

"(1) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches its goals;

"(2) the curriculum to be used or developed by the Academy;

"(3) the steps to be taken to recruit school leaders for the Academy's program, including outreach efforts to identify and attract—

"(A) minority group members;

"(B) individuals with disabilities;

"(C) individuals from areas with large numbers or concentrations of disadvantaged students; and

"(D) other individuals with potential to become school leaders;

"(4) efforts to be taken to disseminate information about the Academy;

"(5) selection criteria to be used in identifying school leaders to participate in the Academy;

"(6) steps to be taken to assure that the programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge;

"(7) steps to be taken to assure the involvement of private sector managers and executives from businesses in the conduct of the Academy's programs; and

"(8) efforts to be undertaken to evaluate the impact of the Academy on participants.

"SEC. 583. USE OF ALLOTTED FUNDS.

"(a) GRANTS.—Each State educational agency receiving an allotment under this subpart shall use such allotment to award competitive grants to an eligible entity to enable such eligible entity to operate an Academy in accordance with the provisions of this subpart.

"(b) COSTS.—Each eligible entity receiving funds under this subpart shall use such funds to meet the costs of carrying out the activities described in section 584, which may include reasonable startup and initial operating costs, and stipends, travel, and living ex-

penses for participants in the Academy if no other funds are available to pay such costs.

"(c) LIMITATIONS.—

"(1) PARTICIPANTS.—At least 70 percent of the participants in an Academy shall be from the school building level.

"(2) SPECIAL RULE.—In awarding grants under this subpart, the State educational agency may provide for the location at the same site of Academies assisted under this subpart and Academies assisted under subpart 2.

"SEC. 584. AUTHORIZED ACTIVITIES.

"Each eligible entity receiving a grant to operate an Academy under this subpart shall use such grant funds for—

"(1) development and enhancement of participants' knowledge in instructional leadership, school-based management, shared decisionmaking, school improvement strategies and school-level accountability mechanisms;

"(2) identification and recruitment of candidates, including individuals who are minority, disabled, and bilingual, to be trained as school leaders;

"(3) conducting programs which provide for the involvement of private sector managers and executives from businesses;

"(4) specialized training for guidance counselors and principals so that such individuals may counsel students about college opportunities, precollege requirements, the college admissions process, and financial aid opportunities; and

"(5) any other purpose described in the plan submitted pursuant to section 572 and approved by the Secretary.

"SEC. 585. COST-SHARING.

"Funds received under this subpart may be used to pay not more than 75 percent of the cost of operating an Academy in the first year an eligible entity receives a grant under this subpart, 65 percent of such cost in such second year, 55 percent of such cost in such third year, 45 percent of such cost in such fourth year, and 35 percent of such cost in such fifth year. The remaining share shall be provided from non-Federal sources, and be in cash or in kind, fairly valued.

"Subpart 4—Professional Development Academies

"SEC. 586. PURPOSE.

"It is the purpose of this subpart to improve teacher and school leader training by establishing at least one school-based teacher training program in every State that provides prospective and novice teachers and school leaders the opportunity to work under the guidance of experienced mentors or master teachers and faculty members from institutions of higher education.

"SEC. 587. APPLICATION REQUIRED.

"(a) IN GENERAL.—Each eligible entity desiring to operate an Academy under this subpart shall submit an application to the State educational agency at such time, in such manner and accompanied by such information as the State educational agency may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall describe—

"(1) what schools within the local educational agency and what institutions of higher education shall participate in the partnership or otherwise participate in the program;

"(2) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches such goals;

"(3) the activities, services and programs to be offered by the Academy;

"(4) ways in which the professional development programs shall cover course content in key academic subjects, methods of instruction, and classroom and school-based management skills;

"(5) plans to involve prospective and novice teachers in the programs offered by the Academy, including outreach efforts to identify and attract—

"(A) minority group members;

"(B) individuals with disabilities; and

"(C) individuals from areas with large numbers or concentrations of disadvantaged students; and

"(6) efforts to be taken to disseminate information about the Academy.

"(c) ASSURANCES.—Each application submitted pursuant to subsection (a) shall contain assurances that—

"(1) professional development programs at the Academy shall be designed and conducted by faculty members from institutions of higher education and teachers from local schools of demonstrated excellence;

"(2) the activities, services and programs offered by the Academy shall be developed in consultation within the faculty of institutions of higher education and elementary and secondary schools;

"(3) participating faculty from institutions of higher education shall include faculty members who are experts in the key academic subjects; and

"(4) the activities, services and programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge.

"SEC. 588. USE OF ALLOTTED FUNDS.

"(a) GRANTS.—

"(1) IN GENERAL.—Each State educational agency receiving an allotment under this subpart shall use such allotment to award competitive grants to eligible entities to enable such eligible entities to operate an Academy in accordance with the provisions of this subpart.

"(2) COSTS.—Each eligible entity receiving a grant under this subpart shall use such funds to meet the operating costs of carrying out the activities described in section 589, which may include reasonable startup and initial operating costs, and stipends, travel, and living expenses for teachers who participate in the Academy's program if no other funds are available to pay such costs.

"(3) SPECIAL RULE.—The State educational agency may limit the amount of funds under this subpart that may be used for minor remodeling and the purchase of equipment.

"SEC. 589. AUTHORIZED ACTIVITIES.

"Each eligible entity receiving a grant to operate an Academy under this subpart shall use such grant funds for—

"(1) training and internship activities for prospective or novice teachers in a school setting under the guidance of master or mentor teachers and faculty from institutions of higher education, especially faculty who are experts in key academic subjects;

"(2) mentoring and induction activities for prospective and novice teachers, including such teachers seeking to enter teaching through alternative routes;

"(3) teaching skills and strategies to increase the ability of prospective, novice and experienced teachers to teach disadvantaged students, students with disabilities (including students with severe and multiple disabilities and students with lesser known or newly emerging disabilities), students who are limited-English proficient, and students from diverse cultural backgrounds;

"(4) programs to enhance teaching and classroom management skills of novice, prospective and experienced teachers including school-based management skills;

"(5) experimentation and research to improve teaching and learning conducted in the Academy by teachers and university faculty; and

"(6) any other purpose described in the plan submitted pursuant to section 572 and approved by the Secretary.

"SEC. 590. COST-SHARING.

"Funds received under this subpart may be used to pay not more than 75 percent of the cost of operating an Academy in the first 3 years an eligible entity receives a grant under this subpart and not more than 50 percent of such cost in such fourth and fifth years. The remaining share shall be provided from non-Federal sources, and may be in-kind, fairly valued.

"Subpart 5—Teacher Awards

"SEC. 590A. PURPOSE.

"It is the purpose of this subpart to recognize and honor outstanding teachers.

"SEC. 590B. TEACHER AWARDS.

"(a) AWARDS.—

"(1) IN GENERAL.—From the amount allotted to each State to carry out the provisions of this subpart, each State educational agency shall award grants in accordance with paragraph (2) to Academies assisted under subpart 2 to enable such Academies to carry out a program of providing cash awards and recognition to outstanding teachers in the academic subjects in which training is received at such Academies.

"(2) ALLOCATION OF FUNDS.—The State educational agency shall award grants under this subpart to each Academy assisted under subpart 2 in the State on the basis of the number of full-time equivalents of public school teachers attending each Academy assisted under subpart 2 in the State compared to the number of full-time equivalents of all public school teachers attending Academies in the State.

"(b) ELIGIBILITY.—Each of the Academies assisted under this part that receives a grant under subpart 2 shall only make teacher awards to full-time elementary or secondary school teachers in the State.

"(c) MAXIMUM AMOUNT.—Teacher awards under this subpart shall not exceed $5,000.

"SEC. 590C. NOMINATIONS AND AWARD CRITERIA.

"(a) NOMINATIONS.—Each of the Academies assisted under subpart 2 that receives a grant under this subpart shall select teacher award recipients from among individuals nominated by a local educational agency, public or private elementary or secondary school, teacher, association of teachers, parent, association of parents and teachers, business, business group, or student group.

"(b) AWARD CRITERIA.—

"(1) IN GENERAL.—Each of the Academies assisted under subpart 2 that receives a grant under this subpart shall select teacher award recipients on the basis of criteria developed by such Academies and approved by the State educational agency.

"(2) CRITERIA.—The criteria described in paragraph (1) may include—

"(A) educating disadvantaged children and children with disabilities;

"(B) educating gifted and talented children;

"(C) boosting student achievement in key academic subjects;

"(D) introducing a new curriculum in a core academic subject into a school or strengthening an established curriculum;

"(E) acting as a master teacher; and

"(F) other criteria as developed by the Academies and approved by the State educational agency.

"PART G—NATIONAL TEACHER ACADEMIES

"SEC. 591. PROGRAM ESTABLISHED.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible recipients to establish and operate National Teacher Academies.

"(b) SUBJECT AREAS AND STAFF.—

"(1) SUBJECT AREAS.—At least 1 but not more than 3 National Teacher Academies shall be established in each of the following subject areas commonly taught in elementary and secondary schools:

"(A) English.

"(B) Mathematics.

"(C) Science.

"(D) History.

"(E) Geography.

"(F) Civics and government.

"(G) Foreign languages.

"(2) STAFF.—Academy staff shall be selected from the most accomplished and prominent scholars in the relevant fields of study and in the methodologies which improve the skills of persons who teach in such fields of study.

"(c) DURATION OF GRANT.—Each grant to establish and operate a National Teacher Academy shall be for a period of 3 years, and is renewable.

"(d) COMPETITIVE GRANT AWARDS.—The Secretary shall award grants under this part on a competitive basis.

"SEC. 592. ELIGIBLE RECIPIENTS.

"(a) IN GENERAL.—For the purposes of this part, the term 'eligible recipient' means—

"(1) an institution of higher education;

"(2) a private nonprofit educational organization of demonstrated effectiveness; or

"(3) a combination of the institutions or organizations set forth in paragraphs (1) and (2) of this paragraph.

"(b) EXPERTISE REQUIREMENTS.—The Secretary shall only award grants to eligible recipients that have demonstrated expertise in the—

"(1) subject area of the National Teacher Academy to be established and operated; and

"(2) in-service training of teachers at the national, State, and local levels.

"SEC. 593. USE OF FUNDS.

"(a) IN GENERAL.—Funds provided pursuant to this part shall be used to—

"(1) provide in-service training programs for teachers and administrators, including—

"(A) programs which emphasize improving the teachers' knowledge in the particular subject area of the National Teacher Academy;

"(B) programs which integrate knowledge of subject matter with techniques for communicating that knowledge to students, including students who are disadvantaged, limited-English proficient, are drug- or alcohol-exposed, or who have disabilities;

"(C) the use of the most recent applied research findings concerning education and the classroom; and

"(D) integrating materials from different disciplines into classroom instruction, especially for elementary school teachers;

"(2) conduct at least one summer institute of at least 3 weeks duration each year for the State delegations described in section 595; and

"(3) provide support services to the State Academies for Teachers, including—

"(A) the establishment of a national network of individuals to assist in teacher education programs in State Academies for Teachers;

"(B) consulting assistance in the design and implementation of in-service teacher training programs; and

"(C) monthly newsletters or other methods of communicating useful information.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the amount of funds received under this part may be used by eligible recipients for administrative costs.

"SEC. 594. APPLICATION.

"(a) APPLICATION.—Each eligible recipient desiring a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities, services, and programs for which assistance is sought;

"(2) describe how at least 70 percent of the institute's time shall be devoted to basic course content relevant to the particular subject field and necessary for improving the quality of teaching in public and private elementary and secondary schools;

"(3) describe how not more than 30 percent of the National Teacher Academy's time shall be devoted to methods of instruction relevant to the particular subject field;

"(4) describe how the National Teacher Academy's activities will be coordinated with or administered cooperatively with institutes established by other Federal entities, such as the National Science Foundation and the National Endowment for the Humanities; and

"(5) provide such additional assurances or information as the Secretary may reasonably require.

"SEC. 595. STATE DELEGATIONS.

"(a) IN GENERAL.—Each selection panel established pursuant to section 580B shall select a State delegation to participate in each National Teacher Academy assisted under this part.

"(b) COMPOSITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each State delegation described in subsection (a) shall, at a minimum, be composed of—

"(A) 1 school administrator with authority to design and conduct in-service teacher training and academic programs; and

"(B) at least 5 teachers, of whom at least 2 shall be elementary school teachers.

"(2) SPECIAL RULE.—The State delegations for the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa and the Republic of Palau (until the Compact of Free Association is ratified) shall, at a minimum, be composed of—

"(A) 1 school administrator with authority to design and conduct in-service teacher training and academic programs; and

"(B) at least 3 teachers, of whom at least 1 shall be an elementary school teacher.

"(3) ADDITIONAL TEACHERS.—

"(A) Each State that has obtained the approval of the appropriate National Teacher Academy may send to such National Teacher Academy the number of additional teachers determined in accordance with subparagraph (B).

"(B) The appropriate National Teacher Academy shall determine the number of additional teachers to attend such National Teacher Academy on the basis of the number of full-time equivalent teachers in the State compared to such number in all States.

"(c) DUTIES.—Each State delegation shall—

"(1) attend the appropriate subject area summer institute at the appropriate National Teacher Academy; and

"(2) after participation in the National Teacher Academy assist in the development and operation of the appropriate Academy.

"SEC. 595A. SELECTION.

"Individuals participating in a National Teacher Academy shall be selected by the selection panel described in section 580B in accordance with the provisions of section 595.

"SEC. 595B. NATIONAL TEACHER ACADEMY EVALUATION.

"The Secretary shall evaluate the system of National Teacher Academies and the effects of such Academies on teachers every 2 years. The Secretary shall make available to the Congress and the public the results of such evaluation.

"SEC. 595C. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated $35,000,000 for fiscal year 1993 and such sums as may be necessary for the 6 succeeding fiscal years to carry out the provisions of part G, of which no more than $5,000,000 is authorized to be appropriated for each of the National Teacher Academy subject areas listed in section 591(b)(1).

"(b) SPECIAL RULE.—(1) If the amount appropriated pursuant to the authority of subsection (a) is less than $14,000,000, then not more than $2,000,000 shall be available for each National Teacher Academy subject area in the order in which such subject areas are listed in section 591(b)(1), until such funds are exhausted.

"(2) If the amount appropriated pursuant to the authority of subsection (a) is equal to or exceeds $14,000,000, then such funds shall be allocated equitably among each of the National Teacher Academy subject areas listed in section 591(b)(1).

"PART H—ALTERNATIVE ROUTES TO TEACHER AND PRINCIPAL CERTIFICATION AND LICENSURE

"SEC. 596. SHORT TITLE.

"This part may be cited as the 'Alternative Routes to Teacher and Principal Certification and Licensure Act of 1992'.

"SEC. 597. FINDINGS.

"The Congress finds that—

"(1) effective elementary and secondary schools require competent teachers and strong leadership;

"(2) school systems would benefit greatly by increasing the pool of qualified individuals from which to recruit teachers and principals;

"(3) many talented professionals who have demonstrated a high level of subject area competence outside the education profession may wish to pursue careers in education, but have not fulfilled the requirements to be certified or licensed as teachers or principals;

"(4) alternative routes can enable qualified individuals to fulfill State certification or licensure requirements and would allow school systems to utilize the expertise of such professionals and improve the pool of qualified individuals available to local educational agencies as teachers and principals; and

"(5) alternative routes to certification or licensure requirements that do not exclude qualified individuals from teaching solely because such individuals do not meet traditional certification or licensure requirements would allow school systems to take advantage of these professionals and improve the supply of well-qualified teachers and principals.

"SEC. 598. PURPOSE.

"It is the purpose of this part to improve the supply of well-qualified elementary and secondary school teachers and principals by encouraging and assisting States to develop and implement programs for alternative routes to teacher and principal certification or licensure requirements. Such programs

shall place special emphasis on the participation of individuals who are members of minority groups.

"SEC. 599. DEFINITION.

"For purposes of this part, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"SEC. 599A. ALLOTMENTS.

"(a) ALLOTMENTS.—

"(1) IN GENERAL.—From the amount appropriated to carry out this part, the Secretary shall allot to each State the lesser of either the amount the State applies for under section 599B or an amount that is proportional to the State's share of the total population of children ages five through seventeen in all the States (based on the most recent data available that is satisfactory to the Secretary).

"(2) REALLOTMENT.—If a State does not apply for its allotment, or the full amount of its allotment, under the preceding paragraph, the Secretary may reallot the excess funds to one or more other States that demonstrate, to the satisfaction of the Secretary, a current need for the funds.

"(b) SPECIAL RULE.—Notwithstanding section 412(b) of the General Education Provisions Act, funds awarded under this part shall remain available for obligation by a recipient for a period of two calendar years from the date of the grant.

"SEC. 599B. STATE APPLICATIONS.

"(a) IN GENERAL.—Any State desiring to receive an allotment under this part shall, through the State educational agency, submit an application at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(b) REQUIREMENTS.—Each application shall—

"(1) describe the programs, projects, and activities to be undertaken; and

"(2) contain such assurances as the Secretary considers necessary, including assurances that—

"(A) assistance provided to the State educational agency under this part will be used to supplement, and not to supplant, any State or local funds available for the development and implementation of programs to provide alternative routes to fulfilling teacher and principal certification or licensure requirements;

"(B) the State educational agency has, in developing and designing the application, consulted with—

"(i) representatives of local educational agencies, including superintendents and school board members (including representatives of such superintendents' and members' professional organizations where applicable);

"(ii) elementary and secondary school teachers and principals, including representatives of their professional organizations;

"(iii) parents; and

"(iv) other interested organizations and individuals; and

"(C) the State educational agency will submit to the Secretary, at such time as the Secretary may specify, a final report describing the activities carried out with assistance provided under this part and the results achieved.

"(c) GEPA PROVISIONS INAPPLICABLE.—Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this part.

"SEC. 599C. USE OF FUNDS.

"(a) MANDATORY.—

"(1) IN GENERAL.—A State educational agency shall use assistance provided under this part to support programs, projects, or activities that develop and implement new, or expand and improve existing, programs that provide teacher and principal training to individuals who are moving to a career in education from another occupation through an alternative route to teacher or principal certification or licensure.

"(2) METHODS OF ASSISTANCE.—A State educational agency may carry out such programs, projects, or activities directly, through contracts, or through grants to local educational agencies, intermediate educational agencies, institutions of higher education, or consortia of such agencies.

"(b) PERMISSIVE.—Funds received under this part may be used for—

"(1) the design, development, implementation, and evaluation of programs that enable qualified professionals who have demonstrated a high level of subject area competence outside the education profession and are interested in entering the education profession to fulfill State certification or licensure requirements;

"(2) the establishment of administrative structures necessary for the development and implementation of programs to provide alternative routes to fulfilling State requirements for certification or licensure;

"(3) training of staff, including the development of appropriate support programs, such as mentor programs, for teachers and principals entering the school system through alternative routes to teacher and principal certification or licensure;

"(4) the development of recruitment strategies;

"(5) the development of reciprocity agreements between or among States for the certification or licensure of teachers and principals; and

"(6) other appropriate programs, projects, and activities designed to meet the objectives of this part.

"SEC. 599D. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $15,000,000 for fiscal year 1993 to carry out this part.

"PART I—MIDDLE SCHOOL TEACHING DEMONSTRATION PROGRAMS

"SEC. 599E. STATEMENT OF PURPOSE.

"It is the purpose of this part to provide financial assistance to institutions of higher education which offer teacher training or retraining programs to develop model programs with a specialized focus on teaching grades 6 through 9.

"SEC. 599F. DEFINITIONS.

"As used in this part—

"(1) The term 'developmentally appropriate' means a program that is appropriate for a child's age and all areas of an individual child's development, including educational, physical, emotional, social, cognitive, and communication.

"(2) The term 'middle school' means a school which enrolls students in at least two of the grades 6, 7, 8, and 9.

"SEC. 599G. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make grants, on a competitive basis, to institutions of higher education to develop model programs with a specialized focus on teaching grades 6 through 9.

"(b) SPECIAL RULE.—(1) The Secretary shall ensure an equitable geographic distribution of grants awarded under this part.

"(2) The Secretary shall take into consideration equitable levels of funding for urban and rural areas in awarding grants under this part.

"(c) GRANT PERIOD.—Grants under this part may be awarded for a period not to exceed 3 years.

"(d) FUNDING LIMITATION.—Grants awarded under this part may not exceed $250,000 in the first year of funding.

"SEC. 599H. APPLICATION.

"(a) IN GENERAL.—Each institution of higher education desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall demonstrate that—

"(1) the applicant will establish and maintain a program of teacher training or retraining designed to offer specialized preparation for individuals teaching grades 6 through 9;

"(2) the applicant has designed a program of teacher training or retraining which includes—

"(A) a study of adolescent development (including cognitive, social, and emotional) with particular emphasis on early adolescent development;

"(B) a study of the influence of institutions such as schools, families, and peer groups in the socialization of adolescents;

"(C) information concerning the organization of schools for students in grades 6 through 9, with particular emphasis on developmentally appropriate school and classroom organization and practices;

"(D) training in at least 2 subject areas and related instructional strategies;

"(E) direct experience through internships in middle grade schools under the guidance of teachers who demonstrate exemplary classroom practices;

"(F) strategies for the prevention and detection of high risk behavior, particularly drug and alcohol abuse, and for the enhancement of self esteem among adolescents;

"(G) a study of effective methods and models of presenting substance abuse information and education to adolescent students; and

"(H) methods of encouraging parental and community involvement with middle schools; and

"(3) the program will be designed and operated with the active participation of classroom teachers and will include an in-service training component.

"SEC. 599I. REPORTS AND INFORMATION DISSEMINATION.

"Each institution of higher education receiving a grant under this part shall submit to the Secretary such reports and other information regarding programs conducted under this part as the Secretary deems necessary. The Secretary shall disseminate such information to other institutions of higher education, State educational agencies, and local educational agencies.

"SEC. 599J. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of this part.

"PART J—NATIONAL MIGRANT EDUCATION MINI-CORPS PROGRAM

"SEC. 599K. DEMONSTRATION PROGRAM ESTABLISHED.

"The Secretary is authorized to conduct a program to—

"(1) provide migrant students who are enrolled, or plan to enroll, in an institution of higher education, with advisement, training, and instructional services, to enable such students to be role models for migrant children, and to provide a link with the migrant community;

"(2) provide outreach and recruitment services to encourage migrant students who are enrolled in a teacher training program to be role models for migrant children;

"(3) provide support and instructional services to migrant students who are enrolled in an institution of higher education, to enable such students to provide direct instructional services to migrant children participating in programs under section 1201 of the Elementary and Secondary Education Act of 1965 during the regular or summer terms, including such services as—

"(A) lessons and provision of materials that are designated to meet the academic needs of migrant children in the classroom;

"(B) supplemental instruction to reinforce the basic skills and concepts provided by the teacher; and

"(C) instruction in other areas, including environmental or health education;

"(4) designate college coordinators at participating institutions to train, supervise and assign migrant students in cooperation with the operating State agency in which migrant children with special needs have been identified;

"(5) provide academic assistance, home visits, parental involvement, parent-student advisement services, and family advocacy;

"(6) provide that the instructional services for migrant children are to be coordinated with the overall education goals of the operating State educational agency; and

"(7) provide that migrant students who participate in the program assisted under this subpart for at least 10 but not more than 15 hours per week receive a stipend for such participation.

"SEC. 599L. EVALUATION.

"The Secretary shall, by January 1, 1996, evaluate the demonstration program assisted under this part and report the results of such evaluation to the appropriate committees of the Congress.

"SEC. 599M. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this part.

"PART K—FOREIGN LANGUAGE INSTRUCTION

"Subpart 1—Demonstration Grants for Critical Language and Area Studies

"SEC. 599N. DEMONSTRATION GRANTS FOR CRITICAL LANGUAGE AND AREA STUDIES.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized to make demonstration grants to eligible consortia to enable such eligible consortia to—

"(1) operate critical language and area studies programs;

"(2) develop and acquire educational equipment and materials; and

"(3) develop teacher training programs, texts, curriculum, and other activities designed to improve and expand the instruction of foreign languages at elementary and secondary schools across the Nation.

"(b) GRANT LIMITATION.—The Secretary shall not award a grant which exceeds $2,000,000 to an eligible consortium under this section in any fiscal year, but shall award grants of sufficient size, scope and quality for a program of comprehensive instruction of foreign languages.

"(c) SPECIAL RULES.—

"(1) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible consortia with demonstrated, proven effectiveness in the field of critical language and area studies and which have been in existence for at least 1 year prior to applying for a grant under this section.

"(2) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall take into consideration providing an equitable geographic distribution of such grants among the regions of the United States.

"(3) PROGRAM REQUIREMENT.—Each eligible consortium receiving a grant under this section shall include in the activities assisted pursuant to such grant, a study abroad or cultural exchange program.

"(d) ELIGIBLE CONSORTIUM.—

"(1) IN GENERAL.—For the purposes of this section, the term 'eligible consortium' means a cooperative effort between entities in one or more States that must include at least 4 schools, of which—

"(A) one shall be an institution of higher education;

"(B) one shall be a secondary school with experience in teaching critical languages;

"(C) one shall be a secondary school with experience in teaching critical languages and in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(D) one shall be a secondary school in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(2) NONPROFIT ORGANIZATIONS.—Each eligible consortium described in paragraph (1) may include a nonprofit organization to provide services not otherwise available from the entities described in paragraph (1).

"(e) ADMINISTRATION.—Each eligible consortium receiving a grant under this section may use not more than 10 percent of such grant for administrative expenses.

"(f) APPLICATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each eligible consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) SPECIAL RULE.—The State educational agency or State higher education agency responsible for the supervision of any one school participating in an eligible consortium may submit the application described in paragraph (1) on behalf of such eligible consortium.

"(g) DEFINITIONS.—For purposes of this section the term 'critical language' means each of the languages contained in the list of critical foreign languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Federal Register 149, 31413).

"Subpart 2—Development of Foreign Language and Culture Instructional Materials

"SEC. 599P. DEVELOPMENT OF FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.

"(a) GRANTS AUTHORIZED.—The Secretary of Education is authorized to provide grants on a competitive basis to qualified State and local educational agencies, institutions of higher education, private nonprofit foreign language organizations, nonprofit education associations, or a consortium thereof, to enable such entity or entities to act as a resource center for—

"(1) coordinating the development of and disseminating foreign language and culture instructional material, including children's literature in foreign languages, videotapes and computer software, and teacher's instructional kits relating to international study; and

"(2) encouraging the expanded use of technology in teaching foreign languages and culture at the elementary school level and, when the needs of elementary schools have been met, at the secondary school level, with a particular emphasis on expanding the use of technology in teaching foreign languages and culture at elementary and secondary schools that have proportionally fewer resources available for teaching foreign languages and cultures, including schools in urban and rural areas.

"(b) COORDINATION.—In developing materials and technologies under this section, the Secretary shall, where appropriate, make use of materials and technologies developed under the Star Schools Assistance Program Act.

"Subpart 3—Authorization of Appropriations

"SEC. 599Q. AUTHORIZATION OF APPROPRIATIONS.

"(a) CRITICAL LANGUAGE AND AREA STUDIES.—There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of subpart 1.

"(b) FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.—There are authorized to be appropriated $4,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of subpart 2.

"PART L—EARLY CHILDHOOD STAFF TRAINING AND PROFESSIONAL ENHANCEMENT

"SEC. 599R. SHORT TITLE.

"This part may be cited as the 'Early Childhood Staff Training and Professional Enhancement Grants Act'.

"SEC. 599S. FINDINGS.

"The Congress finds that—

"(1) 10,000,000 preschool children spend all or part of the day in out-of-home care;

"(2) specialized preparation of individuals who care for young children is a predictor of the ability to provide high quality experiences for such children;

"(3) due to projected increases of children in out-of-home care in the future, it is necessary to expand and improve the training and career growth of individuals who care for and educate young children;

"(4) the present delivery system of child care education and training is disjointed;

"(5) funding for such training is fragmented, sporadic, and distinguishes in-service training from degree or certificate programs; and

"(6) in order to expand and enhance the career development of individuals who care and educate young children, such individuals must have training options that promote career growth.

"SEC. 599T. PURPOSE.

"It is the purpose of this part to—

"(1) promote the national education goal that all children in America start school ready to learn, by ensuring the existence of sufficient numbers of well-trained early childhood development and care staff;

"(2) provide professional preparation and continued career training for early childhood

development and care staff who work with children from birth through preschool, with an emphasis on infants and toddlers and children with special needs; and

"(3) create and implement effective, coordinated models of early childhood professional preparation and in-service training so that such preparation and training corresponds with a career ladder, based on a progression of staff roles, in the field of early childhood development and care.

"SEC. 599U. GRANTS AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to States in accordance with the provisions of this part to enable such States to pay the costs of the activities described in the plan submitted pursuant to section 599X.

"(b) COMPETITIVE BASIS.—Grants under this part shall be awarded on a competitive basis.

"(c) DURATION.—Grants under this part shall be awarded for a period of 5 years.

"SEC. 599V. LEAD AGENCY.

"(a) DESIGNATION.—The chief executive officer of a State, in consultation with the State educational agency, desiring to receive a grant under this part shall designate an appropriate State agency, to act as the lead agency.

"(b) DUTIES.—The lead agency shall—

"(1) administer, directly or through other State agencies, the financial assistance received under this part by the State;

"(2) choose the members of the Advisory Committee that will develop the State plan to be submitted to the Secretary under section 599X;

"(3) in conjunction with the development of the State plan as required under paragraph (2), hold at least one hearing in the State to provide to the public an opportunity to comment on the provision of training and professional development described in the State plan; and

"(4) coordinate the provision of services under this part with other appropriate Federal, State and local programs.

"SEC. 599W. ADVISORY COMMITTEE.

"(a) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—In order to receive a grant under this part a State shall establish, through the lead agency described in section 599V, an Advisory Committee to develop the State plan described in section 599X.

"(2) APPOINTMENT.—In order to receive a grant under this part the lead agency shall appoint the members of the Advisory Committee in accordance with subsection (b).

"(b) COMPOSITION.—To the extent such entities exist within a State, each Advisory Committee established pursuant to subsection (a) shall consist of a representative of the following agencies, institutions, organizations, divisions, programs or departments in the State:

"(1) The lead State agency responsible for administering funds received under the Child Care Development and Block Grant Act.

"(2) Institutions of higher education, including community colleges and 2-year colleges.

"(3) An organization representing child care providers, including center-based care providers, and family day care providers.

"(4) An early childhood division of a State educational agency, and the State early childhood teacher certification agency, if such entities are different.

"(5) A child care licensing or regulating agency.

"(6) A local child care resource and referral agency.

"(7) A State Head Start association.

"(8) An organization with significant experience in training in the fields of early childhood development, early care and early education.

"(9) An organization representing parents of young children.

"(10) A State-funded preschool program.

"(11) A State employment and job training agency.

"(12) A State department of community development.

"(13) An early childhood development teacher and an early childhood development director.

"(14) An organization representing early childhood development and staff.

"SEC. 599X. STATE PLAN.

"(a) IN GENERAL.—Each State desiring a grant under this part shall submit, through the lead agency, a plan to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. The Secretary shall consult with the Secretary of Health and Human Services regarding the contents of such plan.

"(b) CONTENTS.—Each plan submitted pursuant to subsection (a) shall—

"(1) identify the lead agency as described in section 599V;

"(2) assess the training offerings and content of such offerings, amount of training required for an early childhood development staff license or certificate, compensation, recruitment and turnover of staff, and any coordination of training offerings and professional growth of early childhood development staff in the State;

"(3) describe the goals of the activities assisted under this part; and

"(4) describe how the State shall—

"(A) identify and maintain a career development path, based on a progression of roles for early childhood development staff, with each role articulated with training and different levels of responsibility and compensation, in such manner as will permit an individual to qualify for a more responsible role;

"(B) identify the core content for each staff role and assure that workshops, courses, seminars, and appropriate certificate and degree programs are available for each such staff role and career advancement;

"(C) ensure that trainers of early childhood development staff in the State are qualified;

"(D) describe the ways in which the State will coordinate training programs among institutions of higher education, including transfer of credits, and assure that in-service training offered in the State carries course credit accepted by an institution of higher education, community college or 2-year college in the State toward a certificate or degree program;

"(E) set forth the ways in which the State will pay the costs of any assessment, credentialing, certification, licensing, training offering, training inventory, increase in staff participation in training, or other services assisted by a grant under this part;

"(F) describe the ways in which the State plans to coordinate the various State and local agencies and organizations to maximize coordination of standards and requirements for certifications, licenses, and accreditations, including Head Start agencies, the State agency responsible for administering funds under the Child Development Associate Scholarship Act of 1985, the State agency responsible for administering funds received under the Child Care Development and Block Grant Act, and the State agency responsible for early childhood education and preschool programs;

"(G) describe the ways in which the State will compile and disseminate information on—

"(i) training offerings;

"(ii) requirements for admission into courses and programs;

"(iii) requirements for a license, certificate, credential, or degree to which such offerings may be applied;

"(iv) funding sources available for such activities; and

"(v) the cost of training offerings; and

"(H) describe the ways in which the State will use the funds received under this part and any other funds available to the State to carry out the activities described in the State plan.

"SEC. 599Y. EVALUATION AND REPORT.

"(a) EVALUATION.—The Secretary, through grants, contracts or cooperative agreements, shall provide for continuing evaluation of activities assisted under this part to determine the effectiveness of such activities in achieving stated goals, and the impact of such activities on developing and coordinating training options and in developing and implementing a career ladder articulated with training.

"(b) LOCAL EVALUATION.—Each State receiving a grant under this part shall evaluate the activities assisted under this part to determine the effectiveness of such activities in achieving State goals, the impact of such activities on the establishment of a career ladder for early childhood development, the impact of such activities on families served if feasible, the number of individuals receiving a degree, license, or credential in early childhood development, and the impact of such activities on licensing or regulating requirements for individuals in the field of early childhood development. An interim evaluation shall be submitted to the Secretary not later than January 1, 1995, and a final report shall not be submitted later than June 30, 1997.

"(c) INFORMATION.—Each State receiving a grant under this part shall prepare and submit to the Secretary such information as the Secretary shall request in order to carry out the evaluation described in subsection (a).

"(d) REPORT.—No later than January 1988, the Secretary, in consultation with the Secretary of Health and Human Services, shall prepare and submit to the appropriate committees of Congress, each State agency responsible for administering funds received under the Child Care Development Block Grant Act, and each State educational agency, a report assessing the evaluations conducted pursuant to subsections (a) and (b), including an examination of the strengths and weaknesses of the design and operation of the activities assisted under this part and the effectiveness of such activities in achieving stated goals.

"SEC. 599Z. AUTHORIZATION.

"There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"PART M—CLASS SIZE DEMONSTRATION GRANT

"SEC. 599AA. PURPOSE.

"It is the purpose of this part to provide grants to local educational agencies to enable such agencies to determine the benefits in various school settings of reducing class size on the educational performance of students and on classroom management and organization.

"SEC. 599BB. PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall carry out a program of awarding grants, in accordance with the provisions of this part, to local educational agencies to pay the Federal share of the costs of conducting demonstration projects that demonstrate methods of reducing class size which may provide information meaningful to other State and local educational agencies.

"(2) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(b) RESERVATION.—The Secretary may reserve not more than 5 percent of the amount appropriated pursuant to the authority of section 599FF in each fiscal year to carry out the evaluation activities described in section 599EE.

"(c) SELECTION CRITERIA.—The Secretary shall make grants to local educational agencies on the basis of—

"(1) the need and the ability of a local educational agency to reduce the class size of an elementary or secondary school served by such agency;

"(2) the ability of a local educational agency to furnish the non-Federal share of the costs of the demonstration project for which assistance is sought;

"(3) the ability of a local educational agency to continue the project for which assistance is sought after the termination of Federal financial assistance under this part; and

"(4) the degree to which a local educational agency demonstrates in the application submitted pursuant to section 599DD consultation in program implementation and design with parents, teachers, school administrators, and local teacher organizations, where applicable.

"(d) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to demonstration projects that involve at-risk students, including educationally or economically disadvantaged students, students with disabilities, limited-English proficient students, and young students.

"(e) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A local educational agency shall use the Federal funds received under this part to supplement and not supplant other Federal, State and local funds available to the local educational agency.

"SEC. 599CC. PROGRAM REQUIREMENTS.

"(a) ANNUAL COMPETITION.—In each fiscal year, the Secretary shall announce the factors to be examined in a demonstration project assisted under this part. Such factors may include—

"(1) the magnitude of the reduction in class size to be achieved;

"(2) the level of education and the subject areas in which the demonstration projects shall occur;

"(3) the form of the instructional strategy to be demonstrated; and

"(4) the duration of the project.

"(b) RANDOM TECHNIQUES AND APPROPRIATE COMPARISON GROUPS.—Demonstration projects assisted under this part shall be designed to utilize randomized techniques or appropriate comparison groups, where feasible.

"SEC. 599DD. APPLICATION.

"(a) IN GENERAL.—In order to receive a grant under this part a local educational agency shall submit an application to the Secretary that is responsive to the announcement described in section 599CC(a), at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) DURATION.—The Secretary shall encourage local educational agencies to submit applications under this part for a period of 3 years.

"(c) CONTENTS.—Each application submitted pursuant to subsection (a) shall include—

"(1) a description of the objectives to be attained with the financial assistance made available under this part and the manner in which such financial assistance shall be used to reduce class size;

"(2) a description of the steps to be taken to achieve target class sizes, including, where applicable, the acquisition of additional teaching personnel and classroom space;

"(3) a statement of the methods for the collection of data necessary for the evaluation of the impact of class size reduction programs on student achievement;

"(4) an assurance that the local educational agency shall pay from non-Federal sources the non-Federal share of the costs of the demonstration project for which assistance is sought; and

"(5) such additional assurances as the Secretary may reasonably require.

"(d) SUFFICIENT SIZE AND SCOPE REQUIRED.—The Secretary shall only award grants under this part to applicants having applications which describe projects of sufficient size and scope to contribute to carrying out the purposes of this part.

"SEC. 599EE. EVALUATION AND DISSEMINATION.

"(a) NATIONAL EVALUATION.—The Secretary shall conduct a national evaluation of the demonstration projects assisted under this part to determine the costs incurred in achieving the reduction in class size and the effects of the reductions on outcomes, such as student performance in the affected subjects or grades, attendance, discipline, classroom organization, management, and teacher satisfaction and retention.

"(b) COOPERATION.—Each local educational agency receiving a grant under this part shall cooperate in the national evaluation described in subsection (a) and shall provide such information to the Secretary as the Secretary may reasonably require.

"(c) REPORTS.—The Secretary shall report to the Congress on the results of the evaluation conducted pursuant to subsection (a).

"(d) DISSEMINATION.—The Secretary shall widely disseminate information about the results of the class size demonstration projects assisted under this part.

"SEC. 599FF. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this part.

"PART N—NATIONAL FOUNDATION FOR EXCELLENCE

"SEC. 599GG. SHORT TITLE.

"This part may be cited as the "National Foundation for Excellence Act".

"SEC. 599HH. FOUNDATION AUTHORIZED.

"There is established a National Foundation for Excellence (hereafter in this part referred to as the "Foundation").

"SEC. 599II. NATIONAL FOUNDATION FOR EXCELLENCE TRUST FUND.

"(a) ESTABLISHMENT.—There is hereby established within the Treasury of the United States a trust fund to be known as the National Foundation for Excellence Trust Fund (hereafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated to the Trust Fund pursuant to the authority of section 599PP.

"(b) TRUSTEE AND REPORT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Ways and Means and Education and Labor of the House of Representatives regarding—

"(A) the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted; and

"(B) the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted.

"(2) PRINTING.—The report described in paragraph (1) shall be printed as a House document of the session of the Congress to which the report is made.

"(c) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Trust Fund as, in the Secretary's judgment, is not required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(3) INTEREST AND PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(d) USE OF TRUST FUNDS.—

"(1) IN GENERAL.—(A) Amounts in the Trust Fund shall be available to the Foundation to enable the Foundation to award scholarships in accordance with the provisions of this part.

"(B) Amounts in the Trust Fund shall only be available to the Foundation after the Foundation has obtained the non-Federal share of the scholarships to be awarded.

"(2) SPECIAL RULE.—In fiscal year 1993 and succeeding fiscal years, amounts in the Trust Fund shall be available to the Secretary, in equal amounts, to carry out the provisions of subpart 1 of part D of title V, and part E of such title, respectively.

"SEC. 599JJ. NATIONAL FOUNDATION FOR EXCELLENCE BOARD.

"(a) IN GENERAL.—There is established a National Foundation for Excellence Board (hereafter in this part referred to as the "Board").

"(b) COMPOSITION.—The Board shall be composed of 20 members as follows:

"(1) 11 members appointed by the President, of which—

"(A) at least 4 such members shall have 10 years of experience in education; and

"(B) at least 2 of the members described in subparagraph (A) shall be classroom teachers;

"(2) 1 Member of the Senate appointed by the Majority Leader of the Senate;

"(3) 1 Member of the Senate appointed by the Minority Leader of the Senate;

"(4) 1 Member of the House of Representatives appointed by the Speaker of the House of Representatives;

"(5) 1 Member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

"(6) 1 individual appointed by the Majority Leader of the Senate;

"(7) 1 individual appointed by the Minority Leader of the Senate;

"(8) 1 individual appointed by the Speaker of the House of Representatives;

"(9) 1 individual appointed by the Minority Leader of the House of Representatives; and

"(10) the Executive Director of the Foundation, who shall serve as an ex officio, nonvoting member of the Board.

"(c) FUNCTIONS.—The Board shall establish general policies with respect to the functions of the Foundation under this part, including—

"(1) guidelines for awarding scholarships to eligible individuals; and

"(2) procedures for the approval of applications submitted pursuant to section 599KK(h).

"(d) EXECUTIVE DIRECTOR.—

"(1) IN GENERAL.—The Executive Director of the Foundation shall be selected by the Board and shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

"(2) COMPENSATION.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule set forth in section 5332 of title 5 of the United States Code.

"(e) EXPENSES AND TRAVEL.—

"(1) EXPENSES.—Members of the Board shall be reimbursed for expenses incurred while engaged in the business of the Board.

"(2) TRAVEL.—Members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed in Government service.

"(f) AUTHORITY TO APPOINT COMMITTEES.—The Foundation may appoint committees to carry out the provisions of this part.

"SEC. 599KK. SCHOLARSHIPS.

"(a) IN GENERAL.—From amounts available pursuant to section 599II(d), the Foundation shall pay the Federal share of awarding scholarships to eligible individuals to enable such eligible individuals to pursue careers in teaching.

"(b) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(c) ELIGIBLE INDIVIDUALS.—For the purposes of this part the term 'eligible individual' means an individual who—

"(1) has received, or is a finalist for, a Paul Douglas Scholarship or Teacher Corps Scholarship; or

"(2) shows exceptional talent in a particular field or as an overall student and who meets the eligibility requirements for either a Paul Douglas Scholarship or Teacher Corps Scholarship, as determined by the Foundation.

"(d) ELIGIBILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Foundation shall award scholarships under this part only to eligible individuals who are eligible to receive a Stafford loan.

"(2) SPECIAL RULE.—If in any fiscal year the Foundation has awarded scholarships to all applicants who are described in paragraph (1), then the Foundation may award scholarships to eligible individuals in such fiscal year on the basis of criteria established by the Foundation.

"(e) PRIORITY.—In awarding scholarships under this part among equally qualified eligible individuals, as determined by the Board, the Foundation shall give priority to eligible individuals from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities, who are underrepresented in the teaching professions or in the curricula areas in which such eligible individuals are preparing to teach.

"(f) GEOGRAPHIC DISTRIBUTION.—In awarding scholarships under this part the Foundation shall ensure an equitable geographic distribution of such scholarships.

"(g) DONATIONS; SPECIAL RULE.—

"(1) DONATIONS.—The Foundation is authorized to accept donations. Any donation received by the Foundation shall be used by the Foundation to award scholarships in accordance with the provisions of this part.

"(2) SPECIAL RULE.—The Foundation may use not more than one-third of any donation received by the Foundation pursuant to paragraph (1) to award scholarships to students in a State or locality specified by the donor.

"(h) APPLICATIONS.—Each eligible individual desiring a scholarship under this part shall submit an application to the Foundation at such time, in such manner and containing or accompanied by such information as the Foundation may reasonably require.

"SEC. 599LL. DURATION AND RELATION TO OTHER ASSISTANCE.

"(a) DURATION.—Scholarships awarded under this part shall be awarded for a maximum of 4 years of undergraduate study and 2 years of graduate study.

"(b) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Notwithstanding the provisions of title IV, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under such title.

"(c) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—Scholarship assistance awarded under this part to any eligible individual in any fiscal year, when added to scholarship assistance received under subpart 1 of part D of title V and part E of such title shall not exceed the cost of attendance, as defined in section 472, at the institution of higher education such individual is attending. If the amount of the scholarship assistance received under this part and subpart 1 of part D of title V, part E of such title and title IV exceeds such cost of attendance, the assistance received under subpart 1 of part D of title V, part E of such title and title IV shall be reduced by an amount equal to the amount by which the combined awards exceed such cost of attendance.

"SEC. 599MM. SCHOLARSHIP CONDITIONS.

"Each eligible individual receiving scholarship assistance under this part shall continue to receive such scholarship payments only during such period that the eligible individual is—

"(1) enrolled as a full-time student in an institution of higher education;

"(2) pursuing a course of study leading to teacher certification; and

"(3) maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

"SEC. 599NN. TEACHING COMMITMENT.

"(a) IN GENERAL.—Each eligible individual receiving a scholarship under this part who has entered into an agreement to teach pursuant to the provisions of section 543(b)(4) or 566(a)(4) shall incur no additional teaching commitment pursuant to a scholarship award received under this part.

"(b) SPECIAL RULE.—Each eligible individual who receives a scholarship under this part and who has not entered into an agreement to teach pursuant to the provisions of section 543(b)(4) or 566(a)(4) shall enter into an agreement with the Foundation. Each such agreement shall require that the eligible individual teach in an elementary or secondary school described in section 561(d) in accordance with the provisions of section 566(a)(4) which are not inconsistent with the provisions of this subsection for a period of at least 2 years and not more than 6 years, as determined by the Foundation.

"SEC. 599OO. SCHOLARSHIP REPAYMENT PROVISIONS.

"(a) REPAYMENT REQUIRED.—An eligible individual found by the Foundation to be in noncompliance with the agreement entered into under section 599NN(b) shall be required to repay to the Foundation a pro rata amount of the scholarship awards received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under title IV) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Foundation.

"(b) EXCEPTIONS TO REPAYMENT PROVISIONS.—An eligible individual shall not be considered to be in violation of the agreement entered into pursuant to section 599NN(b) during any period in which such individual meets the exception to repayment provisions set forth in section 548(a)(1), 548(a)(2), 548(a)(3), or 548(b), or if the individual dies.

"(c) USE OF REPAYMENTS.—Any repayments made to the Foundation pursuant to the provisions of this section shall be used by the Foundation to award additional scholarships in accordance with the provisions of this part.

"(d) WAIVER.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or repayment by an individual who received a scholarship under this part whenever compliance by such individual is impossible or would involve extreme hardship to such individual, or if enforcement of such obligation with respect to such individual would be unconscionable.

"SEC. 599PP. AUTHORIZATION OF APPROPRIATION.

"(a) IN GENERAL.—There are authorized to be appropriated $500,000 for fiscal year 1993 to carry out the provisions of this part.

"(b) SPECIAL RULE.—Section 414 of the General Education Provisions Act shall not apply to the provisions of this part.

"PART O—TRAINING IN EARLY CHILDHOOD EDUCATION AND VIOLENCE COUNSELING

"SEC. 599QQ. SHORT TITLE.

"This part may be cited as the 'Early Childhood Teacher Training and Violence Counseling Act'.

"SEC. 599RR. PROGRAM AUTHORIZED.

"The Secretary shall award grants to institutions of higher education to enable such institutions to establish innovative programs to recruit and train students for careers in—

"(1) early childhood development and care, or preschool programs; or

"(2) providing counseling to young children from birth to 6 years of age who have been affected by violence and to adults who work with such young children.

"SEC. 599SS. APPLICATION AND PLAN.

"(a) APPLICATION.—An institution of higher education desiring a grant under this part shall submit an application to the Secretary at such time, in such form and containing or accompanied by such information or assurances as the Secretary may require. Each such application shall—

"(1) describe the activities and services for which assistance is sought;

"(2) contain a plan in accordance with subsection (b);

"(3) demonstrate that such institution has the capacity to implement such plan; and

"(4) provide assurances that such plan was developed in consultation with agencies and organizations that will assist the institution in carrying out such plan.

"(b) PLAN.—Each application described in subsection (a) shall contain a comprehensive plan for the recruitment, retention and training of students seeking careers in early childhood development or violence counseling. Such plan shall include a description of—

"(1) specific strategies for reaching students at secondary schools, community colleges, undergraduate institutions, or other agencies and institutions from which such students are to be drawn for participation in the program, including any partnerships with such institutions;

"(2) specific strategies for retaining such students in the program, such as summer sessions, internships, mentoring, and other activities;

"(3) methods that will be used to ensure that students trained pursuant to the plan will find employment in early childhood education, development and care, or violence counseling;

"(4) the goals, objectives, and timelines to be used in assessing the success of the plan and of the activities assisted under this part;

"(5) the curriculum and training leading to the degree or credential that prepares students for the careers described in the plan;

"(6) the special plans, if any, to assure that students trained pursuant to the plan will be prepared for serving in economically disadvantaged areas; and

"(7) sources of financial aid, to ensure that the training program offered pursuant to this part is available to all qualified students.

"SEC. 599TT. USE OF FUNDS.

"An institution of higher education may use funds provided under this part to engage in activities described in the application and plan submitted pursuant to section 599SS.

SEC. 599UU. SELECTION AND PRIORITIES.

"In evaluating the applications submitted under this part, the Secretary shall prescribe competitive criteria regarding such evaluation and shall give priority in granting funds to institutions that—

"(1) prepare students for work in economically disadvantaged areas;

"(2) plan to focus their recruitment, retention, and training efforts on disadvantaged students; and

"(3) have demonstrated effectiveness in providing the type of training for which the institution seeks assistance under this part.

"SEC. 599VV. DURATION AND AMOUNT.

"(a) DURATION.—A grant under this part shall be awarded for a period of not less than 3 years nor more than 5 years.

"(b) AMOUNT.—The total amount of the grant awarded under this part to any institution of higher education for any 1 year shall not be less than $500,000 nor more than $1,000,000.

"SEC. 599WW. REPORT.

"An institution of higher education receiving a grant under this part shall submit to the Secretary program reports and evaluations at such times and containing such information as the Secretary may require.

"SEC. 599XX. 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 6 succeeding fiscal years to carry out this part.

"PART P—BORDER TEACHER TRAINING

"SEC. 599YY. COOPERATIVE BORDER TEACHER TRAINING.

"(a) INSTITUTIONAL SUPPORT.—

"(1) IN GENERAL.—The Secretary of Education is authorized to award grants to higher education institutions for the purpose of expanding cooperative educational programs between State education agencies and offices, schools and school systems, postsecondary institutions, appropriate educational entities, and private sector establishments involved in education between the United States and the Republic of Mexico.

"(2) USE OF GRANTS.—Grants awarded under this subsection shall be for the purpose of providing bilateral teaching initiatives and programs that provide teacher training experiences between the educational communities of the United States and those of the Republic of Mexico and to enhance mutually beneficial educational activities involving researchers, scholars, faculty members, teachers, educational administrators, and other specialists to lecture, teach, conduct research, and develop cooperative programs.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal years 1993, 1994, 1995 and such sums as may be necessary for each fiscal year thereafter to carry out this part.

"PART Q—SMALL STATE TEACHING INITIATIVE

"SEC. 599ZZ. MODEL PROGRAMS AND EDUCATIONAL EXCELLENCE.

"(a)(1) PURPOSE.—It is the purpose of this section to provide sufficient funds to small States to develop model programs for educational excellence, teacher training and educational reform.

"(2) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to land grant institutions for the purpose of enhancing and improving the quality of teacher education, training, and recruitment in the Nation's smallest States.

"(3) INSTITUTIONAL USE OF FUNDS.—Eligible land grant institutions receiving funds under this section may use such funds for the development of innovative teaching techniques and materials, preservice and inservice training programs, renovation of training facilities and construction of model classrooms. Special consideration should be given to proposals that include the rehabilitation of historic education facilities.

"(b) ALLOTMENT OF FUNDS.—The Secretary shall allot funds in equal portions among the eligible applicants.

"(c) DEFINITIONS.—

"(1) SMALL STATE.—For the purposes of this section the term "Small State" includes the several States whose population is in each case less than 1,108,500 as reported in the 1990 Census of Population and Housing.

"(2) LAND GRANT INSTITUTIONS.—For the purposes of this section the term "land grant institution" refers to those institutions in each State now receiving benefits under the Act of August 30, 1890 (26 Stat. 417–419, as amended).

"(d) APPLICATION.—IN GENERAL.—Any eligible institution which desires to receive an allotment under this section shall submit to the Secretary an application which—

"(1) certifies that the State educational agency has approved the plan and entered into a partnership for its implementation;

"(2) provides for a process of active discussion and consultation with an advisory committee convened by the State educational agency and the eligible institution;

"(3) describes how the institution will use the funding;

"(4) describes how the plan will be evaluated for dissemination.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this part there are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary in each of the six succeeding fiscal years.".

(b) EXPIRATION DATE.—Effective July 1, 1995, the Alternative Routes to Teacher and Principal Certification and Licensure Act of 1991 (as contained in part H of title V of the Higher Education Act of 1965) is repealed.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

SEC. 601. PURPOSE.

Subsection (b) of section 601 of the Act (20 U.S.C. 1121(b)) is amended by inserting "to develop a pool of international experts to meet national needs" after "fluency".

SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA STUDIES.

Section 602 of the Act (20 U.S.C. 1122) is amended—

(1) in subsection (a)—

(A) in subparagraph (B) of paragraph (1), by inserting "a diverse network of" after "operating";

(B) in paragraph (2), by inserting ", the cost of establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the educational objectives of this section for the purpose of contributing to the teaching and research of the center or program" after "conduct research,"; and

(C) by inserting at the end thereof the following new paragraph:

"(4) The Secretary may make additional grants to centers described in paragraph (1)(A) for—

"(A) programs of linkage or outreach between foreign language, area studies, and other international fields and professional schools and colleges;

"(B) programs of linkage or outreach with two- and four-year colleges and universities;

"(C) programs of linkage or outreach with departments or agencies of State and Federal governments;

"(D) programs of linkage or outreach with the news media, business, professional, or trade associations; and

"(E) summer institutes in foreign area and other international fields designed to carry out the programs of linkage and outreach described in subparagraphs (A), (B), (C) and (D) of this paragraph."; and

(2) in subsection (b)—

(A) in paragraph (1), by amending subparagraph (B) to read as follows:

"(B) Students receiving stipends described in subparagraph (A) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program."; and

(B) by amending paragraph (2) to read as follows:

"(2)(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions to enable such institutions or combinations of such institutions to pay stipends to students beginning with such students' third year of graduate training in any center or program approved by the Secretary under this part.

"(B) Students receiving stipends described in subparagraph (A) shall be individuals engaged in completing advanced degree requirements in foreign language, foreign area studies, or other international fields.

"(C) Stipends described in subparagraph (A) shall be used to complete degree requirements, such as predissertation level studies,

preparation for dissertation research (including the study of less commonly taught languages), dissertation research abroad, and dissertation writing.

"(D) Students may receive stipends described in subparagraph (A) for a maximum of 4 years if such students make satisfactory progress towards completion of a degree program.".

SEC. 603. LANGUAGE RESOURCE CENTERS.

Subsection (a) of section 603 of the Act (20 U.S.C. 1123(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "operating language training centers" and inserting "operating a small number of national language resource and training centers";

(2) in paragraph (3), by striking "proficiency testing" and inserting "performance testing"; and

(3) in paragraph (4), by striking "proficiency tests" and inserting "performance tests.".

SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

Section 604 of the Act (20 U.S.C. 1124) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "strengthen and";

(ii) by inserting immediately after the first sentence the following new sentence: "Such grants shall be awarded to institutions of higher education or combinations of such institutions seeking to create programs or curricula in area studies, foreign languages, and other international fields."; and

(iii) by striking "may be for projects" and inserting "may be used to pay not more than 50 percent of the costs of projects"; and

(B) by amending paragraph (6) to read as follows:

"(6) international education programs designed to develop or enhance linkages between two- and four-year institutions of higher education, or baccalaureate and postbaccalaureate programs or institutions; and";

(2) by amending subsection (b) to read as follows:

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions to enable such institutions or combinations of such institutions to—

"(A) strengthen programs of demonstrated excellence in area studies, foreign languages, and other international fields in order to ensure the self-sustaining maintenance and growth of such programs; and

"(B) enhance the capacity-building and dissemination functions of such programs.

"(2) USE OF GRANT FUNDS.—Grants awarded under this subsection may be used to pay not more than 50 percent of the cost of projects and activities which are an integral part of the programs described in paragraph (1), such as—

"(A) teaching, research, curriculum development, and other related activities;

"(B) strengthening undergraduate majors and minors directly related to the generation of international expertise;

"(C) developing new foreign language courses, especially in languages previously not taught at such institution or combination of such institutions, and improving the quality of existing foreign language programs;

"(D) expanding library and teaching resources;

"(E) establishing linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this subsection;

"(F) developing programs designed to integrate professional and technical education with area studies, foreign languages, and other international fields;

"(G) disseminating curricula materials and program designs to other educational institutions;

"(H) integrating on-campus undergraduate curriculum with study abroad and exchange programs;

"(I) training faculty and staff in area studies, foreign languages, and other international fields; and

"(J) conducting summer institutes in foreign area and other international fields to provide faculty and curriculum development, including the integration of professional and technical education with foreign area and other international studies, and to provide foreign area and other international knowledge or skills to government personnel or private sector professionals in international activities.

"(3) ADDITIONAL GRANTS.—

"(A) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education, combinations of such institutions, or nonprofit educational organizations in partnership with such institutions to expand and strengthen overseas educational opportunities for United States students.

"(B) USES.—The grants made under subparagraph (A) may be used to pay not more than 50 percent of the cost of—

"(i) developing study or internship abroad programs in locations in which such opportunities are not otherwise available or study or internship programs which serve students for which such opportunities are not otherwise available; and

"(ii) developing model programs to enrich or enhance the effectiveness of study abroad programs, including predeparture and post return orientation programs, integration of study abroad into the curriculum of the home institution, credit transfer, improved faculty involvement, cross-disciplinary programs, student selection and advising services, and academic advising.

"(4) CRITERIA.—The Secretary may establish criteria for evaluating programs assisted under this subsection and may require an annual report which evaluates the progress and performance of students in such program as a condition for the award of any grant under this subsection."; and

(3) by adding at the end thereof the following new subsection:

"(d) NON-FEDERAL SHARE.—The non-Federal share of the costs of programs assisted under this section may be provided in cash or with in-kind assistance. Such assistance may be composed of institutional and noninstitutional funds, including State and private contributions.".

SEC. 605. RESEARCH; STUDIES; ANNUAL REPORT.

Section 606 of the Act (20 U.S.C. 1125) is amended—

(1) in subsection (a), by striking paragraphs (1), (2), (3) and (4) and inserting the following:

"(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area and other international specialists in government, education, and the private sector;

"(2) studies and surveys to assess the utilization of graduates of programs supported under this title by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

"(3) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

"(4) research on more effective methods of providing instruction and achieving competency in foreign languages;

"(5) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists; and

"(6) the application of performance tests and standards across all areas of foreign language instruction and classroom use."; and

(2) in subsection (b), by striking "and publish" and inserting ", publish and announce".

SEC. 606. PERIODICALS AND OTHER RESEARCH MATERIALS PUBLISHED OUTSIDE THE UNITED STATES.

(a) AMENDMENT TO HEADING.—The heading for section 607 of the Act is amended by inserting "AND OTHER RESEARCH MATERIALS" after "PERIODICALS".

(b) AMENDMENT TO TEXT.—The text of section 607 of the Act (20 U.S.C. 1125a) is amended—

(1) in subsection (a)—

(A) by striking "609" and inserting "610A";

(B) by striking "1987" and inserting "1992"; and

(C) by striking "4 succeeding" and inserting "6 succeeding";

(2) in subsection (b)—

(A) by striking "subsection (a)" and inserting "section 610A";

(B) by amending paragraph (2) to read as follows:

"(2) to maintain in machine-readable form current bibliographic information on periodicals and other research materials thus acquired, and to enter such information into one or more of the widely available bibliographic data bases;"; and

(C) by amending paragraph (4) to read as follows:

"(4) to make such periodicals and other research materials widely available to researchers and scholars;"; and

(3) by inserting "and other research materials" after "periodicals" each place such term appears.

SEC. 607. EQUITABLE DISTRIBUTION OF FUNDS.

Subsection (a) of section 609 of the Act (20 U.S.C. 1126) is amended—

(1) by inserting "(1)" before "The"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall award grants under this part in such manner as to ensure that an appropriate portion of funds under this part as determined by the Secretary are used to support undergraduate education.".

SEC. 608. AMERICAN OVERSEAS RESEARCH CENTERS.

Part A of title VI of the Act (20 U.S.C. 1121 et seq.) is amended—

(1) by redesignating section 610 as section 610A; and

(2) by inserting after section 609 the following new section:

"SEC. 610. AMERICAN OVERSEAS RESEARCH CENTERS.

"(a) CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with any American Overseas Research Center (which is a consortium of institutions of higher education) (hereafter in this section referred to as a 'Center') to enable a Center to promote postgraduate research, exchanges and area studies.

"(b) USE OF GRANTS.—Grants and contracts made pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a Center or program, including the cost of faculty and staff stipends and salaries, faculty, staff and student travel, the operation and maintenance of overseas facilities, the cost of teaching and research materials, the cost of acquisition, maintenance and preservation of library collections, the cost of bringing visiting scholars and faculty to a Center to teach or to conduct research, the cost of organizing and managing conferences and the cost of publication and dissemination of material for the scholarly and general public.

"(c) LIMITATION.—Grants and contracts awarded pursuant to this section shall be awarded only to Centers which are fully accredited members of the Council of American Overseas Research Centers, Smithsonian Institution.".

SEC. 609. AUTHORIZATION OF APPROPRIATIONS FOR PART A.

Section 610A of the Act (as redesignated in section 608(1)) is amended—

(1) by striking "$49,000,000" and inserting "$62,000,000";

(2) by striking "1987" and inserting "1993"; and

(3) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 610. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.

Subsection (c) of section 612 of the Act (20 U.S.C. 1130-1(c)) is amended—

(1) in subparagraph (C) of paragraph (1), by striking "including but not limited to," and inserting "such as"; and

(2) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(C) the establishment of linkages overseas with institutions of higher education and other organizations that contribute to the educational objectives of this section; and

"(D) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of paragraph (1) of this subsection.".

SEC. 611. EDUCATION AND TRAINING PROGRAMS.

Subsection (b) of section 613 of the Act (20 U.S.C. 1130a(b)) 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 a semicolon; and

(3) by adding at the end the following new paragraphs:

"(11) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this section; and

"(12) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of this section.".

SEC. 612. AUTHORIZATION OF APPROPRIATIONS FOR PART B.

Section 614 of the Act (20 U.S.C. 1130b) is amended—

(1) in subsection (a)—

(A) by striking "$7,500,000" and inserting "$10,000,000";

(B) by striking "1988" and inserting "1993"; and

(C) by striking "4 succeeding" and inserting "6 succeeding"; and

(2) in subsection (b)—

(A) by striking "$5,000,000" and inserting "$6,000,000";

(B) by striking "1987" and inserting "1993"; and

(C) by striking "4 succeeding" and inserting "6 succeeding".

SEC. 613. MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.

Title VI of the Act (20 U.S.C. 1121 et seq.) is amended—

(1) by redesignating part C as part E;

(2) by redesignating section 622 as section 641; and

(3) by inserting after section 614 the following new parts:

"PART C—MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM

"SEC. 621. MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.

"(a) PROGRAM AUTHORIZED.—

"(1) GRANTS.—The Secretary is authorized to award grants to institutions of higher education or consortia thereof that have linkages with institutions operating international studies programs or with a national resource center and have a significant minority student enrollment and a demonstrated commitment to preparing students from underrepresented populations in the foreign service of the United States for entrance into such foreign service, to enable such institutions or consortia to carry out the activities described in section 622.

"(2) COMPETITIVE BASIS.—Grants made pursuant to paragraph (1) shall be awarded on a competitive basis.

"(3) DURATION.—Grants made pursuant to paragraph (1) shall be awarded for a period not to exceed 5 years.

"SEC. 622. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—An institution of higher education or consortium thereof shall use grant funds received under this part for activities that prepare students from underrepresented populations in the foreign service of the United States for entrance into such service. Such activities shall include—

"(1) junior year abroad study;

"(2) fellowships for graduate study;

"(3) internships;

"(4) intensive academic programs such as summer institutes; or

"(5) intensive language training.

"SEC. 623. APPLICATION.

"Each institution of higher education or consortium thereof desiring a grant under this part shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 624. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this part.

"PART D—FULBRIGHT-HAYS EDUCATIONAL AND CULTURAL EXCHANGES

"SEC. 631. FULBRIGHT-HAYS EDUCATIONAL AND CULTURAL EXCHANGES.

"(a) PROGRAM AUTHORIZED.—The President is authorized to provide for promoting modern foreign language training and area studies in United States schools, colleges, and universities by supporting visits and study in foreign countries by teachers and prospective teachers or other persons who have demonstrable need for an international dimension in their education in such schools, colleges, and universities for the purpose of improving their skill in languages and their knowledge of the culture of the people of those countries, and by financing visits by teachers from those countries to the United States for the purpose of participating in foreign language training and area studies in United States schools, colleges, and universities, and promoting advanced research, exchanges, and area studies overseas by consortia of institutions of higher education.

"(b) COORDINATION.—The activities carried out under this part shall be coordinated with the jurisdiction and activities of the J. William Fulbright Foreign Scholarship Board, the Fulbright Commissions, the United States embassies, and any other foreign educational or cultural exchange activities carried out under the Mutual Educational and Cultural Exchange Act.

"(c) TRANSFER.—Any personnel, liabilities, contracts, real property, personal property, assets, and records, employed, held, or used primarily in connection with a function carried out pursuant to section 102(b)(6) of the Mutual Educational and Cultural Exchange Act not located at the Department of Education on the date of enactment of the Higher Education Act Amendments of 1992, shall be transferred to the Secretary. Any personnel so transferred shall be transferred without reduction in classification or compensation for one year after the transfer.

"(d) SPECIAL RULE.—All laws and regulations relating to section 102(b)(6) of the Mutual Educational and Cultural Exchange Act, insofar as such laws and regulations are appropriate and not inconsistent with the provisions of this part, remain in full force and effect and apply with respect to this part. All references in any other Federal law to section 102(b)(6) of the Mutual Educational and Cultural Exchange Act shall be deemed to refer to this part.

"(e) FUNDING.—Any funds appropriated to carry out section 102(b)(6) of the Mutual Educational and Cultural Exchange Act for fiscal year 1991 that are not expended or obligated on the date of enactment of the Higher Education Act Amendments of 1992 shall be paid to the Secretary within 10 days of such date. The Secretary shall be responsible for all obligations incurred under such section after such date.".

SEC. 614. DEFINITIONS.

Section 641 of the Act (as redesignated in section 613(2)) is amended by adding at the end the following new subsection:

"(c) All references to institutions of higher education in this title, unless the context otherwise requires, mean institutions of higher education which are licensed and accredited in the United States, and shall include United States institutions of higher education operating abroad that are licensed and accredited in the United States and which directly contribute to the international education of United States students and faculty in the areas of foreign language or area studies.".

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

SEC. 701. REPEALERS AND REDESIGNATIONS.

(a) IN GENERAL.—Title VII of the Act (20 U.S.C. 1132a et seq.) is amended—

(1) by repealing parts A, B, C, D, G, and J;

(2) by redesignating parts E, F, and H, as parts B, C, and E, respectively;

(3) by redesignating sections 751, 752, 753, 754, 755, 756, 757, 758, 759, and 760, as sections 721, 722, 723, 724, 725, 726, 727, 728, 729, and 730, respectively;

(4) by redesignating sections 761, 762, 763, and 764, as sections 731, 732, 733, and 735, respectively;

(5) be redesignating sections 781, 782 and 783 as sections 751, 752, and 753, respectively.

(b) CONFORMING AMENDMENTS.—

(1) STOCK.—Section 728 of the Act (as redesignated in subsection (a)(3)) is amended—

(A) in subsection (c), by striking "754" and inserting "724"; and

(B) in subsection (e)—

(i) by striking "755" and inserting "725"; and

(ii) by striking "756" and inserting "726";

(2) DEFINITIONS.—(A) Subsection (b) of section 730 of the Act (as redesignated in subsection (a)(3)) is amended by striking "752" and inserting "722".

(B) Section 735 of the Act (as redesignated in subsection (a)(5)) is amended—

(i) in subparagraph (B) of subsection (b)(3), by striking "761" and inserting "731"; and

(ii) in the matter following paragraph (5) of subsection (b), by striking "761" and inserting "731".

(C) Clause (ii) of section 752(6)(B) of the Act (as redesignated in subsection (a)(5)) is amended by inserting "(as such part C was in effect prior to the date of enactment of the Higher Education Amendments of 1992)" after "part C".

(3) SALE OF OBLIGATIONS.—Section 753 of the Act (as redesignated in subsection (a)(5)) is amended by striking "parts C and F" and inserting "part C".

(4) AMENDMENT TO HEADING.—The heading for part C (as redesignated in subsection (a)(2)) is amended to read as follows:

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC, HOUSING, AND OTHER EDUCATIONAL FACILITIES".

SEC. 702. PRIOR RIGHTS AND OBLIGATIONS.

Section 702 of the Act (20 U.S.C. 1132a-1) is amended to read as follows:

"SEC. 702. PRIOR RIGHTS AND OBLIGATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each of the 6 succeeding fiscal years to pay obligations incurred prior to 1987 under parts C and D of this title, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992.

"(b) LEGAL RESPONSIBILITIES.—All entities with continuing obligations incurred under parts A, B, C, and D of this title, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Act Amendments of 1992.".

SEC. 703. IMPROVEMENT OF ACADEMIC AND LIBRARY FACILITIES.

Title VII of the Act is amended by inserting after section 702 the following new part:

"PART A—IMPROVEMENT OF ACADEMIC AND LIBRARY FACILITIES

"SEC. 711. SHORT TITLE.

"This part may be cited as the 'Higher Education Facilities Act of 1992'.

"SEC. 712. FINDINGS.

"The Congress finds that—

"(1) over the past 50 years institutions of higher education have expanded dramatically, while at the same time traditional sources of funding facilities maintenance and repair have declined and even disappeared in some instances;

"(2) in order to meet the rising cost of educating students, resulting mainly from inflation and the higher costs of research, many colleges and universities made the choice to defer renovations and improvements;

"(3) overall, the need for capital investment by institutions of higher education has been estimated to exceed $60,000,000,000;

"(4) the deterioration of facilities has caused valuable research experiments and programs to be postponed, delayed or canceled; and

"(5) the United States' competitive position within the world economy is vulnerable if the necessary research facilities are not available to provide advanced training in the fields of science and technology.

"SEC. 713. ALLOTMENT.

"(a) IN GENERAL.—From the amount appropriated pursuant to the authority of section 717 the Secretary shall allot to each State higher education agency with an approved application—

"(1) 50 percent of such funds on the basis of the population of the State compared to the population of all States; and

"(2) 50 percent of such funds on the basis of the number of students attending institutions of higher education within the State compared to the number of students attending institutions of higher education in all States.

"(b) STATE MATCHING REQUIREMENT.—

"(1) IN GENERAL.—In order to receive an allotment under subsection (a) each State higher education agency shall match, on a dollar for dollar basis, the amount of any allotment received pursuant to such subsection. Such matching funds may be provided by the State higher education agency or an eligible institution.

"(2) CASH REQUIREMENT.—Each State higher education agency receiving funds under this part shall only provide matching funds pursuant to paragraph (1) in cash.

"(c) REALLOTMENT.—Except as provided in subsection (d), any amount that the Secretary determines will not be available to a State higher education agency because such agency fails to comply with the provisions of this part or elects not to participate in the program assisted under this part shall be reallotted to other States in the same manner as the original allotments were made.

"(d) SPECIAL RULE.—

"(1) IN GENERAL.—If the Secretary determines that any eligible institution within a State receives a direct, noncompetitive award of Federal funds for facilities construction, renovation, improvement or repair, then such State shall have the amount of such funds subtracted from the amount of such State's allotment under this section. If the amount of such funds exceeds the State's allotment for any year, the amount by which such funds exceed the State's allotment for such year shall be subtracted from the State's allotment under this section in the subsequent year, or years if necessary.

"(2) SPECIAL REALLOTMENT.—The amount that a State is ineligible to receive by application of paragraph (1) shall be reallotted in the same manner as the original allotments were made among all States.

"SEC. 714. USE OF ALLOTMENT.

"(a) IN GENERAL.—From amounts received pursuant to section 713 each State higher education agency shall award grants, on a competitive basis, to eligible institutions within the State for—

"(1) the improvement, renovation, and repair of academic facilities;

"(2) the improvement and renovation of library facilities, the improvement (including acquisition) of library books and materials, and for interlibrary cooperation and communication;

"(3) broadcast, cable, and satellite interconnection equipment for use in postsecondary educational television and radio programming, including interactive technology and communications; and

"(4) the construction of academic and library facilities if the State determines such construction necessary.

"(b) LOCAL MATCHING REQUIREMENT.—In order to receive a grant under subsection (a) each eligible institution shall match, on a dollar for dollar basis, the amount of any grant received pursuant to such subsection. Such matching funds may be provided by the State higher education agency or the eligible institution.

"(c) PRIORITY.—In awarding grants pursuant to subsection (a) each State higher education agency shall give priority to eligible institutions within the State that serve large numbers or percentages of minority or disadvantaged students.

"(d) EQUITABLE PARTICIPATION.—In awarding grants pursuant to subsection (a) each State higher education agency shall ensure the equitable participation of both public and private eligible institutions within the State.

"(e) DURATION AND LIMITATION.—

"(1) DURATION.—Grants awarded pursuant to subsection (a)—

"(A) shall be awarded for a period which is at least 1 year but not more than 3-years in duration; and

"(B) are renewable.

"(2) LIMITATION.—No eligible institution shall receive more than 1 grant under this part in any 3-year period.

"(f) SUPPLEMENTATION.—Grants awarded pursuant to subsection (a) shall be used to supplement and not supplant other Federal, State, and local funds available for improvement of academic and library facilities.

"SEC. 715. APPLICATION.

"(a) STATE HIGHER EDUCATION AGENCY.—

"(1) APPLICATION.—Each State higher education agency desiring an allotment pursuant to section 713 shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application described in paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought;

"(B) contain assurances that the State higher education agency will comply with the matching requirement described in section 713(b);

"(C) contain a description and the amount of any direct, noncompetitive appropriation of funds for facilities construction, renovation, improvement or repair which the State provides to any eligible institution within the State; and

"(D) contain such other assurances as the Secretary determines necessary to ensure compliance with the provisions of this part.

"(b) ELIGIBLE INSTITUTION.—

"(1) APPLICATION.—Each eligible institution desiring a grant pursuant to section 714 shall submit an application to the State higher education agency at such time, in such manner and accompanied by such information as such agency may reasonably require.

"(2) CONTENTS.—Each application described in paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought;

"(B) contain assurances that the eligible institution will comply with the matching requirement described in section 714(b); and

"(C) contain such other assurances as the State higher education agency determines necessary to ensure compliance with the provisions of this part.

"SEC. 716. DEFINITIONS.

"For the purpose of this part the term 'eligible institution' means an institution of higher education, a museum, a nonprofit research and scientific institution, or a public telecommunications entity.

"SEC. 717. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $400,000,000 for fiscal year 1993 and each of the 6 succeeding fiscal years to carry out the provisions of this part.".

SEC. 704. FEDERAL ASSISTANCE IN THE FORM OF LOANS.

Section 731 of the Act (as redesignated in section 701(a)(4)) is amended—

(1) in subsection (a)—

(A) by striking "undergraduate postsecondary educational institutions" and inserting "institutions of higher education or higher education building agencies"; and

(B) by inserting "graduate and" before "undergraduate academic";

(2) in subsection (b), by striking "undergraduate postsecondary educational institution" and inserting "institution of higher education or higher education building agency";

(3) in the matter preceding paragraph (1) of subsection (c), by striking "undergraduate postsecondary educational institution" and inserting "institution of higher education or higher education building agency";

(4) by striking subsections (d), (e), and (f); and

(5) by adding the following new subsection after subsection (c):

"(d) MATCHING REQUIREMENT.—The Secretary shall not make a loan under this part unless the institution of higher education or higher education building agency receiving such loan provides from non-Federal sources at least 20 percent of the development cost of the project for which the loan is made.".

SEC. 705. APPORTIONMENT PRIORITIES.

Subsection (b) of section 733 of the Act (as redesignated in section 701(a)(4)) is amended—

(1) in paragraph (1), by inserting "graduate and" before "undergraduate"; and

(2) in paragraph (2), by inserting "graduate and" before "undergraduate" each place such term appears.

SEC. 706. FUNDING RULES.

Part C of title VII of the Act (as redesignated in section 701(a)(2)) is amended by adding after section 733 (as redesignated in section 701(a)(4)) the following new section:

"SEC. 734. FUNDING RULES.

"(a) USE OF FUNDS FROM TITLE IV OF THE HOUSING ACT OF 1950.—Funds obtained pursuant to section 401(d) of the Housing Act of 1950 shall be available for the purposes of carrying out this part. For such purposes, the total amount of notes and obligations which the Secretary may continue to issue and have outstanding for purchase by the Secretary of the Treasury shall not exceed the amount issued and outstanding under such section 401(d) as of September 30, 1985. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations issued to obtain funds for loan contracts entered into after the effective date of the Higher Education Act Amendments of 1986 shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the average current yield on outstanding obligations of the United States of comparable maturities in the month preceding the month in which the contract for such loan is made. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this part and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this part. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(b) USE OF FUNDS.—Not less than 10 percent of the funds held by the Secretary under subsection (a) shall be made available for loans under this part for each fiscal year.

"(c) APPROPRIATION TO COVER NOTES AND OBLIGATIONS NOT COVERED BY LOAN REPAYMENT.—There are authorized to be appropriated to the Secretary $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years, together with principal and interest payments made by institutions of higher education or higher education building agencies assisted with loans made under this part (or under title IV of the Housing Act of 1950), for payment on notes and obligations issued by the Secretary under this part or such title.".

SEC. 707. DEFINITIONS.

Section 735 of the Act (as redesignated in section 701(a)(5)) is amended—

(1) in subsection (b), by amending the matter preceding paragraph (1) to read as follows:

"(b) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means—"; and

(2) by inserting at the end thereof the following new subsection:

"(g) GRADUATE ACADEMIC FACILITY.—The term 'graduate academic facility' means a facility at an institution of higher education that offers a program of study that—

"(1) has been in existence for at least 4 years prior to the date for which assistance under this part is sought; and

"(2) leads to a graduate degree.".

SEC. 708. HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING.

Title VII of the Act is further amended by adding before part E (as redesignated by section 701(a)(2)) the following new part:

"PART D—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

"SEC. 741. FINDINGS.

"The Congress finds that—

"(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans;

"(2) the Nation's historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their academic and technical skills, and honing their social and political skills through higher education;

"(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect, deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

"(4) due to their small enrollments, limited endowments and other financial factors normally considered by lenders in construction financing, historically Black colleges and universities often lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

"(5) despite their track record of longstanding and remarkable institutional longevity and viability, historically Black colleges and universities often lack the financial resources necessary to gain access to traditional sources of capital financing such as bank loans and bond financing; and

"(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education.

"SEC. 742. DEFINITIONS.

"For the purposes of this part—

"(1) The term 'eligible institution' means a 'part B institution' as that term is defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

"(2) The term 'loan' means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

"(3) The term 'qualified bond' means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 743(b).

"(4) The term 'funding' means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 743.

"(5) The term 'capital project' means, subject to section 744(b) the repair, renovation, or, in exceptional circumstances replacement, of—

"(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

"(B) instructional equipment, research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

"(C) any other facility, equipment or fixture which is essential to the maintaining of accreditation of the member institution by a nationally recognized accrediting agency or association; and

"(D) any real property or interest therein underlying facilities described in subparagraph (A) or (C).

"(6) The term 'interest' includes accredited value or any other payment constituting interest on an obligation.

"(7) The term 'outstanding', when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

"(8) The term 'designated bonding authority' means the private, for-profit corporation

selected by the Secretary pursuant to section 745(1) for the purpose of issuing taxable construction bonds in furtherance of the purposes of this part.

"SEC. 743. FEDERAL INSURANCE FOR BONDS.

"(a) GENERAL RULE.—Subject to the limitations in section 744, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c) and (d).

"(b) RESPONSIBILITIES OF THE DESIGNATED BONDING AUTHORITY.—The Secretary may not enter into an insurance agreement described in subsection (a) unless the Secretary designates a qualified bonding authority in accordance with sections 745(1) and 746 and the designated bonding authority agrees in such agreement to—

"(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

"(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used—

"(A) to finance the repair, renovation, and, in exceptional cases, replacement of a capital project; or

"(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, replacement of a capital project;

"(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

"(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

"(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

"(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

"(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

"(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

"(8) establish an escrow account—

"(A) into which each eligible institution shall deposit 20 percent of the proceeds of any loan made under this part; and

"(B) the balance of which—

"(i) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

"(ii) when all bonds under this part are retired or canceled, shall be divided among the eligible institutions making deposits into such account on the basis of the amount of each such institution's deposit;

"(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

"(10) comply with the limitations set forth in section 744 of this part; and

"(11) make loans only to eligible institutions under this part in accordance with regulations prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions.

"(c) ADDITIONAL AGREEMENT PROVISIONS.—Any insurance agreement described in subsection (a) of this section shall provide as follows:

"(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

"(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8).

"(3) The Secretary shall create a letter of credit authorizing the Treasury Department to disburse funds to the designated bonding authority or its assignee.

"(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the escrow account to make a scheduled payment of principal and interest on the bonds.

"(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

"(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

"(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

"(6) All fundings under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (4).

"(d) FULL FAITH AND CREDIT PROVISIONS.—Subject to section 743(c)(1) the full faith and credit of the United States is pledged to the payment of all fundings which may be required to be paid under the provisions of this section.

"SEC. 744. LIMITATIONS ON FEDERAL INSURANCE FOR BONDS ISSUED BY THE DESIGNATED BONDING AUTHORITY.

"(a) LIMIT ON AMOUNT.—At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $250,000,000, of which—

"(1) not more than $175,000,000 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

"(2) not more than $75,000,000 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

"(b) LIMITATION ON CREDIT AUTHORITY.—The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

"(c) RELIGIOUS ACTIVITY PROHIBITION.—No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

"(d) DISCRIMINATION PROHIBITION.—No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or handicapping condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

"SEC. 745. AUTHORITY OF THE SECRETARY.

"In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary—

"(1) shall, within 120 days of enactment of the Higher Education Amendments of 1991, publish in the Federal Register a notice and request for proposals for any private for-profit organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

"(A) specify the time and manner for submission of proposals; and

"(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

"(2) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

"(3)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

"(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that—

"(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

"(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair

the civil rights under the State or local laws of the inhabitants on such property;

"(4) may sell, exchange, or lease real or personal property and securities or obligations; and

"(5) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved.

"SEC. 746. PROHIBITION.

"No institution that receives a loan under this part shall also receive a grant under part A of this title.".

SEC. 709. FORGIVENESS OF CERTAIN LOANS.

Part E of title VII of the Act (as redesignated in section 701(a)(2)) is amended—

(1) in section 741 (as redesignated in section 701(a)(5))—

(A) in subsection (a), by striking "part A or B" and inserting "part A"; and

(B) in subsection (b), by striking "part A or B" and inserting "part A"; and

(2) by adding at the end the following new section:

"SEC. 744. FORGIVENESS OF CERTAIN LOANS.

"(a) FORGIVENESS AUTHORIZED.—The Secretary may forgive the entire balance due, or any portion thereof, on any loan made under part C (as such part was in effect prior to the date of enactment of the Higher Education Amendments of 1992), part F (as such part was in effect prior to the date of enactment of the Higher Education Amendments of 1992), or the College Housing and Academic Facilities Loan program whenever the Secretary determines that—

"(1) the institution is current in its payments to the Department of Education or has entered into a moratorium agreement with the Secretary with respect to such payments; and

"(2) the outstanding indebtedness equals at least one-third the annual operating budget of the institution seeking forgiveness of its housing loan indebtedness and in the judgment of the Secretary the survival of the institution is threatened.

"(b) DEFINITION.—For the purpose of this section, the term 'institution' includes an institution of higher education and an undergraduate postsecondary educational institution.

"(c) APPLICATION.—Each institution requesting forgiveness of any loan under this section shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.".

TITLE VIII—COOPERATIVE EDUCATION

SEC. 801. COOPERATIVE EDUCATION.

Title VIII of the Act (20 U.S.C. 1133 et seq.) is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"SEC. 801. STATEMENT OF PURPOSE; DEFINITION.

"(a) PURPOSE.—It is the purpose of this title to award grants to institutions of higher education or combinations of such institutions to encourage such institutions to develop and make available to as many of their students as possible work experience that will aid such students in future careers and will enable such students to support themselves financially while in school.

"(b) DEFINITION.—For the purpose of this title the term 'cooperative education' means the provision of alternating or parallel periods of academic study and public or private employment in order to give students work experiences related to their academic or occupational objectives and an opportunity to earn the funds necessary for continuing and completing their education.

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"SEC. 802. AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS.

"(a) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this title $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(b) RESERVATIONS.—Of the amounts appropriated in each fiscal year—

"(1) not less than 50 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions described in section 803(a)(1)(A) for cooperative education under section 803;

"(2) not less than 25 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions described in section 803(a)(1)(B) for cooperative education under section 803;

"(3) not to exceed 11 percent shall be available for demonstration projects under paragraph (1) of section 804(a);

"(4) not to exceed 11 percent shall be available for training and resource centers under paragraph (2) of section 804(a); and

"(5) not to exceed 3 percent shall be available for research under paragraph (3) of section 804(a).

"(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

"SEC. 803. GRANTS FOR COOPERATIVE EDUCATION.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized—

"(A) from the amount available under section 802(b)(1) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education or to combinations of such institutions that have not received a grant under this paragraph in the 10-year period preceding the date for which a grant under this section is requested to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions; and

"(B) from the amount available under section 802(b)(2) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education or to combinations of such institutions that—

"(i) are operating an existing cooperative education program as determined by the Secretary; or

"(ii) have received a grant under this title in the 5 preceding fiscal years,

to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions.

"(2) PROGRAM REQUIREMENT.—Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving students work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

"(3) AMOUNT OF GRANTS.—(A) The amount of each grant awarded pursuant to paragraph (1)(A) to any institution of higher education or combination of such institutions in any fiscal year shall not exceed $500,000.

"(B) The Secretary shall award grants in each fiscal year to each institution of higher education or combination of such institutions described in paragraph (1)(B) that has an application approved under subsection (b) in an amount which bears the same relation to the amount reserved pursuant to section 802(b)(2) in such fiscal year as the number of unduplicated students placed in cooperative education programs by such institution of higher education or combination of such institutions in the preceding fiscal year bears to the total number of all unduplicated students placed in such programs by all such institutions or combinations in such preceding year.

"(4) SPECIAL RULES.—(A) Notwithstanding any other provision of law, no institution of higher education or combination of such institutions shall receive a grant pursuant to paragraph (1)(B) in any fiscal year in an amount which exceeds 25 percent of such institution's or combination's cooperative education program's personnel and operating budget for the preceding fiscal year.

"(B) The Secretary shall not award grants pursuant to paragraphs (1)(A) and (1)(B) to the same institution of higher education or combination of such institutions in any one fiscal year.

"(b) APPLICATIONS.—(1) Except as provided in paragraph (2), each institution of higher education or combination of institutions desiring to receive a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

"(A) set forth the program or activities for which a grant is authorized under this section;

"(B) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

"(C) provide that the applicant will expend during such fiscal year for the purpose of such program or activities not less than the amount expended for such purpose during the previous fiscal year;

"(D) describe the plans which the applicant will carry out to assure, and contain a formal statement of the institution's commitment which assures, that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1) at a level which is not less than the total amount expended for such program during the first year such program was assisted under this section;

"(E) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate or associate degree candidates and who carry at least one-half the normal full-time academic workload;

"(F) provide that the applicant will—

"(i) make such reports as may be essential to ensure that the applicant is complying with the provisions of this section, including the reports for the second and each succeeding fiscal year for which the applicant receives a grant data with respect to the impact of the cooperative education program in the previous fiscal year, including—

"(I) the number of unduplicated students enrolled in the cooperative education program;

"(II) the number of unduplicated students placed in cooperative education program jobs;

"(III) the number of employers who have hired cooperative education program students;

"(IV) the income for students derived from working in cooperative education program jobs; and

"(V) the increase or decrease in the number of students placed in cooperative education program jobs in each fiscal year compared to the previous fiscal year; and

"(ii) keep such records as are essential to ensure that the applicant is complying with the provisions of this title, including the notation of cooperative education program employment on the student's transcript;

"(G) describe the extent to which programs in the academic discipline for which the application is made have had a favorable reception by public and private sector employers;

"(H) describe the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit;

"(I) describe the plans that the applicant will carry out to evaluate the applicant's cooperative education program at the end of the grant period and to disseminate the results of such evaluation;

"(J) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(K) include such other information as is essential to carry out the provisions of this title.

"(2) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications from institutions of higher education or combinations thereof which demonstrate a commitment to serving special populations such as women, individuals with disabilities, and black, Mexican-American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian students.

"(c) DURATION OF GRANTS; FEDERAL SHARE.—

"(1) DURATION OF GRANTS.—No individual institution of higher education may receive, individually or as a participant in a combination of such institutions—

"(A) a grant pursuant to subsection (a)(1)(A) for more than 5 fiscal years; or

"(B) a grant pursuant to subsection (a)(1)(B) for more than 5 fiscal years.

"(2) FEDERAL SHARE.—The Federal share of a grant under this section may not exceed—

"(A) 85 percent of the cost of carrying out the application in the first year the applicant receives a grant under this section;

"(B) 70 percent of such cost in the second such year;

"(C) 55 percent of such cost in the third such year;

"(D) 40 percent of such cost in the fourth such year; and

"(E) 25 percent of such cost in the fifth such year.

"(3) SPECIAL RULE.—Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

"(d) MAINTENANCE OF EFFORT.—If the Secretary determines that a recipient of funds under this section has failed to maintain the fiscal effort described in subsection (b)(1)(C), then the Secretary may elect not to make grant payments under this section to such recipient. Pursuant to subsection (b)(1)(D), each recipient of funds under this section shall provide to the Secretary information documenting such recipient's maintenance of fiscal effort beyond the 5-year period of the grant as required by the Secretary through notification in the Federal Register.

"SEC. 804. DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH.

"(a) AUTHORIZATION.—The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

"(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education from the amounts available in each fiscal year under section 802(b)(3);

"(2) the conduct of training and resource centers designed to—

"(A) train personnel in the field of cooperative education;

"(B) improve materials used in cooperative education programs if such improvement is conducted in conjunction with other activities described in this paragraph;

"(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

"(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need; and

"(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with another institution of higher education in order to (i) assist the institution other than the comprehensive cooperative education institution to develop and expand an existing program of cooperative education, or (ii) establish and improve or expand comprehensive cooperative education programs,

from the amounts available in each fiscal year under section 802(b)(4); and

"(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 802(b)(5).

"(b) ADMINISTRATIVE PROVISION.—

"(1) IN GENERAL.—To carry out this section, the Secretary may—

"(A) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

"(B) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

"(2) LIMITATION.—(A) The Secretary may not use more than 3 percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(A).

"(B) The Secretary may use not more than 3 percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(B).

"(c) SUPPLEMENT NOT SUPPLANT.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.".

TITLE IX—GRADUATE PROGRAMS

SEC. 901. GRADUATE PROGRAMS.

Title IX of the Act (20 U.S.C. 1134 et seq.) is amended to read as follows:

"TITLE IX—GRADUATE PROGRAMS

"SEC. 901. PURPOSE AND ADMINISTRATIVE PROVISIONS.

"(a) PURPOSE.—It is the purpose of this title to—

"(1) foster and support graduate and professional education for two distinct national needs;

"(2) provide incentives and support for United States citizens to complete doctoral degree programs leading to academic careers, especially women and students from underrepresented groups; and

"(3) provide support for students from underrepresented groups to complete masters and professional degree programs.

"(b) ADMINISTRATIVE PROVISIONS.—

"(1) COORDINATED ADMINISTRATION.—In carrying out the purposes of this title, the Secretary shall provide for coordinated administration and regulation of graduate programs under this title to ensure that the programs are carried out in a manner most compatible with academic practices.

"(2) ADMINISTRATIVE AND TECHNICAL EMPLOYEES.—For purposes of carrying out this title, the Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such part. Such employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"PART A—GRANTS TO ENCOURAGE PARTICIPATION IN GRADUATE EDUCATION

"Subpart 1—Patricia Roberts Harris Fellowships

"SEC. 911. STATEMENT OF PURPOSE; DESIGNATION OF AWARDS.

"(a) PURPOSE.—It is the purpose of this subpart to provide, through institutions of higher education, a program of grants to assist in making available the benefits of a postbaccalaureate education to graduate and professional students who demonstrate financial need.

"(b) DESIGNATION.—Each recipient of such an award under this subpart shall be known as a 'Patricia Roberts Harris Fellow'.

"SEC. 912. PROGRAM AUTHORIZED.

"(a) GRANTS BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this subpart.

"(2) RESERVATIONS.—The Secretary shall reserve—

"(A) 50 percent of the amount appropriated pursuant to section 914 to award grants to institutions of higher education to enable such institutions to make awards for masters and professional study; and

"(B) 50 percent of such amount to award grants to such institutions to enable such institutions to make awards for doctoral study.

"(b) DISTRIBUTION AND AMOUNTS OF GRANTS.—

"(1) EQUITABLE DISTRIBUTION.—In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

"(2) SPECIAL RULE.—To the maximum extent practicable, the Secretary shall award at least 15 percent of the amount appropriated pursuant to the authority of section 914 to institutions of higher education operating programs for postbaccalaureate education leading to careers that serve the public interest.

"(3) REALLOTMENT.—Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this subpart, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this subpart.

"(c) APPLICATIONS.—Any eligible institution of higher education offering a program of postbaccalaureate study leading to a graduate or professional degree may apply for grants under this subpart. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Such application may be made on behalf of professional schools, academic departments, or similar organizational units within such institution meeting the requirements of this subsection, including interdisciplinary or interdepartmental programs.

"(d) SELECTION OF APPLICATIONS.—In making grants to institutions of higher education, the Secretary shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond secondary school;

"(2) take into account present and projected needs for highly trained individuals in academic career fields of high national priority; and

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

"(e) PRIORITIES FOR FELLOWSHIPS.—The Secretary shall assure that, in making grants under this subpart, awards are made to—

"(1) individuals who plan to pursue a career in public service; and

"(2) individuals from traditionally underrepresented groups, as determined by the Secretary, undertaking graduate or professional study.

"(f) INSTITUTIONAL PAYMENTS.—

"(1) IN GENERAL.—Beginning in fiscal year 1993, the Secretary shall (in addition to the award paid to each individual pursuant to a grant under this subpart) pay $8,000 to the institution of higher education at which such individual is pursuing a course of education.

"(2) ADJUSTMENT.—The Secretary shall adjust the payment made pursuant to paragraph (1) annually in accordance with inflation as determined by the Department of Labor's Consumer Price Index.

"(g) USE FOR RELIGIOUS PURPOSES PROHIBITED.—No fellowship shall be awarded under this subpart for study at a school or department of divinity.

"SEC. 913. AWARD OF FELLOWSHIPS.

"(a) AWARDS BASED ON NEED.—An institution of higher education receiving funds under this subpart shall make available to financially needy graduate and professional students an award determined by such institution of higher education, except that no award under this subpart may exceed $14,000 or the fellowship recipient's demonstrated level of need according to measurements of need as approved by the Secretary, whichever is less.

"(b) REQUIREMENTS FOR AWARDS.—

"(1) MASTER'S OR PROFESSIONAL DEGREE.—No student enrolled in graduate study leading to a master's or professional degree shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 2 years, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one 12-month period, in addition to the 2-year period for study or research set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this subpart. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient.

"(2) DOCTORAL DEGREE.—No student enrolled in graduate study leading to a doctoral degree shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to study, research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), or dissertation work in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, consisting of not more than 2 years of support for study or research, and not more than 1 year of support for dissertation work provided that the student has attained satisfactory progress to the dissertation stage. The institution shall provide 2 years of support for each student, including at least 1 year of supervised teaching, following the 2 years of predissertation support under this subpart. The Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one 12-month period, in addition to the 2-year period for study or research set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this subpart. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient.

"SEC. 914. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 2—Assistance for Training in the Legal Profession

"SEC. 921. PROGRAM AUTHORIZED.

"(a) GRANTS AND CONTRACTS.—The Secretary is authorized to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

"(b) USE OF FUNDS.—Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal profession;

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training;

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training;

"(4) providing, for not more than 6 months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist such individuals to complete successfully such training for the legal profession;

"(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary; and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in paragraphs (1) through (5).

"SEC. 922. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 3—Law School Clinical Experience Programs

"SEC. 925. PROGRAM AUTHORIZATION.

"(a) GRANT AND CONTRACT PURPOSES.—The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 percent of the costs of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. Preference shall be given to those programs providing legal experience in the preparation and trial of actual cases, in-

cluding administrative cases and the settlement of controversies outside the courtroom. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

"(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

"(2) office or house counsel problems; or

"(3) factual investigation, empirical research, or policy or legal analysis.

"(b) USE OF FUNDS.—Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) LIMITATIONS ON AMOUNTS.—No law school may receive more than $100,000 in any fiscal year pursuant to this subpart, no part of which may be used to pay for indirect costs or charges.

"(d) DEFINITION.—For the purpose of this subpart, the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

"SEC. 926. APPLICATIONS.

"(a) REQUIREMENTS.—A grant or contract authorized by this subpart may be made by the Secretary upon application which—

"(1) is made at such time or times and contains such information as the Secretary may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subpart; and

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out functions under this subpart, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) DISTRIBUTION OF GRANTS AND CONTRACTS.—The Secretary shall allocate grants or contracts under this subpart in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purpose of this subpart.

"SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"PART B—GRANTS TO ENHANCE THE QUALITY AND DIVERSITY OF ACADEMIC FACULTY

"Subpart 1—Jacob K. Javits Fellows Program

"SEC. 931. AWARD OF JACOB K. JAVITS FELLOWSHIPS.

"(a) NUMBER AND TIMING OF AWARDS.—The Secretary is authorized to award fellowships in accordance with the provisions of this subpart for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

"(b) DESIGNATION OF FELLOWS.—Students receiving awards under this subpart shall be known as 'Jacob K. Javits Fellows'.

"(c) INTERRUPTIONS OF STUDY.—The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

"SEC. 932. ALLOCATION OF FELLOWSHIPS.

"(a) FELLOWSHIP BOARD.—

"(1) APPOINTMENT.—The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board consisting of 9 individuals representative of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly knowledgeable about and have experience in doctoral education in arts, humanities, and social sciences.

"(2) DUTIES.—The Board shall—

"(A) establish general policies for the program established by this subpart and oversee its operation;

"(B) establish general criteria for the distribution of fellowships among eligible academic fields identified by the Board;

"(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows; and

"(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

"(3) CONSULTATIONS.—In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the Nationa Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institution, learned societies, and professional organizations.

"(4) TERM.—The term of office of each member of the Board shall be 4 years; except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

"(5) INITIAL MEETING; VACANCY.—The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until 1 year after the date of their appointment. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

"(6) QUORUM; ADDITIONAL MEETINGS.—(A) A majority of the members of the Board shall constitute a quorum.

"(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

"(7) COMPENSATION.—Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(b) USE OF SELECTION PANELS.—The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

"(c) FELLOWSHIP PORTABILITY.—Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

"SEC. 933. STIPENDS.

"(a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this subpart such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed $14,000 or the fellow's demonstrated level of need according to measurements of need as approved by the Secretary.

"(b) INSTITUTIONAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education, for each individual awarded a fellowship for pursuing a course at such institution, $8,000 with respect to such awards made for the fiscal year ending September 30, 1993, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index, except that such amount charged to a fellowship recipient and collected from such recipient for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payment to the institution under this subsection.

"(2) SPECIAL RULE.—Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

"SEC. 934. FELLOWSHIP CONDITIONS.

"(a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under the provisions of this subpart shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not en-

gaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this subpart. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

"SEC. 935. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $15,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 2—Graduate Assistance in Areas of National Need

"SEC. 941. PURPOSE.

"In order to sustain and enhance the capacity for teaching and research in areas of national need, it is the purpose of the subpart to provide, through academic departments and programs of institutions of higher education, a fellowship program to assist graduate students of superior ability who demonstrate financial need.

"SEC. 942. GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS.

"(a) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make grants to academic departments and programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this subpart.

"(2) ADDITIONAL GRANTS.—The Secretary may also make grants to such departments and programs and to other units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and is exempt from tax under section 501(a) of such Code;

"(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

"(C) is not a private foundation;

"(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

"(E) has necessary research resources not otherwise readily available in such institutions to such students.

"(b) AWARD AND DURATION OF GRANTS.—

"(1) AWARDS.—The principal criterion for the allocation of awards shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in making such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

"(2) DURATION.—The Secretary shall approve a grant recipient under this subpart for a 3-year period. From the sums appropriated under this subpart for any fiscal year, the Secretary shall not make a grant to any academic department or program of an institution of higher education of less than $100,000 or greater than $750,000 per fiscal year.

"(3) REALLOTMENT.—Whenever the Secretary determines that an academic department or program of an institution of higher education is unable to use all of the amounts available to it under this subpart, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments and programs of institutions which can use the grants authorized by this subpart.

"(c) PREFERENCE TO CONTINUING GRANT RECIPIENTS.—

"(1) IN GENERAL.—The Secretary shall make new grant awards under this subpart only to the extent that each previous grant recipient has received continued funding in accordance with subsection (b)(2).

"(2) RATABLE REDUCTION.—To the extent that appropriations under this subpart are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded by subsection (b)(2).

"SEC. 943. INSTITUTIONAL ELIGIBILITY.

"(a) ELIGIBILITY CRITERIA.—Any academic department or program of an institution of higher education that offers a program of postbaccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b)) may apply for a grant under this subpart. No department or program shall be eligible for a grant unless the program of postbaccalaureate study has been in existence for at least 4 years at the time of application for assistance under this subpart.

"(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with the National Science Foundation, the National Academy of Sciences, the National Endowments for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need. The Secretary shall designate such areas of national need on the basis of the projected need for faculty and scientists due to replacement demands and emerging fields. In making such designations, the Secretary shall take into account the extent to which the interest is compelling and the extent to which other Federal programs support postbaccalaureate study in the area concerned.

"SEC. 944. CRITERIA FOR APPLICATIONS.

"(a) SELECTION OF APPLICATIONS.—The Secretary shall make grants to academic departments and programs of institutions of higher education on the basis of applications submitted in accordance with subsection (b). Applications shall be ranked on program quality by geographically balanced review panels of nationally recognized scholars. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

"(b) CONTENTS OF APPLICATIONS.—An academic department or program of an institution of higher education, in its application for a grant, shall—

"(1) describe the current academic program of the applicant for which the grant is sought;

"(2) provide assurances that the applicant will provide, from other non-Federal funds, for the purposes of the fellowship program under this subpart an amount equal to at least 25 percent of the amount of the grant received under this subpart;

"(3) set forth policies and procedures to assure that, in making fellowship awards under this subpart the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

"(4) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will make awards to individuals who—

"(A) have financial need, as determined under criteria developed by the institution;

"(B) have excellent academic records in their previous programs of study;

"(C) plan teaching or research careers; and

"(D) plan to pursue the highest possible degree available in their course of study;

"(5) set forth policies and procedures to ensure that Federal funds made available under this subpart for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this subpart and in no case to supplant those funds;

"(6) provide assurances that, in the event that funds made available to the academic department or program under this subpart are insufficient to provide the assistance due a student under the commitment entered into between the academic department or program and the student, the academic department or program will endeavor, from any funds available to it, to fulfill the commitment to the student;

"(7) provide that the applicant will comply with the limitations set forth in section 945;

"(8) provide assurances that the academic department will provide at least 1 year of supervised training in instruction for students, to be provided from non-Federal funds available to such department; and

"(9) include such other information as the Secretary may prescribe.

"SEC. 945. AWARDS TO GRADUATE STUDENTS.

"(a) COMMITMENTS TO GRADUATE STUDENTS.—

"(1) IN GENERAL.—An academic department or program of an institution of higher education shall make commitments to graduate students (including students pursuing a doctoral degree after having completed a master's degree program at an institution of higher education) at any point in their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

"(2) SPECIAL RULE.—No such commitments shall be made to students under this subpart unless the academic department or program has determined adequate funds are available to fulfill the commitment either from funds received or anticipated under this subpart, or from institutional funds.

"(b) AMOUNT OF STIPENDS.—The size of the stipend awarded to students for an individual academic year shall be determined by the institution, except that no annual stipend award under this subpart may exceed $14,000 or the student's level of need according to measurements of need as approved by the Secretary, whichever is less.

"(c) ACADEMIC PROGRESS REQUIRED.—Notwithstanding the provisions of subsection (a), no student shall receive an award—

"(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or

"(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

"SEC. 946. ADDITIONAL ASSISTANCE FOR COST OF EDUCATION.

"(a) IN GENERAL.—The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship at such institution, $8,000 with respect to such awards made for the fiscal year ending September 30, 1993, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index.

"(b) USE FOR OVERHEAD PROHIBITED.—Funds made available pursuant to this subpart may not be used for the general operational overhead of the academic department or program.

"SEC. 947. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $35,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this subpart.

"Subpart 3—Dennis Chavez Fellowship Program

"SEC. 951. FELLOWSHIPS AUTHORIZED.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall make multiyear grants to institutions of higher education or consortia of such institutions and nonprofit entities organized to carry out the purposes of this subpart, with a demonstrated record of enhancing the access of individuals from underrepresented groups to graduate education to enable such institutions to—

"(A) identify talented faculty from underrepresented groups who wish to continue in the higher education professorate and obtain a doctoral degree;

"(B) identify talented baccalaureate degree recipients from underrepresented groups who have financial need and who wish to obtain a doctoral degree and enter the higher education professorate; and

"(C) provide the individuals described in paragraphs (1) and (2) with a fellowship to assist such students in obtaining a doctoral degree.

"(2) FELLOWSHIPS.—Each institution of higher education or consortium receiving a grant under this subpart shall award the fellowships described in paragraph (1)(C) in an amount equal to $10,000 or an amount based on the financial need of the recipient (determined by the institution in accordance with measurements of need approved by the Secretary), whichever is less.

"(b) PRIORITY.—In making grants pursuant to subsection (a), the Secretary shall give priority to applications describing programs that—

"(1) provide a tuition waiver and an assistantship to each fellowship recipient;

"(2) provide a stipend to each fellowship recipient from resources other than the resources of the Federal Government;

"(3) emphasize courses of study leading to a doctoral degree in disciplines in which faculty from underrepresented groups are underrepresented; and

"(4) describe steps to ensure that a fellowship recipient will teach at an institution of higher education where minority undergraduate students are likely to benefit from the educational experience and academic achievements of the fellowship recipient.

"(c) GEOGRAPHIC DISTRIBUTION.—In awarding grants pursuant to subsection (a), the Secretary shall ensure—

"(1) an equitable geographic distribution of such grants; and

"(2) that both public and private institutions of higher education are fairly represented among the grant recipients.

"(d) SPECIAL RULE.—

"(1) EQUITABLE DISTRIBUTION.—Each institution of higher education or consortium receiving a grant under this subpart shall ensure that during the period of the grant there is an equitable distribution of fellowships under this subpart among underrepresented groups.

"(2) CONSTRUCTION.—Nothing in this section shall be interpreted to require any institution of higher education or consortium to grant preference or disparate treatment to the members of one group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this subpart, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

"(e) DEFINITION.—For the purposes of this subpart, the term 'underrepresented group' means any group of individuals underrepresented in graduate education or the higher education professorate.

"SEC. 952. APPLICATION.

"(a) APPLICATION REQUIRED.—Each institution of higher education or consortium desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner and containing such information as the Secretary may by regulation reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall contain—

"(1) the institution of higher education's or consortium's plan for identifying and recruiting faculty and baccalaureate degree recipients who may participate in the program assisted under this subpart;

"(2) a description of the program or programs of doctoral study that the institution of higher education or consortium plans to offer in the institution's doctoral program;

"(3) the institution of higher education's or consortium's plan for using minority faculty and other faculty as advisors and academic resources in support of the program assisted under this subpart;

"(4) a description of other resources of the institution of higher education or consortium, including tuition waivers, assistantships or financial aid other than loans, that such institution or consortium shall make available to fellowship recipients; and

"(5) a description of the method such institution or consortium shall use to determine a student's financial need.

"SEC. 953. FELLOWSHIP AGREEMENT.

"Each recipient of a fellowship under this subpart shall enter into an agreement with the institution of higher education or consortium awarding such fellowship under which the fellowship recipient shall—

"(1) in the case of a fellowship recipient described in section 951(a)(1)(A), within a 5-year period after completing the doctoral degree for which the fellowship under this subpart was awarded, teach, for a period of not less than 2 years for each year for which financial assistance under this subpart was received, in a public or private nonprofit institution of higher education that has a significant minority enrollment;

"(2) in the case of a fellowship recipient described in section 951(a)(1)(B), within a 5-year period after completing the doctoral degree for which the fellowship under this subpart was awarded, teach, for a period of not less than 2 years for each year for which financial assistance under this subpart was received, in a public or private nonprofit institution of higher education;

"(3) agree to provide the Secretary with evidence of compliance with the provisions of paragraph (1) or (2); and

"(4) repay all or part of the fellowship received, plus interest, and if applicable reasonable collection fees, under regulations issued by the Secretary, in the event the conditions of paragraph (1) or (2) are not complied with, except as provided in section 955.

"SEC. 954. FELLOWSHIP REPAYMENT PROVISIONS.

"A recipient of a fellowship under this subpart found by the Secretary to be in noncompliance with the agreement entered into under section 953(1) or 953(2) shall be required to repay a pro rata amount of such fellowship assistance received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of title IV) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

"SEC. 955. EXCEPTIONS TO REPAYMENT PROVISIONS.

"(a) DEFERRAL DURING CERTAIN PERIODS.—A recipient of a fellowship under this subpart shall not be considered in violation of the agreement entered into pursuant to section 953 during any period in which the recipient—

"(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

"(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months with an institution of higher education that has a significant minority enrollment;

"(6) is engaged in full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or a public or private nonprofit preschool education program; or

"(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

"(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any fellowship assistance received under this subpart if the recipient becomes permanently totally disabled as established by the sworn affidavit of a qualified physician.

"SEC. 956. 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 6 succeeding fiscal years to carry out this subpart.".

TITLE X—POSTSECONDARY IMPROVEMENT PROGRAMS

SEC. 1001. POSTSECONDARY IMPROVEMENT PROGRAMS.

Title X of the Act (20 U.S.C. 1135 et seq.) is repealed.

TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

SEC. 1101. URBAN COMMUNITY SERVICE.

Title XI of the Act (20 U.S.C. 1136 et seq.) is amended to read as follows:

"TITLE XI—URBAN COMMUNITY SERVICE

"SEC. 1101. FINDINGS.

"The Congress finds that—

"(1) the Nation's urban centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

"(2) there are, in the Nation's urban institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

"(3) the skills, knowledge and experience in these eligible institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

"(4) the application of such skills, knowledge and experience is hindered by the limited funds available to redirect attention to solutions to such urban problems.

"SEC. 1102. PURPOSE.

"It is the purpose of this title to provide incentives to urban institutions to enable such institutions to devise and implement solutions to pressing and severe problems in their communities.

"SEC. 1103. APPLICATION FOR URBAN COMMUNITY SERVICE GRANTS.

"(a) APPLICATION.—

"(1) IN GENERAL.—An eligible institution seeking assistance under this title shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation.

"(2) CONTENTS.—The application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) include documentation of the formation of a consortium that includes, in addition to the eligible institution, one or more of the following entities:

"(i) An urban school system.

"(ii) A local government.

"(iii) A business or other employer.

"(iv) A nonprofit institution.

"(3) WAIVER.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this title.

"(b) PRIORITY IN SELECTION OF APPLICATIONS.—The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs.

"(c) SELECTION PROCEDURES.—The Secretary shall, by regulation, develop a formal procedure for the submission of applications under this title and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this title.

"SEC. 1104. ALLOWABLE ACTIVITIES.

"(a) IN GENERAL.—Funds made available under this title shall be used to design and implement programs to assist urban communities to address pressing and severe problems.

"(b) AUTHORIZED ACTIVITIES.—Activities conducted with funds made available under this title may include research on, or planning and implementation of, resource exchanges, technology transfers, technical training, the delivery of services, or technical assistance in the following areas:

"(1) Work force preparation.

"(2) Urban poverty and the alleviation of such poverty.

"(3) Health care, including delivery and access.

"(4) Underperforming school systems and students.

"(5) Problems faced by the elderly and individuals with disabilities in urban settings.

"(6) Problems faced by families and children.

"(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

"(8) Urban housing.

"(9) Urban infrastructure.

"(10) Economic development.

"(11) Urban environmental concerns.

"(12) Other problem areas which participants in the consortium described in section 1103(a)(2)(B) concur are of high priority in the urban area.

"(13)(A) Problems faced by individuals with disabilities regarding accessibility to institutions of higher education and other public and private community facilities.

"(B) Amelioration of existing attitudinal barriers that prevent full inclusion by individuals with disabilities with their community.

"SEC. 1105. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this title and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with officials of other Federal agencies and with non-Federal organizations to ensure that the panel membership shall be geographically balanced and be composed of representatives from public and private institutions of elementary, secondary, and higher education, labor, business, and State and local governments, who have expertise in urban community service or in education.

"SEC. 1106. DISBURSEMENT OF FUNDS.

"(a) LIMITATION ON AMOUNTS.—

"(1) DURATION.—Each grant awarded under this title may be awarded for a period not to exceed 3 years.

"(2) ANNUAL AMOUNT.—The Secretary shall not make a grant payment under this title which exceeds $500,000 in any 1 year.

"(b) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this title in a manner that achieves equitable geographic distribution of such grants.

"SEC. 1107. DESIGNATION OF URBAN GRANT INSTITUTIONS.

"The Secretary shall publish a list of the eligible institutions which are awarded grants under this title and shall designate these institutions of higher education as 'Urban Grant Institutions' for the duration of their grant award. The Secretary shall establish a national network of Urban Grant Institutions so that the results of individual projects achieved in one metropolitan area can then be generalized, disseminated, replicated and applied throughout the Nation.

"SEC. 1108. DEFINITIONS.

"As used in this title:

"(1) URBAN AREA.—The term 'urban area' means a metropolitan statistical area having a population of not less than 150,000; or, in any State which does not have metropolitan statistical area which has such a population, the entity of the State having an agreement or submitting an application under section 1203 may, or, if no such entity has an agreement, the Secretary shall designate one urban area for the purpose of this title.

"(2) ELIGIBLE INSTITUTION.—The term 'eligible institution' means a nonprofit institution of higher education, or a consortium of such institutions, any one of which meets all the requirements of this paragraph, which—

"(A) is located in an urban area;

"(B) draws a substantial portion of its undergraduate students from the urban area in which such institution is located, or from contiguous areas;

"(C) carries out programs to make postsecondary educational opportunities more accessible to residents of such urban area, or contiguous areas;

"(D) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas;

"(E) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

"(F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and the people of such areas.

"SEC. 1109. 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 6 succeeding fiscal years to carry out the provisions of this title.".

TITLE XII—GENERAL PROVISIONS AND DEMONSTRATION PROGRAMS

SEC. 1201. DEFINITIONS.

Section 1201 of the Act (20 U.S.C. 1141) is amended by adding at the end the following new subsections:

"(i) DISABILITY.—The term 'disability' has the meaning given the term in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).

"(j) STATE HIGHER EDUCATION AGENCY.—The term 'State higher education agency' means the officer or agency primarily responsible for the State supervision of higher education.

"(k) SERVICE-LEARNING.—The term 'service-learning' has the same meaning given such term in section 101(22) of the National and Community Service Act of 1990.".

SEC. 1202. SPECIAL CRITERIA FOR HIGH-RISK INSTITUTIONS.

Section 1203 of the Higher Education Act of 1965 (20 U.S.C. 1143) is amended by adding at the end the following new subsection:

"(g) REVIEW OF INSTITUTIONS.—

"(1) IN GENERAL.—(A) The relevant State licensing authority shall establish standards for the review of and review the institutions of higher education under its jurisdiction in accordance with the criteria set forth in subparagraph (B). Only institutions of higher education which meet the criteria described in subparagraph (B) shall be subject to the requirements set forth in this subsection.

"(B) The criteria for the review of institutions of higher education are as follows:

"(i) An annual default rate as defined in section 435(m) equal to or greater than 25 percent for the most recent year in which data are available.

"(ii) A limitation, suspension, or termination act by the Secretary against an institution pursuant to this Act during the preceding 5 years.

"(iii) A change of ownership of the institution that results in a change of control of such institution.

"(iv) Participation in the Federal student aid programs for less than 5 years.

"(v) A substantial number of student complaints related to the management or conduct of programs assisted under this Act.

"(2) GENERAL LICENSING REQUIREMENTS.—An institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) shall—

"(A) be prohibited from using the terms 'approval', 'approved', 'approval to operate', 'approved to operate', 'licensed', or 'licensed to operate' or similar words without stating clearly that such term only means compliance with minimum licensing standards and not an endorsement or recommendation by the State or licensing authority;

"(B) be required to maintain records for all enrolled and graduated students and conduct a reasonable inquiry to determine whether students who complete a vocational education and training course of instruction offered at such institution obtain employment within 6 months of graduation from such course in the occupation for which such course prepared the students; and

"(C) be prohibited from opening branch or satellite campuses unless such branch or satellite campus first has been approved by the relevant State licensing authority as complying with the provisions of this section.

"(3) FINANCIAL AND FIDUCIARY RESPONSIBILITIES.—An institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) shall be required to meet such financial and fiduciary responsibilities as required by the relevant State licensing authority in the following areas:

"(A) Sufficiency of operating funds.

"(B) A specified percentage or ratio of current assets to current liabilities of at least 1:1, which—

"(i) shall not include as an asset unearned tuition, intangible assets, or Federal or State student financial assistance for future disbursements; and

"(ii) in the case of institutions of higher education which own and occupy their facilities (land and buildings) may include equity (the difference between book cost and mortgage owed) as a current asset.

"(C) A record of fiscal strength.

"(D) Independently audited financial reports.

"(E) Requirements that owners, directors, officers or persons in control of such an institution have never been found guilty in any criminal, civil, or administrative proceeding of violating any law regarding the obtaining, maintenance, or disbursement of Federal or State student financial aid funds.

"(F) The absence of unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal student financial aid funds.

"(G) Maintenance of adequate records.

"(4) REQUIRED DISCLOSURE OF ENROLLMENT, RETENTION AND PLACEMENT DATA.—(A) The standards described in paragraph (1) shall require an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) to provide to the student before executing any enrollment contract the following:

"(i) A copy of the enrollment contract.

"(ii) If such institution makes any claim, express or implied about future salary, including a claim that the student may be able to repay a student loan from the salary obtained, such institution shall provide to the student the percentage of students who graduate from such institution and who earn salaries at or above the claimed level within 6 months of completing the course.

"(iii) Passage rates on required State licensing examinations if such institution represents that the course may lead to employment in a related occupation.

"(iv) If such institution has offered the course for less than 1 year, such institution shall stipulate that it is unable to state how many students graduate, how many students find jobs, or how much money one can earn after finishing the course in question.

"(B) Such standards shall require the information described in subparagraph (A) to be based on a reasonable inquiry and documented through specific student records.

"(C) Such standards shall prohibit such an institution of higher education that has been in operation for less than 1 year from making claims regarding the future salary of graduates of such institutions.

"(D) Such standards shall require that enrollment, course completion and placement data be submitted to the relevant State licensing authority, and that such data may continue to be submitted to such authority according to whatever requirements such authority sets forth.

"(E) Such standards shall require such an institution of higher education, upon executing an enrollment contract, to provide the student with a notice of rights relating to course cancellation, tuition and fee refunds, and information regarding how the student can obtain information from the licensing authority regarding complaints and problems concerning such institution.

"(F) Such standards shall require such an institution of higher education to file annually with the licensing authority the completion, placement, and examination passage rates for students attending such institution and financial information demonstrating compliance with financial requirements required in paragraph (3).

"(G) Such standards shall require such an institution of higher education to—

"(i) file annually with the relevant State licensing authority an audit and a report, including financial statements conducted by a licensed certified public accountant;

"(ii) retain and make available the work papers used for the audit described in clause (i) for a period of 5 years; and

"(iii) within 6 months of the submission of each audit described in clause (i), submit a copy of the audit report to the Secretary.

"(5) STATE LICENSING REQUIREMENTS.—Such standards shall require an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) and offers courses of instruction differing from the standards for State licensure in specific occupations to disclose the relevant State licensing authority's minimum licensure requirements and how the course differs from such requirements.

"(6) COURSE CANCELLATION POLICY.—(A) Such standards shall require an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) to provide students with a description of the right to cancel a course or series of courses within specific time periods and under specific conditions set forth by the relevant State licensing authority.

"(B) Such standards shall require that—

"(i) such an institution of higher education provide all students, during the first class, a cancellation form indicating the date of the agreement and the number of days in which the course can be canceled without penalty or obligations; and

"(ii) the form described in clause (i) specify the student's responsibilities regarding cancellation.

"(7) REFUND POLICY.—Such standards shall require an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) to provide students with a description of the right to withdraw from such institution at any time and receive a refund minus a reasonable registration fee not to exceed an amount set by the relevant State licensing authority.

"(8) CONTRACTS; REQUIRED DISCLOSURE.—Such standards shall require an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) to include in each of its enrollment contracts—

"(A) a general description of the course and equipment required of the student;

"(B) the total number of classes, hours, or lessons required for completion of the course;

"(C) the total payment obligation for such course, including all fees, charges, and expenses;

"(D) a statement regarding the specific amounts for which the student is responsible, which shall appear immediately above the student's signature; and

"(E) the total charge for each item of equipment, separately stated and not to exceed such item's fair market value.

"(9) PROHIBITION AGAINST ENROLLING STUDENTS IN THE MIDDLE OF A COURSE.—Such standards shall prohibit an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) from enrolling students in the middle of a course, suspending courses, or changing times or locations of such courses.

"(10) RECORDS ACCESS.—Such standards shall require—

"(A) an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) to maintain accurate records for at least 5 years showing the names and local addresses of students, the courses of instruction offered, and the names, addresses, and qualifications of faculty to the extent practicable; and

"(B) such an institution to make all such records available for immediate inspection by the relevant State licensing authority, the designated State guaranty agency, or the Secretary.

"(11) INSTRUCTION; INSTRUCTIONAL MATERIALS.—Such standards shall prohibit an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) from withholding instruction or materials from a student pending receipt of Federal or State student financial aid used to pay tuition.

"(12) PENALTIES; RECOVERY OF DAMAGES.—Such standards shall provide for penalties and recovery of damages as follows:

"(A) If an institution of higher education which meets any of the criteria described in subparagraph (B) of paragraph (1) violates any provision of this section in connection with any enrollment contract, the contract shall be considered unenforceable and a total refund of all charges incurred by the student pursuant to the enrollment period is required.

"(B) If such institution violates any provision of this section, a student may bring an action for recovery of damages, equitable relief, and attorney's fees against such institution.

"(C) A civil penalty of not more than twice the damages sustained by the student described in subparagraph (B) may be assessed if a court of competent jurisdiction in an action brought by such student finds that the violation is substantial or was willfully committed.

"(D) All penalties and recovery of damages described in this paragraph must be commenced within 3 years of the discovery of the facts regarding such institution's violation.

"(13) APPLICABILITY OF STATE LAW.—Notwithstanding any other provision of law, the relevant State licensing authority shall have the authority to develop and implement standards to comply with Federal law pertaining to institutions of higher education within the State which meet the criteria described in subparagraph (B) of paragraph (1).

"(14) APPROVAL BY THE SECRETARY.—In order for institutions of higher education in a State to be eligible to participate in Federal student aid programs, the Secretary shall determine if standards adopted by the relevant State licensing authority are in compliance with the provisions of this section.

"(15) DEFINITIONS.—For the purposes of this section—

"(A) the term 'enrollment contract' means any contract, agreement, or other arrangement under which an individual agrees to attend, participate, or enroll in a course or program of study at an institution of higher education; and

"(B) the term 'relevant State licensing authority' means the State board, commission or agency designated by the appropriate State authority for the purpose of enforcing the licensing requirements described in this section.".

SEC. 1203. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

Section 1205 of the Act is amended to read as follows:

"SEC. 1205. COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

"(a) ESTABLISHMENT.—There is established in the Department a Committee on Institutional Quality and Integrity (hereafter in this section referred to as the 'Committee') which shall be composed of 15 members appointed by the Secretary from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including accreditation of institutions of higher education, the process of eligibility and certification of such institutions under title IV of this Act, and the provision of financial aid under title IV of this Act. The Secretary may also appoint to the Committee representatives of the general public serving on the National Advisory Committee on Accreditation and Institutional Eligibility (as such Committee was in existence on the date of enactment of the Higher Education Amendments of 1992).

"(b) TERMS OF MEMBERS.—Terms of office of each member of the Committee shall be 3 years, except that—

"(1) of the members first appointed to the Committee the Secretary shall designate—

"(A) 5 such members to serve for a term of 1 year;

"(B) 5 such members to serve for a term of 2 years; and

"(C) 5 such members to serve for a term of 3 years; and

"(2) any member appointed to fill in a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

"(c) FUNCTIONS.—The Committee shall—

"(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under section 493;

"(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

"(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

"(4) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under title IV of this Act, together with recommendations for improvements in such process;

"(5) advise the Secretary with respect to the functions of the Secretary under sections 492 (d), (e) and (f), relating to State institutional integrity standards;

"(6) advise the Secretary with respect to the relationship between—

"(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

"(B) State licensing responsibilities with respect to such institutions; and

"(7) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe.

"(d) MEETING PROCEDURES.—The Committee shall meet not less than twice each year at the call of the Chairman. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

"(e) REPORT.—The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain—

"(1) a list of the members of the Committee and their addresses;

"(2) a list of the functions of the Committee;

"(3) a list of dates and places of each meeting during the preceding fiscal year; and

"(4) a summary of the activities, findings and recommendations made by the Committee during the preceding fiscal year.

"(f) DEFINITION.—As used in this section, the term 'institution of higher education' has the same meaning given that term by section 481(a).

"(g) TERMINATION.—Subject to section 448(b) of the General Education Provision Act, the National Advisory Committee on Accreditation and Institutional Eligibility shall continue to exist until September 30, 1998.".

SEC. 1204. DEMONSTRATION PROGRAMS.

Title XII of the Act (20 U.S.C. 1141 et seq.) is amended—

(1) by amending the heading for title XII to read as follows:

"TITLE XII—GENERAL PROVISIONS AND DEMONSTRATION PROGRAMS";

(2) by inserting before the heading for section 1201 the following:

"Subpart 1—General Provisions"; and

(3) by adding at the end the following new subpart:

"Subpart 2—Demonstration Programs

"SEC. 1221. LOAN FORGIVENESS FOR TEACHERS, INDIVIDUALS PERFORMING NATIONAL COMMUNITY SERVICE AND NURSES.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to—

"(1) enter the teaching and nursing profession; and

"(2) perform national and community service.

"(b) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, from amounts appropriated to carry out the provisions of part B of title IV, the Secretary, in consultation with the Secretary of Health and Human Services, shall carry out a demonstration program of assuming the obligation to repay a Stafford loan (a loan made, insured or guaranteed under part B of title IV of the Higher Education Act of 1965) (excluding loans made under sections 428A, 428B, or 428C) for any new borrower after October 1, 1993, who—

"(A) is employed as a full-time teacher—

"(i) in a school which qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools; and

"(ii) of mathematics, science, foreign languages, special education, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

"(B) agrees in writing to volunteer for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973, or to perform comparable service as a full-time employee of an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, if the borrower does not receive compensation which exceeds the greater of—

"(i) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

"(ii) an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Services Block Grant Act); or

"(C) is employed full-time as a nurse in a public hospital, a rural health clinic, a migrant health center, an Indian Health Service, an Indian health center, a Native Hawaiian health center or in an acute care or long-term care facility.

"(2) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

"(c) LOAN REPAYMENT.—

"(1) IN GENERAL.—The Secretary shall assume the obligation to repay—

"(A) 15 percent of the total amount of Stafford loans incurred by the student borrower during such borrower's last 2 years of undergraduate education for the first or second academic year in which such borrower meets the requirements described in subsection (a);

"(B) 20 percent of such total amount for such third or fourth academic year; and

"(C) 30 percent of such total amount for such fifth academic year.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the refunding of any repayment of a Stafford loan.

"(3) INTEREST.—If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

"(4) SPECIAL RULE.—In the case where a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of higher education for the purpose of obtaining a teaching certificate, the Secretary is authorized to assume the obligation to repay the total amount of Stafford loans incurred for a maximum of 2 academic years in returning to an institution of higher education for the purpose of obtaining a teaching certificate or additional certification. Such Stafford loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

"(d) REPAYMENT OF ELIGIBILITY LENDERS.—The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of Stafford loans which are subject to repayment pursuant to this section for such year.

"(e) APPLICATION FOR REPAYMENT.—Each eligible individual desiring loan repayment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(f) DEFINITIONS.—For the purpose of this section the term 'eligible lender' has the same meaning given such term in section 435(d).

"(g) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the program assisted under this part on the fields of teaching, nursing, and community service.

"(2) COMPETITIVE BASIS.—The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

"(3) CONTENTS.—The evaluation described in this section shall—

"(A) assess whether the program assisted under this section has brought into teaching, nursing, and community service a significant number of highly capable individuals who otherwise would not have entered such fields;

"(B) assess whether a significant number of students perform the service described in subsection (b) or opt to repay the loans instead of remaining in the career for which such student received loan repayment under this section;

"(C) identify the barriers to the effectiveness of the program assisted under this section;

"(D) assess the cost-effectiveness of such program in improving teacher, nursing, and community service worker quality and quantity and the ways to improve the cost-effectiveness of such program; and

"(E) identify the reasons for which participants in the program have chosen to take part in such program; and

"(F) identify other areas of community service or employment which may serve as appropriate methods of loan repayment.

"(4) INTERIM EVALUATION REPORTS.—The Secretary shall prepare and submit to the President and the Congress such interim reports on the evaluation described in this section as the Secretary deems appropriate, and shall submit such a final report by January 1, 1999.

"(5) FUNDING.—The Secretary shall reserve a total of not more than $1,000,000 from the amount appropriated to carry out part B of title IV in fiscal years 1993 through 1999 to carry out this subsection.

"SEC. 1222. EXCEPTIONAL PERFORMANCE IN LOAN COLLECTION BY ELIGIBLE LENDERS AND LOAN SERVICERS DEMONSTRATION PROGRAM.

"(a) DEMONSTRATION PROGRAM AUTHORIZED.—The Secretary shall conduct a demonstration program, in accordance with the provisions of this section, designed to—

"(1) make a determination that certain eligible lenders and eligible servicers are eligible for designation of exceptional performance; and

"(2) reward such eligible lenders and eligible servicers by providing for guaranty agency payment of 100 percent of the unpaid principal and interest of all loans submitted for payment by such lender or servicer for the one-year period following receipt by such guaranty agency of the notification of designation under this section.

"(b) PROGRAM REQUIREMENT.—The program described in subsection (a) shall require—

"(1) the Secretary to—

"(A) determine that an eligible lender or a loan servicer has a compliance performance rating with respect to due diligence in the collection of student loans insured under part B of title IV for each year for which the determination is made which equals, or exceeds, 95 percent of all due diligence requirements with respect to such loans serviced during the period by the eligible lender, or loan servicer, and to designate the eligible lender or loan servicer, as the case may be, for exceptional performance; and

"(B) notify each appropriate guaranty agency of the eligible lenders and loan servicers designated under subparagraph (A);

"(2) a guaranty agency to pay each eligible lender or loan servicer designated under paragraph (1)(A) 100 percent of the unpaid principal and interest of all loans for which claims are submitted for payment by that eligible lender or loan servicer for the one-year period following the receipt by the guaranty agency of the notification of designation under such paragraph;

"(3) each eligible lender and loan servicer desiring a designation under paragraph (1)(A) to have a financial and compliance audit of the loan portfolio of such eligible lender or loan servicer, conducted annually, by a qualified independent organization or person in accordance with standards established by the Comptroller General and the Secretary which shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender or the loan servicer for the purpose of this paragraph;

"(4) each such eligible lender and loan servicer to submit the audit required by paragraph (3) to the Secretary and to each appropriate guaranty agency;

"(5) the Secretary to make the determination under paragraph (1)(A) based upon the audits submitted under paragraph (4) and submit the results of the determination to each appropriate guaranty agency;

"(6) a guaranty agency to review the Secretary's determination on the basis of the audit and other information in the possession of the guaranty agency and if the results of the audit are not persuasively rebutted by such other information, require the guaranty agency to inform the eligible lender or loan servicer that their application for designation as an exceptional eligible lender or loan servicer has been approved;

"(7) each such eligible lender and loan servicer to pay for all of the costs of the audits required by this subsection; and

"(8) designation as an exceptional eligible lender or loan servicer to be revoked by the guaranty agency upon 60 days' notice and an opportunity for a hearing before the guaranty agency upon a finding by the guaranty agency that the eligible lender or loan servicer has failed to maintain an overall level of regulatory compliance consistent with the audit submitted by the eligible lender or loan servicer under this subsection.

"(c) DEFINITIONS.—For the purpose of this section—

"(1) the term 'due diligence requirements' means the activities required to be performed by lenders on delinquent loans pursuant to regulations issued by the Secretary;

"(2) the term 'eligible loan' means a loan made, insured or guaranteed under part B of title IV;

"(3) the term 'loan servicer' means an entity servicing and collecting student loans which—

"(A) has substantial experience in servicing and collecting consumer loans or student loans;

"(B) has an independent financial audit conducted annually which is furnished to its clients;

"(C) has business systems which are capable of meeting the requirements of part B of title IV;

"(D) has adequate personnel who are knowledgeable about the student loan programs authorized by part B of title IV; and

"(E) does not have any owner, majority stockholder, director, or officer of the entity who has been convicted of a felony.

"(d) SPECIAL RULE.—Reimbursements of losses made by the Secretary on loans submitted for claim by an eligible lender or loan servicer designated for exceptional performance under this section shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, loan servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

"SEC. 1223. NATIONAL STUDENT SAVINGS DEMONSTRATION PROGRAM.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to—

"(1) create a demonstration program to test the feasibility of establishing a national student savings program to encourage families to save for their children's college education and thereby reduce the loan indebtedness of college students; and

"(2) help determine the most effective means of achieving the activities described in paragraph (1).

"(b) DEMONSTRATION PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award a demonstration grant to not more than 5 States to enable each such State to conduct a student savings program in accordance with this section.

"(2) AMOUNT OF GRANT.—The amount of each grant awarded pursuant to paragraph (1) shall be computed on the basis of—

"(A) a Federal match in an amount equal to the initial State deposit into each account established pursuant to subsection (c)(2)(B), except that such Federal match shall not exceed $50 per child; multiplied by

"(B) the number of children participating in the program assisted under this part.

"(3) PRIORITY.—In awarding grants under this section the Secretary shall give priority to States proposing programs that establish accounts for a child prior to the age of compulsory school attendance in the State in which such child resides.

"(4) SPECIAL CONSIDERATION.—In awarding grants under this section the Secretary shall give special consideration to States—

"(A) that permit employers to use pretax income in making contributions to a child's account; and

"(B) that provide assurances that interest earned in accounts shall be exempt from State taxes.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the student savings program to be established and the number of children to be served;

"(B) contain assurances that an account shall be established for each child participating in the program assisted under this section and set forth the initial amount to be deposited into each such account by the State;

"(C) contain assurances that deposits into such account shall be invested in a responsible manner that provides a reasonable rate of return;

"(D) contain assurances that funds in the account shall only be used to pay the cost of attendance (as such term is defined in section 472) at any eligible institution (as such term is defined in section 435(a));

"(E) describe the amount of the Federal contribution requested for starting each child's account, which shall not exceed $50 per child participating in the program;

"(F) describe the age at which children in the State may establish such accounts;

"(G) indicate whether the program will be open to all children, regardless of family income, or only to disadvantaged children;

"(H) describe how additional deposits into each account from the State or other resources will be earned by a child for performance of community service, academic performance, or other activities or achievements;

"(I) contain assurances that contributions in an account shall be refundable to the contributor without interest if the child dies or is otherwise unable to attend college;

"(J) contain assurances that the State shall encourage individuals and organizations to make contributions to a child's account;

"(K) contain assurances that the State shall provide incentives to employers to make contributions to a child's account and participate in the program assisted under this section; and

"(L) contain assurances that if a child leaves the State in which such child has an account, then such child shall retain the right to make contributions to the account, except that the State shall not be required to make any additional deposits for the child's exemplary activities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out this section.".

TITLE XIII—EDUCATION ADMINISTRATION

SEC. 1301. STUDIES.

Part A of title XIII of the Higher Education Amendments of 1986 (20 U.S.C. 1091) is amended—

(1) by redesignating section 1307 as section 1309; and

(2) by inserting after section 1306 the following new sections:

"SEC. 1307. STUDIES.

"(a) ROLE OF GUARANTY AGENCIES.—

"(1) STUDY.—The Secretary shall review the role of guaranty agencies within the Robert T. Stafford Student Loan Program by examining the administrative and financial operations of such agencies and the relationships between guaranty agencies and State governments.

"(2) REPORT.—The Secretary shall report to the Congress within 1 year of the date of enactment of this Act on the study described in subsection (a). Such report shall consider and make recommendations concerning the feasibility of—

"(A) increasing the role of guaranty agencies in oversight and licensing of proprietary trade schools under the Robert T. Stafford Student Loan Program;

"(B) strengthening Federal disincentives for high default rate portfolios;

"(C) consolidating guaranty agencies regionally or otherwise; and

"(D) eliminating the role of guaranty agencies within the Robert T. Stafford Student Loan Program.

"(b) STATUTORY PROTECTIONS.—The Secretary of Education shall report to the Congress within 180 days of the date of enactment of the Higher Education Amendments of 1992 on the advisability of statutorily protecting officials of accrediting agencies involved in the performance of legitimate Robert T. Stafford Student Loan Program activities.

"SEC. 1308. SATISFACTORY PROGRESS STUDY.

"(a) STUDY.—The Secretary shall conduct a study of the impact of fraud-based defenses on the Stafford Loan Program. Such study shall include—

"(1) an analysis of statutory, regulatory, and case law regarding the use of fraud-based defenses against repayment of Stafford loans;

"(2) an estimate of the total number of borrowers filing for relief from repayment of Stafford loans using a fraud-based defense and amount of such loan principal involved;

"(3) an estimate of Stafford loan principal relieved annually through fraud-based defenses;

"(4) an evaluation of the importance of a fraud-based defense to the protection of borrowers of Stafford loans; and

"(5) an evaluation of the effects of the availability of a fraud-based defense on the accessibility of Stafford loans by geographical area and by type of postsecondary institution.

"(b) DATE.—The study described in subsection (a) shall be completed not later than 18 months after the date of enactment of this Act.

"(c) REPORT.—

"(1) IN GENERAL.—The Secretary shall submit a report to the Congress on the study described in subsection (a) that makes specific recommendations for legislative options that may be needed to address the rights of borrowers with respect to the availability of fraud-based defenses under the Stafford Loan Program without jeopardizing the participation of lenders or the solvency of guaranty agencies required to maintain the integrity of such program.

"(2) DATE.—The report described in paragraph (1) shall be completed not later than 19 months after the date of enactment of this Act.".

SEC. 1302. NATIONAL COMMISSION ON INDEPENDENT EDUCATION.

Title XIII of the Higher Education Amendments of 1986 is amended by adding at the end the following new part:

"PART J—NATIONAL COMMISSION ON INDEPENDENT EDUCATION

"SEC. 1391. SHORT TITLE.

"This part may be cited as the 'National Independent Colleges and Universities Discovery Act'.

"SEC. 1392. FINDINGS.

"The Congress finds that—

"(1) the quality and scope of higher education in our Nation is without argument the finest in the world, and a distinguishing feature of our Nation's system of higher education is its strong and diverse nonprofit independent sector;

"(2) independent colleges and universities are as diverse as the Nation itself and include traditional liberal arts institutions, major research universities, church- and faith-related colleges, colleges and universities primarily attended by minorities, women's colleges, junior colleges, and schools of law, medicine, engineering, business and other professions;

"(3) the diversity of independent colleges and universities offers students a choice in the type of educational experience that will best serve such students' interests, needs and aspirations;

"(4) independent colleges and universities enroll 21 percent of all students in the United States, award 33 percent of all bachelor's degrees in the United States, 42 percent of all such master's degrees, 36 percent of all such doctoral degrees, and 59 percent of all such professional degrees;

"(5) a majority of all undergraduate students attending independent colleges and universities receive some form of financial assistance, and such independent colleges and universities provide such financial assistance from their own resources;

"(6) independent colleges and universities are deeply involved in hundreds of partnerships with elementary and secondary schools, and such partnerships are largely funded by such colleges and universities;

"(7) independent colleges and universities have been an extraordinary example of private-public partnerships, with such colleges and universities operating in the public interest to provide a public good;

"(8) less than 20 percent of the revenue of independent colleges and universities comes from governmental funds, most of which is in the form of Federal and State financial aid;

"(9) decreases in Federal and State support for student financial aid programs has placed at risk the option of choosing an independent college or university for an increasing number of students;

"(10) whereas at the turn of the twentieth century 80 percent of the students enrolled in higher education in the United States were enrolled in independent colleges and universities, such percentage has now declined to 21 percent, and further erosions place at risk the option of choosing an independent college or university for students and parents; and

"(11) the entire sector of independent colleges and universities and the important contributions such sector makes to our Nation is at risk and deserves national policy attention.

"SEC. 1393. PURPOSE.

"It is the purpose of this part to establish a National Commission on Independent Higher Education.

"SEC. 1394. NATIONAL COMMISSION ON INDEPENDENT HIGHER EDUCATION.

"(a) ESTABLISHMENT.—There is established as an independent agency in the executive branch a commission to be known as the National Commission on Independent Higher Education (hereafter in this Act referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Commission shall be composed of 9 members, 3 of whom shall be appointed by the President, 3 of whom shall be appointed by the Speaker of the House of Representatives, and 3 of whom shall be appointed by the Majority Leader of the Senate.

"(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in independent higher education, including expertise in national tax policy, individuals with expertise in State higher education finance, individuals with expertise in Federal financial aid programs, individuals with expertise in issues of student and faculty diversity, and individuals with expertise in graduate education and research.

"(3) DATE.—The members of the Commission shall be appointed not later than 6 months after the date of enactment of this Act.

"(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(d) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(e) QUORUM.—Six of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

"(f) CHAIRMAN.—The Commission shall select a Chairman from among its members.

"SEC. 1395. DUTIES OF THE COMMISSION.

"The Commission shall—

"(1) develop a factual base for understanding the status of independent colleges and universities, their contributions to public priorities, and the effects of national higher education policies on the independent nonprofit sector;

"(2) review the issuance of Federal regulations regarding independent colleges and universities, and suggest means by which independent colleges and universities can be held accountable for use of public resources without inappropriate intrusion into institutional autonomy; and

"(3) address the relation between Federal and State policies on independent colleges and universities, particularly with respect to student access and choice, finance, institutional subsidies, and institutional accountability.

"SEC. 1396. REPORT AND RECOMMENDATIONS.

"(a) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress on the Commission's activities and findings within 18 months of the date of enactment of this Act.

"(b) FINAL REPORT.—

"(1) IN GENERAL.—The Commission shall submit a final report to the President and the Congress on the Commission's activities and findings within 3 years of the date of enactment of this Act.

"(2) RECOMMENDATION.—The report described in paragraph (1) shall contain a recommendation regarding the establishment of a national policy on independent colleges and universities appropriate to meeting the Nation's higher educational goals in the twenty-first century.

"SEC. 1397. POWERS OF THE COMMISSION.

"(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this part.

"(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this part. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

"(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

"SEC. 1398. COMMISSION PERSONNEL MATTERS.

"(a) TRAVEL EXPENSES.—From amounts available to the Secretary of Education, the members of the Commission 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 Commission.

"(b) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(c) STAFF.—

"(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than 2 staff members to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

"(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and not more than 2 staff members without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and such staff may not exceed the rate payable for level 15 of the General Schedule classified under section 5107 of such title.

"SEC. 1399. TERMINATION OF THE COMMISSION.

"The Commission shall terminate 3 years after the date of enactment of this Act.".

TITLE XIV—AMENDMENTS TO OTHER LAWS

SEC. 1401. HIGHER EDUCATION TECHNICAL AMENDMENTS.

Subsection (c) of section 3 of the Higher Education Technical Amendments of 1992 (Public Law 102-26) is amended by striking "that are brought before November 15, 1992".

SEC. 1402. GENERAL EDUCATION PROVISIONS ACT.

The General Education Provisions Act (20 U.S.C. 1221 et seq.) is amended—

(1) in subsection (b) of section 453—

(A) in paragraph (1), by striking "State or local educational agency" each place such term appears and inserting "recipient";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "State or local educational agency" and inserting "recipient"; and

(ii) in clause (i) of subparagraph (B), by striking "State or local educational agency" and inserting "recipient";

(C) in paragraph (4), by striking "State or local educational agency" and inserting "recipient";

(D) in paragraph (5)—

(i) in the matter preceding subparagraph (A), by striking "State or local educational agency" and inserting "recipient";

(ii) in subparagraph (B), by striking "State educational agency" and inserting "recipient"; and

(iii) in subparagraph (C), by striking "State or local educational agency" and inserting "recipient"; and

(E) in paragraph (6), by striking "State educational agencies" and inserting "recipients"; and

(2) in paragraph (2) of section 460, by inserting "(except programs authorized under subpart 4 of part A of title IV of the Higher Education Act of 1965)" after "1965".

SEC. 1403. UNITED STATES INSTITUTE OF PEACE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 1710 of the United States Institute of Peace Act (22 U.S.C. 4609(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.".

(b) SPARK M. MATSUNAGA SCHOLARS PROGRAM.—Subsection (b) of section 1705 of the United States Institute of Peace Act (22 U.S.C. 4604(b)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon and "and"; and

(3) by adding at the end the following new paragraph:

"(10) establish the Spark M. Matsunaga Scholars Program, which shall include the provision of scholarships and educational programs in international peace and conflict management and related fields for outstanding secondary school students and the provision of scholarships to outstanding undergraduate students, with program participants and recipients of such scholarships to be known as 'Spark M. Matsunaga Scholars'.".

(c) CONTRACTS AND PRIVATE GIFTS AND CONTRIBUTIONS.—Subsection (h) of section 1705 of the United States Institute of Peace Act (22 U.S.C. 4604(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The Institute and the legal entity described in section 1704(c) may not accept any gift, contribution or grant from a foreign government, any agency or instrumentality of such government, any international organization, or any corporation or other legal entity in which natural persons who are nationals of a foreign country own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity."; and

(2) in paragraph (3) by striking "individual." and inserting "individual, except such Institute or legal entity may accept such a gift or contribution to—

"(A) purchase, lease for purchase, or otherwise acquire, construct, improve, furnish, or maintain a suitable permanent headquarters, any related facility, or any site or sites for such facilities for the Institute and the legal entity described in section 1704(c); or

"(B) provide program-related hospitality, including such hospitality connected with

the presentation of the Spark M. Matsunaga Medal of Peace.".

SEC. 1404. LAW ENFORCEMENT UNIT RECORDS.

(a) IN GENERAL.—Clause (ii) of section 438(a)(4)(B) 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 educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SEC. 1405. REPEAL OF NATIONAL SCIENCE SCHOLARS PROGRAM.

Part A of title VI of the Excellence in Mathematics, Science and Engineering Education Act of 1990 (20 U.S.C. 5381 et seq.) is repealed.

SEC. 1406. SPECIAL PROJECTS FOR TWO-YEAR SCHOOLS.

Subsection (f) of section 788 of the Public Health Service Act (20 U.S.C. 295g-8(f)) is amended to read as follows:

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $316,203 for each of the fiscal years 1993, 1994, 1995, and 1996 to carry out subsection (a).".

SEC. 1407. NATIONAL AND COMMUNITY SERVICE ACT OF 1990.

SUBTITLE D POST-SERVICE BENEFITS.—Paragraph (1) of section 146(b) of the National and Community Service Act of 1990 is amended by striking "that is equal in value to $2,500 for each year of service that such participant provides to the program" and inserting "for each year of service that such participant provides to the program, which benefit shall be equal in value to $2,500 for each such year, and which benefit shall be adjusted to match any increases in the maximum Pell Grant as provided by the annual appropriation.

SEC. 1408. PROHIBITION ON CERTAIN USES OF FUNDING.

Part G of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3231 et seq.) is amended by inserting at the end the following new section:

"SEC. 5194. PROHIBITION ON CERTAIN USES OF FUNDING.

PROHIBITION.—None of the funds authorized to be appropriated by this title may be used by any recipient of funds under this title to pay for homosexual support or education services, or to promote or encourage, either directly or indirectly, intravenous drug abuse or homosexual, bi-sexual, or heterosexual sexual activity, whether pre-marital or extra-marital. No youth shall be deemed at risk of substance abuse solely on the basis of the youth's homosexuality.

SEC. 1409. VOCATIONAL EDUCATION AND TRAINING.

(a)(1) Since, substantial layoffs in the military and private sector have led to high unemployment rates;

(2) Since, community colleges and vocational education centers are reporting significant increases in the requests for post secondary vocational education and training;

(3) Since, the Economic Dislocation and Worker Adjustment Assistance Act established by Public Law 100-418 authorizes grants to States for job training activities in the event of mass layoffs, plant closing and high unemployment;

(4) Since, the Secretary of Labor has the authority to make such grants; and

(5) Since, funds appropriated by Congress for this purpose have not been depleted.

(b) Therefore, it is the sense of the Senate that the Secretary of Labor should move expeditiously to process applications for funds authorized by Public Law 100-418 for vocational education and training purposes.

TITLE XV—NATIONAL CENTER FOR THE WORKPLACE

SEC. 1501. PURPOSE; DESIGNATION.

It is the purpose of this title to address the problems created by the simultaneous convergence of broad economic, social, cultural, political, and technological changes in the workplace through a national center administered by the Department of Labor that will join together workplace experts from America's best institutions of higher education with experts from the public and private sectors to conduct research, share information, and propose remedies.

SEC. 1502. ESTABLISHMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Labor is authorized to award a grant, on a competitive basis, to an eligible entity to enable such entity to establish the National Center for the Workplace (hereafter in this title referred to as the "Center").

(2) MATCHING FUNDS.—In order to receive the grant described in paragraph (1) an eligible entity shall provide matching funds from non-Federal sources equal to 25 percent of the funds received pursuant to such grant.

(b) DEFINITIONS.—For the purpose of this title the term "eligible entity" means a consortium of institutions of higher education that—

(1) represents a diversity of views on and an expertise in the field of employment policy; or

(2) is represented and coordinated by a host institution of higher education that meets the following criteria:

(A) Broad collective knowledge of and demonstrable experience in the wide range of employment and workplace issues.

(B) A faculty that represents a variety of viewpoints, demonstrates a nonpartisan approach to research and policy analysis in relevant workplace disciplines (labor economics, industrial relations, human resource management, sociology, psychology, and law) in a multidisciplinary approach to workplace issues.

(C) Established credibility and working relationships with employers, employees and government agencies.

SEC. 1503. USE OF FUNDS.

(a) CENTER ACTIVITIES.—Grant funds awarded under this title may be used to—

(1) establish and operate the Center;

(2) bring together major independent researchers, who represent a diversity of views in employment policy from the Center's member-institutions and are focused on the most significant workplace problems, with the aim of analysis and synthesis of employment policy implications and dissemination of findings; and

(3) support—

(A) the coordination and funding of research activities of the Center's member-institutions for collaborative collection and evaluation of data on changes and trends in the workplace and in the labor force;

(B) the analysis of the public policy implications of social and demographic changes in the United States as such changes relate to the workplace;

(C) the conduct of seminars for Federal and State policymakers on the Center's findings and foster continuous exchange of ideas and information;

(D) the conduct of a National Conference on employment policy not more frequently than once each year;

(E) the nonpartisan evaluation of the economic and social implications of national and international workplace and employment issues;

(F) the provision of ready access to the Center's collective expertise for policy officials in Federal and State governments and representatives of private and public sector organizations; and

(G) the development and administration of a national repository of information on key workplace issues that can be readily accessed by the public and private sector.

(b) FELLOWSHIPS.—Grant funds awarded under this title may also be used to provide graduate assistantships and fellowships at the Center to encourage graduate study of the field of employment policy and to encourage graduate research in areas that are seen as critical to national competitiveness.

SEC. 1504. BOARD OF ADVISORS.

(a) BOARD.—There shall be appointed a Board of Advisors to the Center that shall consist of representatives of the private and public sectors and of the member-institutions of the consortium. Two members of the Board shall be appointed by the Speaker of the House of Representatives, two members of the Board shall be appointed by the Minority Leader of the House of Representatives, two members of the Board shall be appointed by the President pro tempore of the Senate and two members of the Board shall be appointed by the Minority Leader of the Senate. In addition, the eligible entity awarded the grant under this title shall appoint two members to the Board.

(b) MEETINGS AND RESPONSIBILITIES.—The Board of Advisors shall meet from time to time, but no less than twice each year, to review and advise the Center with respect to all aspects of its program. The Board shall submit an annual report to the Secretary of Education and the Secretary of Labor on the Center's activities and accomplishments.

SEC. 1505. GIFTS AND DONATIONS.

The Center is authorized to receive money and other property donated, bequeathed, or devised to the Center with or without a condition of restriction, for the purpose of furthering the activities of the Center. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the annual report of the Board of Advisors to the Secretary of Education and Secretary of Labor.

SEC. 1506. AUTHORIZATION.

(a) IN GENERAL.—There are authorized to be appropriated $2,500,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

(b) AVAILABILITY.—Funds appropriated pursuant to the authority of subsection (a) shall remain available until expended.

TITLE XVI—INDIAN HIGHER EDUCATION PROGRAMS

PART A—TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 1601. REAUTHORIZATION OF THE TRIBALLY CONTROLLED COMMUNITY COLLEGES ACT.

(a) GENERAL AUTHORIZATION.—Section 110(a) of the Tribally Controlled Community College Assistance Act of 1978 is amended to read as follows:

"APPROPRIATION AUTHORIZATION

"SEC. 110. (a)(1) There is authorized to be appropriated, for the purpose of carrying out section 105 $3,200,000 for fiscal year 1993 and

such sums as may be necessary for each of the 6 succeeding fiscal years.

"(2) There is authorized to be appropriated for the purpose of carrying out section 107, $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(3) There is authorized to be appropriated for the purpose of carrying out sections 112(b) and 113, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.

"(4) Funds appropriated pursuant to the authorizations under this section for the fiscal year 1993 and for each of the succeeding 6 fiscal years shall be transferred by the Secretary of the Treasury through the most expeditious method available, with each of the Tribally Controlled Community Colleges being designated as its own certifying agency.".

(b) ENDOWMENT GRANTS.—Section 306(a) of such Act is amended to read as follows:

"SEC. 306. (a) There are authorized to be appropriated to carry out the provisions of this title, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.".

(c) ECONOMIC DEVELOPMENT.—Section 403 of such Act is amended to read as follows:

"SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for grants under this title, $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.".

(d) NAVAJO COMMUNITY COLLEGES.—Section 5(a)(1) of the Navajo Community College Act is amended to read as follows:

"SEC. 5. (a)(1) For the purpose of making construction grants under this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.".

PART B—HIGHER EDUCATION TRIBAL GRANT AUTHORIZATION ACT

SEC. 1611. SHORT TITLE.

This part may be cited as the "Higher Education Tribal Grant Authorization Act".

SEC. 1612. FINDINGS.

The Congress finds that—

(1) there are increasing numbers of Indian students qualifying for postsecondary education, and there are increasing numbers desiring to go to postsecondary institutions;

(2) the needs of these students far outpace the resources available currently;

(3) Indian tribes have shown an increasing interest in administering programs serving these individuals and making decisions on these programs reflecting their determinations of the tribal and human needs;

(4) the contracting process under the Indian Self-Determination and Education Assistance Act has provided a mechanism for the majority of the tribes to assume control over this program from the Bureau of Indian Affairs;

(5) however, inherent limitations in the contracting philosophy and mechanism, coupled with cumbersome administrative procedures developed by the Bureau of Indian Affairs have effectively limited the efficiency and effectiveness of these programs;

(6) the provision of these services in the most effective and efficient form possible is necessary for tribes, the country, and the individuals to be served; and

(7) these services are part of the Federal Government's continuing trust responsibility to provide education services to American Indians and Alaska Natives.

SEC. 1613. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall, from the amounts appropriated for the purpose of supporting higher education grants for Indian students under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13), make grants to Indian tribes in accordance with the requirements of this part to permit those tribes to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education.

(b) LIMITATION ON SECRETARY'S AUTHORITY.—The Secretary shall not place any restrictions on the use of funds provided to an Indian tribe under this part that is not expressly authorized by this part.

(c) EFFECT ON FEDERAL RESPONSIBILITIES.—The provisions of this part shall not affect any trust responsibilities of the Federal Government.

(d) NO TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

SEC. 1614. QUALIFICATION FOR GRANTS TO TRIBES.

(a) CONTRACTING TRIBES.—Any Indian tribe that obtains funds for educational purposes similar to those authorized in this part pursuant to contract under the Indian Self-Determination and Education Assistance Act may qualify for a grant under this part by submitting to the Secretary a notice of intent to administer a student assistance program under section 1313. Such notice shall be effective for the fiscal year following the fiscal year in which it is submitted, except that if such notice is submitted during the last 90 days of a fiscal year such notice shall be effective the second fiscal year following the fiscal year in which it is submitted, unless the Secretary waives this limitation.

(b) NONCONTRACTING TRIBES.—Any Indian tribe that is not eligible to qualify for a grant under this part by filing a notice under subsection (a) may qualify for such a grant by filing an application for such a grant. Such application shall be submitted under guidelines for programs under the Indian Self-Determination and Education Assistance Act, as in effect on January 1, 1991, and shall be reviewed under the standards, practices, and procedures applicable to applications to contract under such Act as in effect on the date the application is received, except that—

(1) if the tribe is not notified that its application has been disapproved within 180 days after it is filed with the Secretary, the application shall be deemed to be approved;

(2) if the application is disapproved, the Secretary shall provide technical assistance to the tribe for purposes of correcting deficiencies in the application;

(3) the Secretary shall designate an office or official to receive such applications, and shall toll the 180-day period described in paragraph (1) from the date of receipt by such office or official; and

(4) applications shall be approved for the fiscal year following the fiscal year in which submitted, unless the Secretary waives the limitation of this paragraph.

(c) TERMINATION OF GRANTS.—

(1) CONTINUING ELIGIBILITY PRESUMED.—An Indian tribe which has qualified under subsection (a) or (b) for a grant under this part for any fiscal year shall continue to be eligible for such a grant for each succeeding fiscal year unless the Secretary revokes such eligibility for a cause described in paragraph (2).

(2) CAUSES FOR LOSS OF ELIGIBILITY.—The Secretary may revoke the eligibility of an Indian tribe for a grant under this part if such tribe—

(A) fails to submit to the Bureau an annual financial statement that reports revenues and expenditures determined by use of an accounting system, established by the tribe, that complies with generally accepted accounting principles;

(B) fails to submit to the Bureau an annual program description, stating the number of students served, and containing such information concerning such students, their educational programs and progress, and the financial assistance distributed to such students as the Secretary may require by regulation;

(C) fails to submit to the Secretary a biennial financial audit conducted in accordance with chapter 75 of title 31, United States Code; or

(D) fails, in an evaluation of its financial assistance program conducted by an impartial third party entity, to comply with standards under this part relating to (i) eligible students, programs, or institutions of higher education, (ii) satisfactory progress, or (iii) allowable administrative costs; as determined under contracts applicable to programs to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education administered by Indian tribes under the Indian Self-Determination and Education Assistance Act and in effect on January 20, 1991.

(3) PROCEDURES FOR REVOCATION OF ELIGIBILITY.—The Secretary shall not revoke the eligibility of an Indian tribe for a grant under this part except—

(A) after notice in writing to the tribe of the cause and opportunity to the tribe to correct;

(B) providing technical assistance to the tribe in making such corrections; and

(C) after hearings and appeals conducted under the same rules and regulations that apply to similar termination actions under the Indian Self-Determination and Education Assistance Act.

SEC. 1615. ALLOCATION OF GRANT FUNDS.

(a) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall continue to determine the amount of program funds to be received by each grantee under this part by the same method used for determining such distribution in fiscal year 1991 for tribally administered and Bureau-administered programs of grants to individual Indians to defray postsecondary expenses.

(2) ADMINISTRATIVE COSTS.—In addition to the amount determined under paragraph (1), a grantee which has exercised the option given in section 1314(a) to administer the program under a grant shall receive an amount for administrative costs determined pursuant to the method used by the grantee during the preceding contract period. All other grantees shall receive an amount for administrative costs determined pursuant to the regulations governing such determinations under the Indian Self-Determination and Education Assistance Act, as in effect at the time of application to grants being made.

(3) SINGLE GRANT; SEPARATE ACCOUNTS.—Each grantee shall receive only one grant during any fiscal year, which shall include both of the amounts under paragraphs (1) and (2). Each grantee shall maintain this grant in a separate account.

(b) USE OF FUNDS.—Funds provided by grants under this part shall be used—

(1) to make grants to individual Indian students to meet, on the basis of need, any edu-

cational expense of attendance in a post-secondary education program (as determined under the contracts applying to the post-secondary education program administered by tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93-638)), to the extent that such expense is not met from other sources or cannot be defrayed through the action of any State, Federal, or municipal Act, except that nothing in this subsection shall be interpreted as requiring any priority in consideration of resources; and

(2) costs of administering the program under this part, except that no more may be spent on administration of such program than is generated by the method for administrative cost computation specified in section 1315(a)(2).

SEC. 1616. LIMITATIONS ON USE OF FUNDS.

(a) USE FOR RELIGIOUS PURPOSES.—None of the funds made available under this part may be used for study at any school or department of divinity or for any religious worship or sectarian activity.

(b) INTEREST ON FUNDS.—No interest or other income on any funds made available under this part shall be used for any purpose other than those for which such funds may be used.

(c) PAYMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments—

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) NEW GRANTEES.—For any tribe for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(d) INVESTMENT OF FUNDS.—

(1) TREATMENT AS TRIBAL PROPERTY.—Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) INVESTMENT REQUIREMENTS.—Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(e) RECOVERIES.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

SEC. 1617. ADMINISTRATIVE PROVISIONS.

(a) BIENNIAL REPORT.—The Secretary shall submit a biennial report to the Congress on the programs established under this part. Such report shall include—

(1) a description of significant administrative actions taken by the Secretary under this part;

(2) the number of grants made under the authority of this part;

(3) the number of applications denied for such grants and the reasons therefor;

(4) the remedial actions taken to enable applicants to be approved;

(5) the number of students served, by tribe;

(6) statistics on the academic pursuits of the students provided assistance under this part the average amount of assistance provided; and

(7) such additional information as the Secretary considered significant.

(b) ROLE OF THE DIRECTOR.—Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

(c) APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c et seq.), except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(d) REGULATIONS.—The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

(e) RETROCESSION.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession. The tribal governing body requesting the retrocession shall specify whether the retrocession shall be to a contract administered by the tribe, or a tribal entity, under the authority of the Indian Self-Determination Act or to a Bureau-administered program.

PART C—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT

SEC. 1621. SHORT TITLE.

This part may be cited as the "Critical Needs for Tribal Development Act".

SEC. 1622. DEFINITIONS.

As used in this part:

(1) The term "federally funded higher education assistance" means any grant assistance provided to an Indian student from funds made available for such purpose by contract or grant to an Indian tribe from amounts appropriated under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13).

(2) The term "eligible Indian tribe or tribal organization" means any Indian tribe or tribal organization that qualifies to administer federally funded higher education assistance under a contract pursuant to the Indian Self-Determination and Education Assistance Act of 1975 or under a grant pursuant to the Higher Education Tribal Grant Authorization Act of 1991.

SEC. 1623. SERVICE CONDITIONS PERMITTED.

(a) IN GENERAL.—An eligible Indian tribe or tribal organization may, in accordance with the requirements of this part, require any applicant for federally funded higher education assistance, as a condition of receipt of such assistance, to enter into a critical area service agreement in accordance with section 1324.

(b) CRITICAL AREA DESIGNATION.—Any eligible Indian tribe or tribal organization that intends to require critical area service agreements shall, by a formal action of the tribal council or its delegate, designate particular occupational areas as critical areas for the economic or human development needs of the tribe or its members. The tribe or organization shall notify the Secretary of the Interior in writing of such designated critical areas. Such designations shall be applicable to federally funded higher education assistance for any fiscal year following the fiscal year in which the designation is made until such designation is withdrawn by the tribe or organization by formal action. The tribe or organization shall notify the Secretary of the Interior in writing of any designations that are withdrawn.

SEC. 1624. CRITICAL AREA SERVICE AGREEMENTS.

(a) TERMS OF AGREEMENTS.—A critical area service agreement shall be an agreement between an Indian student who receives or who shall receive federally funded higher education assistance and an Indian tribe or tribal organization providing such assistance in which the student agrees—

(1) to undertake a course of study at an eligible institution (as that term is defined in section 435(a) of the Higher Education Act of 1965) in an area of critical need, as determined under section 1323, and to pursue that course of study to its completion; and

(2)(A) to perform, for each academic year for which the student receives federally funded higher education assistance under a critical area service agreement, one calendar year of service to the tribe or organization in an occupation that is in a critical area designated by the tribe pursuant to section 1322(b), commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic work load as determined by the institution; or

(B) to repay such assistance to the Secretary, together with interest thereon at a rate prescribed by the Secretary by regulation, in monthly or quarterly installments over not more than 5 years.

(b) SERVICE LIMITATIONS AND CONDITIONS.—The tribe or tribal organization shall agree that a student performing services under a critical area service agreement—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or

by a nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c).

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a student to perform services under a critical area service agreement—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any critical service area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available in any critical service area, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

(d) PRO RATA REDUCTION FOR PARTIAL SERVICES.—The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2) in the case of any student who partially completes the service obligation of that student under subsection (a)(1).

(e) CERTIFICATION OF SERVICE.—An Indian tribe or tribal organization receiving services under a critical area service agreement—

(1) shall establish procedures for monitoring and evaluating the provisions of this part, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

SEC. 1625. GENERAL PROVISIONS.

(a) APPLICATION OF EXISTING PROCEDURES.—Except as provided in subsection (b), the requirements relating to student eligibility, needs analysis, and determination of eligibility for the program to be attended regularly incorporated by reference into contracts under the Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-638) for tribal operation of higher education grant programs prior to January 1, 1991, shall apply.

(b) ADDITIONAL, EXCESS, AND INCREMENTAL COSTS.—The tribe or tribal organization may establish in writing, subject to the review of the Secretary, procedures for determining additional, excess, or inducement costs to be associated with grants for critical area service agreements.

PART D—INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT

SEC. 1631. INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) BOARD OF DIRECTORS.—Section 1505 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4412) is amended—

(1) in subsection (a)(1)(A)—

(A) by striking "The voting" and inserting "Subject to the provisions of subsection (i), the voting"; and

(B) by inserting before the period at the end thereof a comma and the following: "and diverse fields of expertise, including finance, law, fine arts, and higher education administration";

(2) by redesignating paragraph (3) of subsection (a) as paragraph (4);

(3) by inserting after paragraph (2) of such subsection the following new paragraph:

"(3) The President shall carry out the activities described in subparagraphs (B) and (C) of paragraph (2) through the Board. The Board may make recommendations based upon the nominations received, may make recommendations of its own, and may review and make comments to the President or the President's appointed staff on individuals being considered by the President for whom no nominations have been received."; and

(4) by striking subsection (i) and inserting the following:

"(i) APPOINTMENT EXCEPTION FOR CONTINUITY.—

"(1) In order to maintain the stability and continuity of the Board, the Board has the power to recommend the continuation of members on the Board pursuant to the provisions of this subsection. When the Board makes such a recommendation, the Chairman of the Board shall transmit the recommendation to the President no later than 75 days prior to the expiration of the term of the member.

"(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires, the member shall be deemed to have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities.

"(3) This subsection shall not be construed to permit less than 7 members of the Board to be Indians. If an extension of a term under paragraph (2) would result in less than 7 members being Indians, the term of the member covered by paragraph (2) shall be deemed to expire 60 days after the date upon which it would have been deemed to expire without the operation of this subsection, except that the provisions of subsection (b)(4), relating to continuation of service pending replacement, shall continue to apply.".

(b) GENERAL POWERS OF BOARD.—Section 1507 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4414) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (3) through (13) as paragraphs (4) through (14), respectively;

(B) by striking paragraph (2) and inserting the following:

"(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contract without regard to section 3324 of title 31, United States Code;

"(3) any other provision of law to the contrary notwithstanding, to enter into joint development ventures with public or private commercial or noncommercial entities for development of facilities to meet the plan required under section 1519, if the ventures are related to and further the mission of the Institute;"; and

(C) by striking paragraph (13), as redesignated, and inserting the following:

"(13) to use any funds or property received by the Institute to carry out the purpose of this chapter, including the authority to designate on an annual basis a portion, not to exceed 10 percent, of the funds appropriated pursuant to section 1531 for investment, without regard to any other provision of law regarding investment or disposition of federally appropriated funds, on a short-term basis for the purpose of maximizing yield and liquidity of such funds; and"; and

(2) in subsection (c), by striking "may be expended" and inserting "shall be expended".

(c) STAFF OF INSTITUTE.—Section 1509(b)(2) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4416(b)(2)) is amended to read as follows:

"(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and positions, to whom chapter 51 of title 5, United States Code applies.".

(d) FUNCTIONS OF INSTITUTE.—Section 1510(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4417(b)) is amended to read as follows:

"(b) ADMINISTRATIVE ENTITIES.—

"(1) The Board shall be responsible for establishing the policies and internal organization that relate to the control and monitoring of all subdivisions, administrative entities, and departments of the Institute.

"(2) The specific responsibilities of each subdivision, entity, and department of the Institute are solely within the discretion of the Board, or its designee.

"(3) The Board shall establish within the Institute—

"(A) a department for the study of culture and arts;

"(B) a department for research and exchange; and

"(C) a museum.

"(4) The Board shall establish the areas of competency for the departments created under paragraph (3), which may include arts and sciences, visual arts, performing arts, language, literature, museology, a learning resources center, programs of institutional support and development, research programs, fellowship programs, seminars, publications, scholar-in-residence programs and inter-institutional programs of cooperation at national and international levels.".

(e) INDIAN PREFERENCE.—Section 1511(a) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4418(a)) is amended by inserting immediately after the words "is authorized to" the words "develop a policy or policies for the Institute to".

(f) TRANSFER OF FUNCTIONS.—Section 1514 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4421) is amended—

(1) in subsection (b)(1), by striking "All personnel" and inserting "Subject to subsection (d), all personnel"; and

(2) in subsection (d)(2), by striking "monetary damage" and inserting "monetary damages".

(g) REPORTS.—Section 1515(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4422(b)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3).

(h) HEADQUARTERS.—Section 1516 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4423) is amended—

(1) by striking "The site of the Institute of American Indian Arts, at"; and

(2) by striking "the Secretary" and inserting "the Board".

(i) COMPLIANCE WITH OTHER ACTS.—Section 1517 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4424) is amended—

(1) by redesignating the text of subsection (c) as paragraph (1) of such subsection; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Institute shall not be subject to any provision of law requiring that non-Federal funds or other moneys be used in part to fund any grant, contract, cooperative agreement, or project as a condition to the application for, or receipt of, Federal assistance. This subsection shall not be construed to effect in a negative fashion the review, prioritization, or acceptance of any application or proposal for such a program, solicited or unsolicited.".

(j) ENDOWMENT PROGRAM.—Section 1518 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4425) is amended—

(1) in subsection (a)(3), by striking "the date of enactment of this Act" and inserting "November 29, 1990";

(2) in subsection (b)(4) after "any private", by inserting ", non-Federal governmental,"; and

(3) in subsection (c)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) Notwithstanding any other provision of law, any amounts deposited in a trust fund authorized under subsection (a) may be used to secure loans procured for the purposes of constructing or improving Institute facilities.".

(k) PROVISION OF FACILITIES.—Part A of title XV of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.) is amended by adding at the end the following new section:

"SEC. 1519. PROVISION OF FACILITIES.

"(a) PLAN.—

"(1) IN GENERAL.—Within 18 months after the date of enactment of this section, the Board shall prepare and transmit to the Congress a master plan on the short- and long-term facilities needs of the Institute.

"(2) CONTENTS OF PLAN.—The master plan shall include a prioritization of the Institute's needs and shall evaluate—

"(A) all facets of existing Institute programs, including support activities and programs and facilities;

"(B) the possible impact of the Institute's move to a new site;

"(C) the development and construction requirements, based on a growth plan approved by the Board, including items such as infrastructure and site analysis; and

"(D) development of a phased plan with architectural and engineering studies, cost projections, landscaping, and related studies which cover all facets of the Institute's programs and planned functions.

"(b) FUNDS TO ASSIST CONSTRUCTION.—

"(1) IN GENERAL.—From the general funds for the provision of facilities to Federal entities, the Administrator of General Services shall provide to the Institute funds to defray the expenses associated with constructing facilities included within the plan required under subsection (a), and shall enter into a long-term contract of not less than 20 years with the Institute to provide such funds.

"(2) AMOUNT OF ASSISTANCE.—Funds under this subsection shall be provided directly to the Institute by the Administrator of General Services in an amount equal to the total square footage encompassed within the plans required under subsection (a), divided by 3 and multiplied by the average cost of square footage for facilities of institutions of higher education in the region in which the Institute is located, or in the Santa Fe, New Mexico, area, whichever is greater.

"(3) OFFSET.—The amount of the payment under paragraph (2) shall be decreased by any sums specifically appropriated under authority of this Act to offset these funds.

"(4) COMMENCEMENT OF PAYMENTS.—Payments under this subsection shall begin in the fiscal year following the fiscal year in which the report required by subsection (a) is submitted.

"(5) ADMINISTRATIVE PROVISIONS.—

"(A) SEPARATE ACCOUNT.—The Institute shall keep such funds in a separate account, under such terms as may be agreed upon by the Institute and the Administrator of General Services, and shall use the principal and interest on such funds to defray expenses associated with providing facilities under the plan required pursuant to subsection (a).

"(B) EXPENDITURES.—Subject to subparagraph (A), any expenditures of the funds provided by this section shall be at the discretion of the Institute.

"(C) OVERSIGHT.—The Institute shall allow, to the extent practicable, the Administrator of General Services to audit and monitor the use of the funds provided by this section.".

PART E—AMERICAN INDIAN POSTSECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP

SEC. 1641. AMERICAN INDIAN POSTSECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP.

(a) PROGRAM AUTHORIZED.—The Secretary of Education through the Office of Indian Education is authorized to make grants, in accordance with the provisions of this part, to federally recognized Indian tribes which lack sufficient numbers of professionally trained tribal members to support established or ongoing economic development initiatives. Priority shall be given to tribes which are not served by federally funded postsecondary institutions. The purpose of such grants is to enable such tribes to make scholarships available to tribal members to assist such members to pursue courses of study leading to an undergraduate or postbaccalaureate degree in order to provide professionally trained tribal members to support such economic development initiatives on Indian reservations.

(b) DESIGNATION.—A scholarship awarded under this part shall be referred to as an "American Indian Post-Secondary Economic Development Scholarship" (hereafter referred to in this part as "scholarship").

SEC. 1642. INDIAN SCHOLARSHIPS.

(a) SELECTION.—Each Indian tribe receiving a grant pursuant to this part for the purpose of providing scholarships shall select tribal members eligible to receive such scholarships. In determining grant recipients the Office of Indian Education shall consider—

(1) geographic distribution of grants; and

(2) a tribal economic plan which demonstrates how individual recipients shall benefit the economic conditions of the tribe.

(b) CRITERIA.—Each Indian tribe, in consultation with the Secretary of Education, shall give preference to select, as those tribal members eligible to receive such scholarships, tribal members who have successfully completed at least 30 hours of postsecondary education and who are eligible for readmission to a postsecondary institution.

SEC. 1643. SCHOLARSHIP CONDITIONS.

(a) SCHOLARSHIP AGREEMENT.—Each tribal member receiving a scholarship under this part shall enter into an agreement, satisfactory to the Secretary of Education and the tribal government awarding such scholarship, under which such member agrees—

(1) to utilize the proceeds of such scholarship to pursue a course of study which meets the requirements of the State in which the educational institution is located for an undergraduate or postbaccalaureate degree;

(2) upon the acquisition of such degree, to work, one year for each year of financial assistance under this part, on the Indian reservation in employment related to the course of study pursued which will support economic development initiatives on such reservation; and

(3) to maintain satisfactory academic progress while in an undergraduate or postbaccalaureate program.

(b) REPAYMENTS.—Each tribal member found by the Secretary of Education to be in noncompliance with the agreement pursuant to subsection (a)(2) shall be required to repay—

(1) 100 percent of the total amount of scholarships awarded under this part if such tribal member does not work pursuant to such agreement; or

(2) a pro rata portion of the total amount of scholarships awarded under this part, as determined by the Secretary of Education, if such tribal member worked pursuant to such agreement but less than the time period required thereunder.

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—(1) An Indian tribe may, by formal action, waive the service agreement of a tribal member for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe shall notify the Secretary in writing of any waiver granted under this subsection.

(2) The obligation of a tribal member to perform services under this part—

(A) shall be suspended for not more than 18 months if, at the request of the tribal member, the tribe determines that there are no employment opportunities available in any applicable area; and

(B) shall be suspended if the tribal member ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available which fulfill the requirements of this part, the tribal member's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe annually, but may be continued indefinitely.

(d) DISCLAIMER.—No scholarship awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of the Higher Education Act of 1965.

(e) LIMITATION.—Any tribal member selected by an Indian tribe to receive a schol-

arship under this part shall be eligible to receive a $10,000 scholarship for each academic year of postsecondary education, except that no such member shall receive scholarship assistance under this part for more than 4 years of postsecondary education (including postbaccalaureate).

(f) COST OF ATTENDANCE.—Calculation of the cost of attendance for the tribal member shall include all costs as determined by the tribe for the purposes of fulfilling the policy of this part.

(g) ADDITIONAL REQUIREMENTS.—Any tribal member seeking a loan under this part shall apply for and accept the maximum financial aid available from other sources. However, for purposes of determining eligibility, loans provided under this program may not be considered in needs analysis under any other Federal law, and may not penalize tribal members in determining eligibility for other funds.

(h) APPLICATIONS FOR ASSISTANCE.—Any Indian tribe desiring a grant under this part shall submit an application to the Secretary of Education at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

(1) describe the shortages on the reservation of such Indian tribe of professionally trained tribal members necessary to support economic development initiatives on such reservation;

(2) provide assurances that the Indian tribe will assist in employment placement on the reservation of tribal members receiving scholarship assistance under this part; and

(3) provide assurances that any tribal member performing work pursuant to this part will be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work.

SEC. 1644. REPORT.

Each Indian tribe receiving a grant pursuant to this part shall annually report to the Secretary concerning the administration of such grant, including the identities of any individual receiving a scholarship pursuant to this part, and of any individual performing service pursuant to his or her commitment under this part.

SEC. 1645. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out the provisions of this part, there are authorized to be appropriated—

(1) $2,000,000 for fiscal year 1993;
(2) $4,100,000 for fiscal year 1994;
(3) $6,200,000 for fiscal year 1995;
(4) $8,300,000 for fiscal year 1996;
(5) $10,400,000 for fiscal year 1997;
(6) $12,500,000 for fiscal year 1998; and
(7) $14,600,000 for fiscal year 1999.

Part F—American Indian Teacher Training

SEC. 1651. AMERICAN INDIAN TEACHER TRAINING.

(a) INSTITUTIONAL SUPPORT.—

(1) IN GENERAL.—The Secretary of Education, through the Office of Indian Education, is authorized to award grants to tribally controlled postsecondary, vocational and technical institutions for the purpose of developing teacher training programs.

(2) USE OF GRANTS.—Grants awarded under this subsection shall be for the purpose of providing upper division course work, transfer programs, articulation agreements with other accredited institutions, telecommunications programs or other mechanisms which directly support the training of American Indian teachers.

(b) STUDENT SUPPORT GRANTS.—

(1) IN GENERAL.—The Secretary of Education, through the Office of Indian Education, is authorized to award grants to institutions that have developed teacher training programs under subsection (a) for the purpose of providing financial and programmatic support to American Indian students seeking to participate in such institutions' teacher training programs.

(2) USE OF GRANTS.—Colleges receiving grants under this section shall require recipients of grants under this subsection to serve as teachers in an Indian community for 1 year for each year of scholarship support received.

(3) ELIGIBILITY.—Students eligible to receive support grants shall include those who have completed at least 30 hours of postsecondary education.

(4) WORK REQUIREMENT.—Students who fail to satisfy the requirements of paragraph (2) shall be required to repay a pro rata portion of the total amount of scholarships awarded under this part if the student worked for less than the required time period described in such paragraph.

(c) SCHOLARSHIPS.—

(1) AUTHORITY.—The Secretary of Education, through the Office of Indian Education, is authorized to provide scholarship assistance to American Indian students who seek to become teachers and who—

(A) agree to serve as teachers in an Indian community for 1 year for each year of scholarship support received, and

(B) have completed at least 30 hours of postsecondary education.

(2) WORK REQUIREMENT.—Students who fail to satisfy the requirements of paragraph (1) shall be required to repay a pro rata portion of the total amount of scholarships awarded under this part if the student worked for less than the required time period described in paragraph (1)(B).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each fiscal year thereafter to carry out this part.

TITLE XVII—NATIONAL COMMISSION ON THE COST OF HIGHER EDUCATION

SEC. 1701. ESTABLISHMENT OF COMMISSION.

There is established a Commission to be known as the "National Commission on the Cost of Higher Education" (hereafter in this title referred to as the "Commission").

SEC. 1702. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be composed of 12 members as follows:

(1) Four citizens of the United States appointed by the President.

(2) Two Senators appointed by the Majority Leader of the Senate, of which—

(A) one shall be a member of the Committee on Labor and Human Resources of the Senate; and

(B) one shall be a member of the Committee on Appropriations of the Senate.

(3) Two Senators appointed by the Minority Leader of the Senate, of which—

(A) one shall be a member of the Committee on Labor and Human Resources of the Senate; and

(B) one shall be a member of the Committee on Appropriations of the Senate.

(4) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives, of which—

(A) one shall be a member of the Committee on Education and Labor of the House of Representatives; and

(B) one shall be a member of the Committee on Appropriations of the House of Representatives.

(5) Two Members of the House of Representatives appointed by the Minority Leader of the House of Representatives, of which—

(A) one shall be a member of the Committee on Education and Labor of the House of Representatives; and

(B) one shall be a member of the Committee on Appropriations of the House of Representatives.

(b) ADDITIONAL QUALIFICATIONS.—

(1) PRESIDENTIAL APPOINTEES.—An individual appointed under subsection (a)(2) may not be an officer or an employee of the Executive Branch.

(2) CITIZENS.—Individuals who are not Members of the Congress and are appointed under paragraphs (3) through (6) of subsection (a) shall be individuals who—

(A) have extensive knowledge of higher education and its financing and who are leaders of the education community, distinguished academics, State or local government officials, students, parents of college students, members of the business community, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Commission shall elect a Chairman and a Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson will assume the duties of the Chairperson.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) APPOINTMENTS.—All appointments under subsection (a) shall be made within 3 months after the date of enactment of this Act.

(f) VOTING.—Each member of the Commission shall be entitled to one vote, which shall be equal to the vote of every other member of the Commission.

(g) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(h) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

SEC. 1703. FUNCTIONS OF COMMISSION.

(a) SPECIFIC FINDINGS AND RECOMMENDATIONS.—The Commission shall study and make findings and specific recommendations regarding the following:

(1) The increase in tuition costs compared with other commodities and services as well as methods of reducing increased tuition costs.

(2) Trends in college and university administrative costs as well as other costs and means of reducing such increased costs.

(3) The development of a standardized annual report that colleges and universities shall distribute which details the administrative costs, instructional costs and capital costs of such colleges and universities in order to carry out section 1801.

(4) The extent to which Federal, State and local regulations contribute to increased tui-

tion costs and the increase in the cost of higher education.

(5) The establishment of a mechanism for a more timely and widespread distribution of data on tuition trends and other costs of operating colleges and universities.

(6) The extent to which the lack of student financial assistance programs has contributed to increased tuition costs.

(7) Other related topics determined to be appropriate by the Commission.

(b) FINAL REPORT.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall submit to the President and to the Congress not later than September 1, 1994, a report which shall contain a detailed statement of the findings and conclusions of the Commission, including the Commission's recommendations for administrative and legislative action that the Commission considers advisable.

(2) MAJORITY VOTE REQUIRED FOR RECOMMENDATIONS.—Any recommendation described in paragraph (1) shall be made by the Commission to the President and to the Congress only if such recommendation is adopted by a majority vote of the members of the Commission who are present and voting.

SEC. 1704. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this title, hold such hearings and sit and act as such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish the Commission's procedures and to govern the manner of the Commission's operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this title. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) FACILITIES AND SERVICES, PERSONNEL DETAIL AUTHORIZED.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the Commission's duties under this title, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 1705(b).

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission, to such extent and in such amounts as are provided in appropriation Acts, may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the Commission's duties under this title, subject to the limitation on total expenses set forth in section 1705(b).

(f) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 1705(b)) shall have the power to 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, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for level IV of the Executive Schedule under section 5332 of such title.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.) and shall be independent from the Executive Branch.

SEC. 1705. EXPENSES OF COMMISSION.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $2,000,000.

(c) GAO AUDIT.—Prior to the termination of the Commission pursuant to section 1706, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include the Comptroller General's determination in an opinion to be included in the report of the Commission.

SEC. 1706. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 90 days after the date on which the Commission submits its report.

TITLE XVIII—AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

SEC. 1801. DISCLOSURE OF TUITION, ADMINISTRATIVE COSTS, INSTRUCTIONAL COSTS AND CAPITAL COSTS.

(a) DISCLOSURE REQUIREMENTS.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end thereof the following new subsection:

"(g) DISCLOSURE OF PARENT/STUDENT RIGHT TO KNOW STATISTICS.—(1) Each eligible institution participating in any program under this Act shall collect information with respect to administrative costs, instructional costs and capital costs, and annually prepare, publish, and distribute, through appropriate publications or mailings, to all current students, and to any applicant for enrollment or upon request, members of the public, an annual report on such costs.

"(2) Upon the request of the Secretary, each institution participating in any program under this Act shall submit to the Secretary a copy of the report required to be made available under paragraph (1). The Secretary shall review such reports and shall report to the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives, and the Committee on Labor and Human Resources and Committee on Appropriations of the Senate on the content of such reports.

"(3) The Secretary, after receiving recommendations from the Commission, shall solicit public comment and promulgate rules to implement this subsection.

"(4) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to tuition costs, administrative costs, instructional costs, and capital costs.".

SEC. 1802. PROGRAM PARTICIPATION AGREEMENT REQUIREMENTS.

(a) IN GENERAL.—Subsection (a) of section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by adding at the end thereof the following new paragraph:

"(13) The institution has complied with the disclosure requirements of section 485(g).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 90 days after the issuance of the regulations described in section 485(g)(3) of the Higher Educations Act of 1965.

TITLE XIX—RESOURCE SHARING GRANTS

SEC. 1901. RESOURCE SHARING GRANTS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to States, local governments, or consortia of universities and colleges to enable such States, local governments or consortia thereof to establish resource sharing plans that are designed to—

(A) prevent unnecessary duplication of existing resources;

(B) reduce the long-term cost of tuition at colleges and universities; and

(C) establish cost containment mechanisms for the costs described in subparagraph (A).

(2) GRANT DISTRIBUTION.—The Secretary shall award at least 5 grants pursuant to paragraph (1) to at least 5 different States or consortia thereof.

(b) USE OF FUNDS.—Funds shall be used to carry out the plans described in this section.

(c) APPLICATION.—Each State or consortium thereof desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(d) DEFINITIONS.—For the purpose of this section—

(1) the term "Secretary" means the Secretary of Education; and

(2) the term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years thereafter to carry out this section.

TITLE XX—COMMUNITY AND JUNIOR COLLEGES

SEC. 2001. DEFINITION OF COMMUNITY AND JUNIOR COLLEGE.

Section 104 of the Department of Education Organization Act (20 U.S.C. 3404) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new definition:

"(8) the term 'community and junior college' means an institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), that—

"(A) admits as regular students persons—

"(i) a majority of whom are beyond the age of compulsory school attendance in the State in which the institution is located; and

"(ii) who have the ability to benefit from the training offered by the institution; and

"(B)(i) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree; or

"(ii) offers a 2-year program—

"(I) in engineering, mathematics, or the physical or biological sciences; and

"(II) designed to prepare a student to work—

"(aa) as a technician; or

"(bb) as an entry-level professional in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.".

SEC. 2002. LIAISON FOR COMMUNITY COLLEGES.

(a) LIAISON.—Section 202 of the Department of Education Organization Act (20 U.S.C. 3412) is amended by adding at the end the following new subsection:

"(i)(1) There shall be in the Department a Liaison for Community and Junior Colleges, who shall be an officer of the Department appointed by the Secretary.

"(2) The Secretary shall appoint, no later than 6 months after the enactment of this Act, as the Liaison for Community and Junior Colleges a person who—

"(A) has attained an associate degree from a community or junior college; or

"(B) has been employed in a community or junior college setting for not less than 5 years.

"(3) The Liaison for Community and Junior Colleges shall—

"(A) serve as principal advisor to the Secretary on matters affecting community and junior colleges;

"(B) provide guidance to programs within the Department dealing with functions affecting community and junior colleges; and

"(C) work with the Federal Interagency Committee on Education to improve coordination of—

"(i) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

"(ii) collaborative business education partnerships; and

"(iii) education programs located in, and regarding, rural areas.".

(b) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

"Liaison for Community and Junior Colleges, Department of Education".

TITLE XXI—MISCELLANEOUS

SEC. 2101. PROHIBITIONS RELATING TO THE PROVISION OF CERTAIN HEALTH CARE UNDER SHARING PROGRAM.

(a) PROHIBITION.—Notwithstanding section 8153 of title 38, United States Code, or any other provision of law, the Secretary of Veterans Affairs may not furnish, and funds appropriated or otherwise made available to the Department of Veterans Affairs (including funds paid to the Department by the Department of Health and Human Services) may not be used by the Secretary to furnish, hospital care or medical services under the program referred to in subsection (b) to any person who is not eligible to be furnished such care or services under chapter 17 of title 38, United States Code.

(b) COVERED PROGRAM.—The prohibition referred to in subsection (a) applies to the demonstration project for the furnishing of health care in certain rural facilities of the Department entered into between the Secretary and the Secretary of Health and Human Services that is commonly known as the Rural Health Care Initiative.

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

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. PELL. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ADAMS. Parliamentary inquiry. Are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. ADAMS. I would like to proceed in morning business.

The PRESIDING OFFICER (Mr. AKAKA). The Senator is recognized for the purpose.

THE CASE OF THE IRISH GIRL

Mr. ADAMS. Mr. President, this morning's Washington Post carried a deeply troubling editorial entitled "The Case of the Irish Girl."

Over the past several days, international attention has been drawn to the plight of a 14-year-old rape victim who is being denied the right to travel from the Republic of Ireland to obtain an abortion. This tragic situation has become the ultimate example of the injustice that can occur when any government chooses to interfere with the reproductive rights of women. It is a case that should give citizens of this Nation further reason to express vocal opposition to any further erosion of women's reproductive rights in our own legal system.

Abortion is illegal in the Republic of Ireland, but it is legal in England. When this young rape victim and her parents attempted to travel to England, and I want to emphasize this young rape victim and her parents attempted to travel to England, to secure a legal abortion as more than 4,000 other Irish women choose to do each year, they were denied the right to travel. She is now, in effect, a prisoner of conscience, held against her will, being forced to carry to term the result of a rape.

I have today expressed my deep concern about this violation of this young woman's basic human rights of Ambassador Gallagher, and I call upon my colleagues who share my sense of shock and dismay to do likewise.

Those of us who recognize the basic rights involved, and they are very basic rights, should join with the President of the Republic of Ireland, Mary Robinson, the new President, and other prominent Irish citizens, including Sinead O'Connor, in calling for a reversal of this outrageous decision.

Mr. President, I call upon the Supreme Court of Ireland to free this Irish girl and I ask unanimous consent that the Washington Post editorial be printed in the RECORD.

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

[From the Washington Post, Feb. 21, 1992]

THE CASE OF THE IRISH GIRL

A tragic case that dramatizes the real issues at stake in the abortion debate has caused an uproar in Ireland. A 14-year-old girl who was allegedly raped by the father of her best friend has been prohibited by a court from leaving the country to get an abortion in Britain. Abortion has been banned by statute in Ireland since the middle of the last century, and that law was reinforced by constitutional amendment following a referendum in 1983. Nevertheless, until now authorities have turned a blind eye toward abortions obtained by Irish women abroad. It has been estimated that a minimum of 4,000 a year go to Britain for the procedure.

The current case is a personal nightmare for the girl and her family and a political nightmare for the newly installed Irish government. The facts compel great sympathy for the teenager, and the response has been international. Even at home, where voters had supported a ban on abortion by a two-to-one majority only nine years ago, there has been a shocked, even embarrassed reconsideration of the law. Both the judge who granted the injunction and the new prime minister Albert Reynolds, described the situation as "painful and distressing [having resulted] in tragedy and a great measure of human suffering." And in spite of the fact that the attorney general was the moving party in court, the government has offered the family assistance in appealing the decision to the Supreme Court. None of this, of course, can be of much immediate consolation to the child who is carrying a child.

The government has reason for concern on other fronts too. Installed only 48 hours before this case broke, Mr. Reynold's cabinet had already given signs it would move for the reconsideration of law and policy in the area of divorce and contraception. The former is now unavailable in Ireland, and access to the latter is restricted to married couples. Now it must grapple with the more difficult abortion question, which stirs fierce debate and may require a constitutional amendment. Further, the controversy will surely complicate matters for Ireland in the European Community, where challenges to this aspect of Irish law have already been brought before the European Court of Justice, whose rulings bind member nations. Finally, the case cannot help in the long-running struggle to unite Ireland, for it is exactly this kind of restriction, founded on deeply held religious and moral views, that reinforces the determination of Protestants to resist union.

In this country, abortion is usually debated in the abstract, in terms of women's rights, constitutional principles or theories about when life begins. But there is no escaping the concrete facts of what happens to individuals when all abortions are banned, as they were in most states until 1973. A 14-year-old Irish girl has brought that reality home.

Mr. ADAMS. Mr. President, this is a matter of grave conscience. It is also a matter where the parents, the President of the Republic and many people of conscience are joining to say, free this young woman; give her an opportunity in her life to proceed with basic dignity and protections that she should have. We want also these basic protections for women of the United States. I hope both will occur.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

HAITI

Mr. GRAHAM. Mr. President, 141 days have passed since military thugs in Haiti violently ousted Haiti's first freely elected democratic government. Today, the 142d day of military rule, the thugs are no closer to leaving the Presidential palace than when they shot their way into power on September 30. We have spent 4 fruitless months trying to negotiate their departure and a restoration of democracy. Our policy has failed.

Failure is producing resignation and a dangerous indecisiveness that threatens the democratic gains throughout this hemisphere.

Mr. President, we are at a crossroads. We have two choices. We can acquiesce and cut a face-saving deal that will leave the thugs in Port-au-Prince effectively in power. If we do, we will send the wrong signal to the hemisphere's would-be dictators that we are not serious about the protection of democracy.

A second alternative is to adopt a hard-hitting policy that we will restore legitimate civilian rule and signal civilian governments around the region that we care about their democratic futures. I fear that we are following the first path, the path of acquiescence and accommodation. We have already eased the embargo approved by the Organization of American States. We continue to pursue endless negotiation with the thugs who stole democracy from the Haitian people.

Mr. President, I ask unanimous consent that a February 24, 1992, Newsweek article be printed in the RECORD.

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

[From Newsweek, Feb. 24, 1991]

HAITI: "WE COULD TURN OUR BACK"

Washington has returned thousands of refugees, eased its embargo—and all but abandoned the fight against the nasty little coup in the Caribbean.

This coup must not and will not succeed." That was the vow Secretary of State James Baker made in October before a special meeting of the Organization of American States devoted to the crisis in Haiti. It came as the United States joined members of the OAS in a regional embargo aimed at reinstating. Haiti's first democratically elected president, Jean-Bertrand Aristide.

But four months later, the coup still stands. The military gang that took power on Sept. 29 remains in control; the sanctions have only hurt the Haitian poor, made life more difficult for the tiny middle class and enriched the even tinier oligarchy, with which the military runs the country like a plantation. And this month President Bush unilaterally eased the embargo. In effect, he all but threw up his hands. Haiti's provisional government has defiantly promoted the general whose removal is Aristide's main condition for a negotiated settlement. Meanwhile, America's forced repatriation of Haitian refugees has left Bush open to charges of racism and turned the Haitian masses against him. To them, it looks as though a two-bit army has stared down the world's greatest military power.

Bush can afford a policy failure in Haiti. It has little strategic significance and no powerful U.S. constituency. And Aristide is a problematic ally. He foolishly tried to take on the army, the oligarchy and the church all at once. His rhetoric at times even condoned violence. Just after the coup, Bush received Aristide in the Oval Office, but relations have since deteriorated. Last week Aristide accused Bush of abandoning the fight. Some policymakers now say that the United States should never have signed off on the OAS's insistence on restoring Aristide. Talk of military intervention has turned to speculation about walking away altogether. Says one diplomat: "We could turn our back on Haiti and let it fall into the abyss."

By electing Aristide, a priest who promised a fair division of the country's wealth, many Haitians hoped they could put an end to decades of rule by brutal and corrupt leaders. And as far as they were concerned, the United States shared responsibility for that legacy. It invaded Haiti in 1915 and stayed until 1934. It created the country's thuggish joint military and police force. For years it supported the notorious Francois (Papa Doc) Duvalier because he espoused anti-communism. Today, almost any Cuban who can reach Miami is granted political asylum. Yet Washington went to court to win a ruling classifying thousands of Haitians as economic, not political, refugees. Now the U.S. Coast Guard is sending back most of the Haitians who have fled to America since Aristide's ouster.

Haiti's oligarchs, who cheered the coup against the populist Aristide, feel vindicated. Bush's tepid support for Aristide has convinced them that America, Haiti's main trading partner, ultimately is on their side. During a beach party he hosted last week, an heir to one of Haiti's top families observed: "We know the golden rule: whoever has the gold rules." Whatever Haiti's political future, the wealthy seem sure that it won't include the wholesale empowerment Aristide promised his constituency. They also maintain that economic growth under a strong-arm government is better for the masses than redistribution of a shrinking pie. "We're doing it backwards," says the host. "Jobs, taxes, this is the beginning of democracy. One election doesn't make democracy."

But the Haitian rich pay few taxes, even though they rake in the lion's share of the nation's wealth (box). One reason they hated Aristide was that he forced them to pay up—and raised government spending in one of the stingiest countries of the world. Until 1986, some superrich businessmen enjoyed monopolies granted by Duvalier and his son, "Baby Doc." Those are gone, but the fortunes they created remain. The Brandts, the Mews, the Nadals, the Vorbes, the Madsens, the Behrmannas—Haiti's great families, almost all light-skinned mulattoes, live in luxury on the mountains overlooking Port-au-Prince's wretched slums. So do those who have made fortunes in smuggling.

Some members of the elite acknowledge that they have done nothing to improve conditions for the 90 percent of the population that is unschooled and barely fed. But others talk about the country's conditions with a kind of willful disbelief. "I ask myself, how much poverty is there, really, in the country?" said a dentist lolling poolside at the Pétionville Club. "You see a beggar and you might think he was poor, but he is taking the money he gets and practicing usury." Comments about police repression show similar callousness. One man compared the smell left after soldiers break up a demonstration to the aroma "after your wife sprays Flit in a room." Over shrimp brochette, another defends the coup, in spite of its violence. "Look, how are you going to do this?" he asks. "The people who did this meant business, man. It was ideological—like Pinochet—the free market versus whatever you want to call it."

LAID OFF

The U.S. response to the inequities in Haiti has been to try to create a middle class, the classic engine of economic and political progress. Much of that hope hinged on the "assembly sector," U.S.-financed factories that employed 40,000 workers. In its original form, the U.S. embargo blocked Haiti from exporting these products; strategists thought the new industrial class would line up against the coup. The assembly sector's leaders did call for the negotiated return of Aristide but never went further. Meanwhile, nearly 30,000 workers have been laid off. "The [bosses] disappointed us, didn't they," says one State Department official. Baker said easing the embargo may now save those jobs, but to others are doubtful, citing political instability and deteriorating infrastructure.

Some industrialists may simply have been too scared to fight the coup. Last month police broke in on René Théodore, the Communist candidate for prime minister who is supported by the United States and the OAS, as he was meeting with other politicians; they killed his bodyguard with a shot to the head. Last week, one U.S. and one British reporter went to the countryside to investigate reports of atrocities and were arrested. A local sheriff threatened to kill them, telling a colleague: "They know I burned the village; they know I killed people." A member of Parliament said he was stopped on the street and fired upon by men in civilian clothes; Théodore said his house was fired at. In winning its legal fight to repatriate the Haitian boat people, Washington argued, in effect, the Haitians may live in fear, but that doesn't entitle them to asylum. That may be so. But it remains to be seen how forgiving the military leaders will be of Haitians who supported Aristide and then fled when he was toppled. And while they wait to find out, many Haitians can only feel disappointed about a U.S. government that hailed democracy while it worked but seemed helpless to do anything when it came undone.

Mr. GRAHAM. Mr. President, this article records the sense of helplessness our ineffective policy has fostered in Haiti. We are being played for fools, and this is not the time for accommodation.

When I spoke in this Chamber on February 6, I urged the President to rally support for the use of force to restore Haiti's legitimate, democratically elected Government to power.

I was pleased to see the New York Times' editorial in favor of this proposal on February 19. I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the New York Times, Feb. 19, 1992]

SAVE HAITI FROM ITS ARMY

Last September's coup in Haiti brought staggering consequences: more than 1,500 people murdered in the streets . . . tens of thousands fleeing in small boats to the U.S. and other neighboring lands . . . military conspirators emboldened throughout the hemisphere. These disasters derive from one narrow source, Haiti's brutish army, just 7,000 soldiers who terrorize a population of six million.

Haiti's neighbors, working through the Organization of American States, have tried to pressure army leaders. But their economic embargo has proved porous and their diplomatic proposals have been mocked. This month a blundering State Department eased some of the remaining pressure, inviting even greater contempt from Port-au-Prince.

To retrieve the situation, a more tough-minded approach may be required: Send in armed O.A.S. peacekeepers to restore order and democracy.

Foreign intervention in political disputes is usually a bad idea. But in Haiti's case, it deserves serious consideration.

One reason outsiders can play a constructive role is that they would be supporting a basic choice already made by Haitians. A million and a half voters overwhelmingly elected Jean-Bertrand Aristide as President 14 months ago. By all accounts, he still commands majority support.

A significant and economically powerful minority, however, opposes President Aristide and fears what might happen if he returns. An O.A.S. force could reassure these people, essential to Haiti's economic functioning, that their rights will be protected from vengeful Aristide partisans.

The army might not politely step aside. But it could, being small, be pushed aside. Should the army resist, to protect its drug and other smuggling rackets, it would find little popular support.

The O.A.S. traditionally dislikes intervening anywhere because Latin American states fear setting precedents that could weaken their own sovereignty. Those fears would be eased if no U.S. troops took part. Most Latin governments now have an equally strong stake in avoiding a different precedent, a successful military coup. Events in Venezuela this month sent shudders through several presidential palaces.

As long as the Haitian army thwarts all attempts at diplomacy, it's hard to see any political remedy for Haiti's suffering. The first need seems increasingly clear: Neutralize the army's tyrannical power.

Mr. GRAHAM. Mr. President, the New York Times historically has counseled caution in situations of the type we now face in Haiti. We all share with our OAS allies a natural dislike for intervention. But I submit that intervention is the only way to restore democracy in Haiti. As the Times points out, an OAS peacekeeping force could reassure all sides, both supporters and opponents of President Aristide, that their safety will be provided and democracy restored.

In addition to military force, Mr. President, I urge the President to take these additional steps: First, we must make life as difficult for those now in power as we can. For example, if they have U.S. visas, we should cancel them. If they have assets in the United States, we should seize them. We should pressure our allies to do the same thing. Our Government is still collecting information on those in power. We need now to act on that information. We need to act now.

Second, we must continue to uphold our laws. That means that those seeking asylum receive fair and thorough hearings. If their return to Haiti would endanger them, they should be allowed to apply for asylum in this country.

Third, the OAS should establish an on-the-ground tracking system to assure the safety of those who are returned.

Four, the OAS should toughen those parts of the embargo in effect and to target violators.

The OAS should establish a multinational force that could be on standby for use in future situations such as we now face in Haiti.

Finally, the United States should continue to reform its International Military Education Training Program to reflect the need for a more civically oriented military geared to preserving democracy, not destroying it, particularly among the nations of Latin America and the Caribbean.

Mr. President, when it comes to Haiti, we are selling democracy short. We are settling for short-term palliatives when we should be making a long-term commitment to restoring democracy. We are making a serious mistake that could well undermine civilian democratic leadership in this region for years to come, and I urge the President to lead our OAS allies to renew their commitment to restoring democracy in Haiti.

Meanwhile, Mr. President, the Bush administration's inaction on restoring democracy to Haiti is having a serious impact here in the United States of America.

In fact, the administration's lack of a consistent policy during the refugee crisis has hurt everyone involved—the Haitians who have fled the country, State and local governments, particularly in my State of Florida and around the country, and the Federal Government itself. Up until about a week ago, the State of Florida was assured that all Haitians who were admitted to the United States for asylum processing would first be tested for excludable, contagious diseases, and would arrive in Miami with a work permit in hand.

Without any notification to the State, that policy was abruptly reversed.

After the Supreme Court ruled on repatriation, the administration has instituted a policy which I believe will have grave consequences.

Since February 11, all Haitians who are interdicted on the high seas have been interviewed by immigration officials on the Coast Guard cutters.

Those whom officials determine to have colorable asylum claims are then brought to Miami, not Guantanamo, without further processing. I underscore "without further processing."

Krome Processing Center in Miami, the destination for Haitians who are screened in, that is, found to have a colorable claim for political asylum, by immigration officials, is a temporary processing facility.

As recently as early January of this year, Mr. President, when I visited Krome, their medical facilities were limited. They were not providing, for instance, blood tests to determine if persons admitted for processing were HIV positive.

So far, approximately 220 of the Haitians who have been approved to apply for asylum in the United States have tested positive for the HIV virus. Like numbers have had syphilis and active tuberculosis.

Krome is not a hospital. It does not have the capability to quarantine large numbers of people with infectious diseases. In fact, Krome does not have the capability to serve as a processing center for a large number of people and still remain viable in the event of a much larger immigration emergency than the one we are facing today.

Justice Department officials confirmed to me their intention is to fill Krome to 33 percent beyond its capacity during this operation. That estimate is probably low.

I believe that we are shooting ourselves in the foot by rendering ourselves incapable to respond to a larger or separate refugee influx.

More importantly, filling Krome to emergency levels is further evidence that this current crisis is an immigration emergency. There is a $35 million fund available for emergencies like this, and I call upon the President and the Attorney General yet again to release this money to help pay the tremendous costs of this emergency.

While the Department of Justice has now stated that there would be full medical screenings provided once these persons are brought to Krome, there will still be the threat to the community of a release of these persons after they have completed their screenings

or the threat to the community of an overcrowded, tense, and potentially explosive situation inside the Krome Detention Center itself.

Here is an example of another type of cost which should be covered by the immigration emergency fund. On February 5 and again on February 10, the Justice Department took an action which symbolizes the point I have been making about Federal immigration policy for the last 11 years, that the Federal Government outright refuses to live up to the financial responsibility that it alone has the power to set.

In these two instances, Mr. President, two Haitians at Guantanamo Bay had medical emergencies which required immediate and expert attention not available at the naval base. They were brought to Miami for treatment. Miami has among the best medical professionals in the world. I am proud and pleased that we were able to provide treatment for those two seriously ill individuals.

However, the responsibility for paying for that treatment lies squarely with the Immigration and Naturalization Service. Yet in one of the boldest examples of sidestepping their responsibility, INS paroled those people from their custody so that they would not be legally responsible for their care.

One man, who had an eye operation, was covered by Medicaid at a 55 percent Federal-45 percent State cost allocation. The State of Florida cannot and should not absorb these or similar costs in the future. These disturbing developments will continue to be exacerbated until we address the root cause of that crisis, the internal unrest in Haiti caused by the seizure of democracy by military thugs.

Mr. President, we have arrived at the moment of truth. We are at the Munich of the Caribbean in Haiti. We are going to make a decision as was made in the 1930's as to whether we are going to acquiesce and accommodate military dictatorship or we are going to stand for the basic principles of democracy, the principles of the right of the people to select their governmental leaders.

That is the challenge before the United States. That is the challenge before the democracies of this hemisphere. The stage for that challenge is Haiti. The time to act is now. Our failure to act will represent a deep shadow of uncertain democracy in this new hemisphere.

I thank the Chair.

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

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

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

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

THE ECONOMY

Mr. WIRTH. Mr. President, much attention has been given in the last 6 months, justifiably, to the very sharp recession in which we find ourselves. In all of the discussions of the long-term economic strategy, almost no attention has been given to a very important set of issues related to our economy, related to our international trade position; and those are the issues of energy.

We have just completed an enormously important piece of legislation, the Senate energy bill, a reflection in part of the President's national energy strategy, a reflection in part of the Johnston-Wallop bill, a reflection in part of a great deal of work that came into the Congress from a variety of outside groups.

The importance of this piece of legislation for our economy cannot be understated. Energy is the lifeblood of this economy. We all take it for granted, unfortunately, and yet when it is threatened we react dramatically as we did in the Persian Gulf. We sent 500,000 young people to the Persian Gulf—not, I would suggest, to restore the legitimate government of Kuwait but because of our very deep concern about the interdiction and possible threat to energy supplies and that lifeblood to our economy.

I hope we learned a lesson from the Persian Gulf. And that is one of the reasons why we had such an overwhelming vote on the energy bill here earlier this week. We learned the lesson that we can no longer afford this enormous dependence on foreign oil. And we can no longer afford continually putting ourselves in the position of being dependent upon oil. We have to forge an independent strategy here at home, and that independent strategy must be one that weans us off of our dependence on oil, especially imported foreign oil.

I need not remind the occupant of the chair, who is very familiar with our situation, that more than 50 percent of our import problem, more than 50 percent of our balance of payments problem results from oil. We are importing an enormous amount of oil, almost 50 percent of our total usage in the country.

What do rational people do in that situation? They try to break into that cycle; reduce our dependence on foreign oil; increase our dependence on our own resources here at home. We have started to do that on this energy bill.

Earlier, I thanked Senator JOHNSTON and Senator WALLOP for their help on this, and Ensign Moore and Secretary Watkins, who pushed and pushed, as did Linda Stunns, from the Department of Energy, to get this to happen. We have come up with a construct that begins to move us in a direction of less dependence. We have done that at least in two very important ways, which I was very pleased to have spent a year trying to advance: First, alternatives to imported oil; and second, conservation and efficiency.

In the conservation and efficiency sections of the bill, we made major progress in a number of areas which are highly technical, as Chairman JOHNSTON pointed out, but incredibly important, ranging all the way from light bulbs: People assume that a light bulb is a light bulb. The lighting standards in that piece of legislation will allow us to save a great deal of energy.

Heating and air conditioning. It is obviously very important that those major uses of energy be as efficient as possible, and we have moved toward the basic setting of standards in that area which, long term, will be very important to our economy.

In other areas, extremely importnat are electric motors. We had, in the initial discussions of the bill, tremendous resistance to setting basic standards. Working with the industry groups over the last 6 months to a year, we have come up with an agreement on that major use of electricity. Most people do not think about electric motors, but they are extraordinarily consumptive of electricity and energy in our country. The standards we have set begin to bring down our use of energy there.

Building standards. We came to some agreements, and I hope that by the time we finish conference with the House of Representatives, we will have a broadly agreed upon set of standards relating to our housing stock, as we have in other areas.

Federal buildings. We have major incentive programs for individuals to save a great deal of energy and to make money doing so. I hope that that commitment gets reflected right here in our own backyard; that the Architect of the Capitol is as agressive as we have asked him to be, not only in this legislation, but in the previous Federal buildings legislation, and that he understands that we should be serious and set a model not only in our Capitol building here, but in all of the office buildings controlled by Congress.

We have a long way to go from our wasteful use of electricity here and wasteful use of energy. We can do a much better job, and I hope the Architect has received that message about the urgency to move out on this issue. We cannot say to the rest of the country, do one thing, and smugly not do that. That is one of the things that the American public is so angry about.

In that whole efficiency area, Al Stayman and Leslie Black of the Energy Committee were in there day in and day out, in very frustrating, long-term difficult negotiations with all of the industry groups on the outside and all of the groups on the inside. I thank them for their very, very good work on this front.

The other part of this bill that I think is truly a landmark, Mr. President, relates to natural gas. Yet, as we have this abundant fuel and are finding more and more of it, we are using less natural gas. As we know how dangerous our dependence is, we are using more and more imported oil. What an anomalous and exclusive situation to be in: Our abundant source, we are not using; our scarce source, which is expensive, we are using. That is not a very wise thing to do.

What we are doing in this bill is to try to sharply increase the demand for natural gas so that not only are we using a domestic resource, but we are backing out of that dangerous foreign resource. We have done that in a number of ways: The Public Utility Holding Company Act reform, that Senator JOHNSTON led the fight on—and I am glad we have made those changes; they were important to make. Alternative fuel vehicles, beginning with the Federal fleet and with overall fleet standards. Looking at increasing the use of natural gas as a vehicle fuel, my own Jeep Cherokee in Colorado is fueled with natural gas, as well as regular gasoline. It works perfectly fine. We have to do many more thousands, if not millions, and rapidly put up that increase in demand for using natural gas.

Natural gas is a winner for us in the United States. It is a domestic fuel, domestic meaning we are not as dependent on imported foreign oil. It is cheaper; less than half of the price, if you look at the overall composite price of oil. It is much, much cleaner than oil. It keeps the money right here at home.

So it is a win in so many ways for us to put a greater emphasis on natural gas, and that has begun in this piece of legislation, and I think begun in a very, very sound fashion.

I thank, on the committee, Sam Fowler and Don Santa, both of whom helped us a great deal in putting those complicated provisions together. They spent a great deal of time doing that, and I think very, very important steps are to be taken. These are difficult, technical, hidden issues. But as we talk about the economy, what we did on this bill—what we did relating to energy efficiency, relating to alternative fuels—is going to turn out, long term, probably to have been as important for our overall economic health as almost anything that we will do this year.

If we talk seriously about the needed investment strategy and changing our ways in this country, the investment strategy, investing in our own energy resources and bringing them to the American public, and doing that in a cheaper way, is going to pay off for every one of us. That is the kind of long-term investment strategy we have to continue to pursue in the United States.

Finally, I want to thank two members of my own staff, who have spent almost all of the last year working on these very difficult issues. Russ Shay and David Harwood have done a simply superb job, and I thank them as well.

Much maligned are staff members around the Hill. People talk about too many staff. People talk about people who are the imperial staff, and so on. The group I have referred to here, as well as Richard Grundy, and many members of the minority staff, who have worked on this bill, have been people who have spent all of these hours, stayed here day in and day out working on these arcane and very difficult and important issues. I thank them, as well.

Mr. President, finally, I want to include in the RECORD a very good piece written for USA Today on last Wednesday by T. Boone Pickens from Mesa Petroleum in Texas. Mr. Pickens has come to be known to many people through the merger and takeover activity of the 1980's. But beyond that, he has become a major leader in the battle for alternative fuel vehicles. He is the head of the Natural Gas Vehicle Coalition. He has really breathed a great deal of energy and new life into that issue. He has been very helpful on the outside. He wrote a good op-ed piece on curbing oil imports with natural gas.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From USA Today, Feb. 19, 1992]

CURB OIL IMPORTS WITH NATURAL GAS

The U.S. Senate currently has an opportunity to pass a comprehensive, aggressive and visionary energy bill which will lead this country on a course to greater energy independence.

Rarely does Congress have the chance to do so much to clean up our environment, create jobs and lessen our dependence on imported crude oil as it does with passage of the National Energy Strategy.

Our thirst for imported crude oil has increased by 60% in the past six years. Today we rely on foreign oil for nearly 50% of our energy needs. This staggering addiction is taking a heavy toll on the U.S. economy. We paid more than $55 billion to foreign oil producers in Iran, Saudi Arabia and elsewhere in 1990, well over half our $101 billion trade deficit.

Because transportation accounts for two-thirds of all U.S. oil use, we're paying a stiff environmental price as well.

The National Energy Strategy can and should be a vehicle for change, the springboard to right this economic and environmental wrong. There is an abundant, clean-burning, superior, domestic fuel: American natural gas.

In transportation, we must begin substituting clean domestic natural gas for dirty foreign crude oil.

First, natural gas is an abundant American fuel competing against a foreign fuel.

Second, natural gas is the cleanest burning of all fossil fuels, emitting 80%-93% less reactive hydrocarbons and 90% less carbon monoxide than conventional gasoline.

Third, greater use of natural gas will create new jobs and jump-start the U.S. economy by leading to a significant reduction in the U.S. trade deficit.

Fourth, natural gas won't cause an environmental disaster. During 1990, there were over 15,000 reported oil spills in the U.S.A. There weren't any natural gas spills.

Fifth, natural gas is cheaper, more efficient, and safer than gasoline, and reduces operating and maintenance costs significantly. You can go twice as far on $10 worth of natural gas as you can on gasoline.

Because of the environmental awakening across the U.S.A. and the enactment of the federal Clean Air Act, there are several alternative fuels competing for market share. Each has positives and negatives. But only natural gas both reduces our dependence on foreign oil and reduces pollution.

While I'm optimistic about the long-term future of natural gas, I'm concerned that we're depleting this premium domestic resource at bargain-basement prices.

Isn't it reasonable that U.S. producers receive as much for their energy as we pay Kuwait, Iran or Saudi Arabia?

On a British thermal unit-equivalency basis, 6,000 cubic feet of natural gas provides as much energy as one barrel of crude oil. That 6-1 ratio jumps to 8 to 1 when the cost of transporting natural gas is taken into consideration. A barrel of foreign crude oil selling for $20 should result in a price of $2.50 per thousand cubic feet of domestic natural gas.

Last summer, domestic gas producers received as low as $1 per thousand cubit feet. This is a 60% discount to foreign energy. Does the U.S. consumer really want to pay foreign energy producers more for their energy than for American energy?

To make energy security a reality, the federal government must lead the way and set examples. It can begin by converting 10,000 government cars to alternative fuels such as natural gas in 1993, 20,000 in 1994 and 30,000 in 1995.

It's time for action. The bottom line is this: What's wrong with converting to a domestic resource that is environmentally superior, creates jobs, reduces the trade deficit, and is cheaper and more efficient than the foreign alternative?

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

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

HAPPY BIRTHDAY, SENATOR KENNEDY

Mr. BYRD. Mr. President, most of our colleagues have had called to their attention the fact that tomorrow will be the birthday of one of our distinguished colleagues. Senator KENNEDY's birthday is on February 22. I have known Senator KENNEDY now for 30 years, and I found him to be a talented, imaginative, intelligent, and friendly individual, with an enviable ability to dream of new possibilities for the country and for other human beings. Certainly, those of us who have known

Senator KENNEDY and worked with him over these many years can attest to the fact he possesses all of these qualities.

We know him as a deeply patriotic American from a family of patriotic Americans. We know Senator KENNEDY as a hardworking, farsighted, and conscientious Senator, whose efforts here in the Senate have brought forth fruit for the benefit of all Americans, as well as for the citizens of the Commonwealth of Massachusetts.

I have sincerely appreciated his friendship, his comradeship, and his colleagueship, all of which I have enjoyed over these many years of working together with Senator KENNEDY in the Senate on many projects and programs and issues of concern to us mutually and of concern to the people of West Virginia and of Massachusetts. I look forward to working with Senator KENNEDY many years into the future.

I know that I speak for all of our colleagues and for millions of people across America and around the world in wishing Senator KENNEDY the most joyful and eventful of birthdays on tomorrow and many, many more birthdays in the years ahead.

TRIBUTE TO THE BILL OF RIGHTS

Mr. RUDMAN. Mr. President, our colleague, Senator BIDEN, was the keynote speaker on January 24, 1992, at the New Hampshire Bar Association's Annual Mid-Winter Meeting in Bedford, NH. Senator BIDEN gave an excellent speech in celebration of the bicentennial of the Bill of Rights, and his remarks received many commendations and compliments from the members of the bench and bar in attendance. In my view, the 200th anniversary of the ratification of the Bill of Rights has not received the attention it should, given the critical role those ten amendments to the Constitution have played in our Nation's development. I ask unanimous consent to include Senator BIDEN's speech in the RECORD as a permanent memorial of the New Hampshire Bar Association's year of celebration of the Bill of Rights.

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

THE BILL OF RIGHTS: WHY HAS IT SUCCEEDED?

(Remarks by Senator Joseph R. Biden, Jr.)

Just a month ago—as our public life was dominated by talk of recession and the crisis in our health-care system, and our private lives were filled with final preparations for the holidays—a very important occasion passed by, largely unnoticed. Though we celebrated it hardly at all, it is, in fact, a landmark in the history of human freedom: the 200th anniversary of the ratification of the Bill of Rights.

Unlike the 1976 Bicentennial, for this anniversary, no tall ships sailed. There were no televised parades; few bands played and no floats rolled. No markets were shut down, and no shops were closed. It was, in short, simply another day in the life of America.

Yet nothing testifies more eloquently to the success of our Bill of Rights than the fact that millions of Americans passed its 200th anniversary going about their own business—laughing and loving; arguing and agreeing; buying and selling; praising and protesting—without having to give a moment's thought to the document that protects their right to do whatever it was that they were doing.

Notwithstanding that the Bill of Rights' birthday was observed unwittingly by most Americans, we lawyers have a special obligation to remember this anniversary and the great document it memorializes. And with all due respect, I suspect that we lawyers do not pay nearly as much attention as we should to the Constitution and the Bill of Rights, and to educating our fellow Americans about the critical importance of both. For it is both our privilege and our responsibility as lawyers to understand, defend and champion the system of legal rights and remedies that rests, ultimately, on the Bill of Rights. So I think it fitting that we pause and reflect on this anniversary, and it is my thoughts on this occasion that I would like to share with you this evening.

This celebration of our Bill of Rights—of the duration and stability of our system—comes at a time when nations all over the world are considering radical reforms of their own governments. Many of them are looking at our Bill of Rights as a model, and they are asking why it has succeeded so long and so well in this country. Why has our Bill of Rights played such a vital role in shaping our free society, while similar documents in other countries have been ignored or abused? Why has this charter—unlike any other document, in any other country, before or since—succeeded in protecting our freedom for two centuries while others have failed?

This is a question that is important not only to people who seek to emulate our success in other countries; it is also important to Americans, and especially to American lawyers. It is important, as we seek to understand what the Bill of Rights has meant to us; important, as we seek to give it definition for the century ahead.

Neither the question nor its answer is as simple as it may at first appear.

There are several answers commonly offered to explain the success of our Bill of Rights. Some have said that the Bill of Rights has triumphed because it protects critical, specific rights: freedom of speech and religion, the right to a fair trial, freedom of assembly, and so on. By selecting these specific freedoms for protection, it is said, the Bill of Rights has created the framework for our free society.

I disagree.

Yes, the freedoms specifically protected by the Bill of Rights are important—but the document's continuing success can not be explained by its selection of certain specific rights for protection. The old Soviet Bill of Rights claimed to protect more than 200 specific rights—but for three-quarters of a century, the Soviet people suffered under one of the most thoroughly totalitarian societies recorded in human history. No—no mere laundry list of rights is enough to build a free society like ours.

Others have said that the success of the Bill of Rights has derived from the very breadth of its wording; its sweeping phrases that have allowed for growth and expansion of its meaning over time—phrases like "due process of law" and "cruel and unusual punishment."

Again, I disagree.

Yes, the document's expansive phrasing has given it the potential for timelessness and adaptability, and that potential is certainly one of its most important qualities. But, again, other countries have devised expansively phrased bills of rights that, in the end, have failed to protect anything. The French Declaration of the Rights of Man of 1789, for example, broadly embraced such sweeping concepts as "dignity" and "equality"—but did nothing to prevent the bloody political persecution that began just months after it was issued.

Breadth of text alone is not enough to insure success, and neither is adaptability the answer, for some of the most important protections the Bill of Rights provides us are not the product of "growth," but are, in fact, rooted deeply and unchangeably in our history.

Finally, many have cited the genius of James Madison and his colleagues in the first Congress as the secret of the Bill of Rights' success. For example, their decision to incorporate the fundamental freedoms of speech and religion into the very first amendment is often pointed to as an act of great foresight.

But the fact is that when the Bill of Rights was drafted, what we now know as the First Amendment was actually the third amendment; two others that were not ratified by the states were listed before today's "first freedoms." So chance, more than genius, has determined the numbers by which our rights have come to be known. More seriously, the simple truth is that however ingenious our Founders were, something more than their ingenuity has kept this document alive for two centuries after their deaths.

As I see it, it is not the specification of certain rights, nor the broad sweep of its guarantees, nor even the wisdom of the Founders that explains why our Bill of Rights has endured. It is something even more fundamental.

In my view, the central reason why our Bill of Rights has succeeded, where similar documents have failed in other nations, is that our Bill of Rights enshrines a balance that lies at the very core of our American character: it sides with the protection of personal freedom over the power of government to intrude in our private lives, where the two conflict. The idea that our system should "tilt" toward individual rights, when those freedoms clash with governmental authority, is at the center of the Bill of Rights—and at the center of our hearts as a people.

We see this idea clearly at work in some of the specifics of the Bill of Rights: for example, in the Third Amendment's bar on quartering troops and the Fourth Amendment's ban on unreasonable searches and seizures. But to fully understand the scope of the Bill of Rights' protection of personal freedom, we must look at that document as a whole. We must see the ten amendments as one document—a document that enshrines our right to live our lives as we choose, with no governmental authority, petty or great, empowered to constrain us.

We must also consider what Judge Robert Bork called an "ink blot on the Constitution"—the critical Ninth Amendment, with its "instruction" that the Bill of Rights is not an exclusive catalogue of the liberties that we Americans reserve against intrusion by government.

Consider the most important freedoms we enjoy in this country: the right to choose our own spouse; to live wherever we please; to travel abroad and at home; to select our own careers, our own schooling; to decide wheth-

er we will or will not have children. These rights that have often been denied in other nations, and have sometimes been challenged here. These freedoms are not listed in the Bill of Rights, and yet it is impossible to imagine this as a free country, without such freedoms being Constitutionally guaranteed.

Indeed, what makes the Bill of Rights so dear to every person in this nation is their "certain knowledge" that these fundamental freedoms are protected from government interference, even though they are not spelled out in that document's text. These so-called "unenumerated rights" are fundamental to us, precisely because they suggest no limits on liberty. They form the essential character of our American democracy, and insure the continued vitality of our Bill of Rights.

Of course, some legal scholars dispute this view, and say, for example, that protecting unenumerated rights is at odds with the doctrine of "original intent." Nothing could be further from the truth: the notion of inalienable rights, enumerated or not, beyond the reach of government, is the essence of the original intent of our Founders.

When the Framers completed their work in Philadelphia, the document contained no bill of rights, and that omission was a deliberate act of the Convention. That was not because any of the delegates questioned the existence of natural, inalienable rights, but precisely because they presumed those rights to be unquestionable.

Still, the absence of a national bill of rights disturbed many Americans, and satisfying their reservations quickly became the price of ratification. As a result, James Madison, originally an opponent of a bill of rights, found himself on the floor of the House of Representatives during the first Congress, proposing the adoption of just such a document.

For Madison, a problem remained. He feared for the future of those rights not enumerated, since specifying some rights could create the presumption that no other rights existed—precisely the argument that scholars like Robert Bork continue to make today. This was, and is, no small question, and the whole history of our country as well as the character of our society turns upon the way it was resolved.

Madison's answer to this dilemma was considered so vital that it was placed in the Bill of Rights itself—in the Ninth Amendment—which insists that "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." Madison and a majority of the Congress believed those unenumerated rights were so real and their protection so crucial that the Bill of Rights would not have been adopted without this amendment.

Within this story, too, lies the secret of the success of our Bill of Rights. For, in the words of Justice Brandeis, the Constitution reserves to the people, "as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized man." That "right to be let alone" protects individual liberty from threats that are decades old, but still loom on the horizon today.

The unenumerated freedoms enshrined in our Bill of Rights:

Prevent the government from making it a crime to teach foreign languages to children—as the state of Nebraska once did, during an earlier "America First" campaign;

Prevent the government from ordering the compulsory sterilization of petty thieves—as the state of Oklahoma once did, during an earlier phase in the "war on crime;"

And prevent the government from making it illegal for doctors to prescribe birth control for married couples—as did the state of Connecticut, during an earlier debate over the distribution of contraceptives.

Nowhere does the Constitution or the Bill of Rights "enumerate" the individual freedoms protected in these cases, but neither the American people nor the Supreme Court doubts that our Bill of Rights does, indeed, protect those rights and provide for our privacy.

The debate over such "unenumerated rights" formed the crux of my disagreement with Judge Bork, and was the reason I felt compelled to lead the fight in the Senate against this otherwise honorable, brilliant and decent man. Judge Bork believed that the danger to democracy from acknowledging unenumerated rights is greater than the danger to freedom posed by discarding them.

This is a view I vigorously reject. The demonstrated pattern among the Supreme Court's opinions—many written by Justices like Frankfurter, Harlan and Powell, who exemplify the conservative jurisprudential tradition of the 20th Century—finds a common ground upon which to articulate a right to privacy. Such a right must extend to certain carefully defined and narrowly drawn decisions about procreation, family structure and family relationships.

That is a view, I might add, that was shared by then-Judge David Souter in his confirmation hearings, and is the principal reason that—notwithstanding my disagreement with him on some questions of law—I was pleased and proud to support his confirmation to the Court. For Justice Souter recognized, unlike Judge Bork, that throughout our history, the tension between individual liberty and the demands of organized society—between rights and power—has been at the heart of our struggle to define our essence as a nation.

Fortunately, the prevailing tide of our history has run consistently at the flood toward liberty; we have built the essential character of our nation at the high-water marks of freedom. Our Bill of Rights, interpreted with the guidance found in the Ninth Amendment, is our best assurance that the tide of liberty will continue to flow, ever stronger, ever deeper and ever broader.

It is painfully ironic that as we reach this milestone for our Bill of Rights, and as that document is emerging as a model for new democracies around the world, its foundations are under a two-pronged attack—one political, one intellectual—here at home.

First, we, as lawyers, can not ignore the growing fashion of our political system—politicians "bashing" the very institution on which this nation depends to breath life into its rights day by day: the American legal system. Even as people all over the world seek to emulate the success of our legal system—our courts, our independent bars, our robust legal profession—and copy it for their own, many here in this country can see only its failings, and would cast it aside without giving thought to what might be thrown out with it.

Let us remind these political critics of our profession that the Framers considered the right to a lawyer—as well as the right to a jury, even in civil cases—so fundamental that these guarantees are explicitly protected in the text of the Bill of Rights. That is not to say our modern legal system is perfect: it has its faults, as we all know. But the overheated rhetoric we have been hearing from some national leaders goes well beyond reform to demagoguery; it is an attack on the traditional purposes of our legal institutions, and on the profession that keeps these institutions alive and functioning.

It is true that our civil justice system has become too expensive, and as a result, it deprives many Americans of their "day in court" and imposes enormous costs on our society and its businesses. That's why I proposed the Civil Justice Reform Act, signed into law last year and beginning to take effect right now.

Perhaps more reforms are still needed; if that is the case, let it be so. But let us never forget that there are many other nations that have created systems of "justice" that are "cheap" and "efficient"—and those are the very nations where people have risked their lives to discard their governments and replace them with a system of justice like our own. It is our system that is the model; our system, the one that the critics here have been denigrating; our system, that rests, at bottom, on our Bill of Rights.

In addition to these political attacks on our profession and our system, there are growing academic and intellectual attacks on the legal framework that has been built upon our Bill of Rights.

This onslaught comes from many quarters, and has many different objectives: from Judge Bork's call to curtail the protection of unenumerated rights, to the views of Chicago Professor Richard Epstein, who would radically transform the Bill of Rights into a document that primarily protects property rights, and not personal freedoms.

Unfortunately, we lawyers are not very well informed or very much engaged in the debate that is taking place for the heart and intellectual soul of our legal system. For too long, we have ignored the fact that these thinkers—distinguished, articulate men and women, who have their differences—share one common goal: a dramatic change in the way in way in which the Bill of Rights protects our individual liberties.

As we ponder these new ideas, let us never forget what is at stake here: not some academic exercise, nor a quest for debating points—but, in truth, nothing less than the meaning of our freedoms and our rights as Americans. And as this debate rages in our courts and our Congress, we as lawyers can not be casual observers or detached dilettantes. We must be outspoken advocates for the elaborate but delicate framework of rights that has been erected in this country over the past two centuries; that is the living heritage of those ten amendments ratified 200 years ago.

If we live up to our duties as a profession, then in the end, no matter the attacks on our system, it will endure. For this system draws upon the indomitable determination of Americans to be free, a drive that can not be denied.

And our system also rests on a Judeo-Christian tradition that has guided us for more than 5,000 years; a tradition that recognizes the fundamental right of all persons to shape their own destiny.

For the ideal of personal freedom was not, of course, conceived by the Framers of the Bill of Rights. It came to that document from the "self-evident" right, affirmed by the Declaration of Independence, to "life, liberty, and the pursuit of happiness." The Declaration in turn drew upon the great English common law; which in turn had been built upon Magna Carta; and so on and on, century before century, back to the dawn of our civilization.

It is a line that reaches all the way back to what is, in my mind, the most eloquent defi-

nition of human freedom, found in the Bibical book of Micah. A passage in the fourth chapter of that book still rings true in our ears, 27 centuries after it flowed from the pen of the poet:

They shall sit every man under his vine and under his fig tree, and none shall make them afraid.

This promise of our faith, the most basic of human rights—that none shall violate the sanctuary of our own place; that none shall hinder our pursuit of a full, free and creative life; that none shall meddle with our families; that none shall dictate our faith—are the cornerstones of our civilization.

They are the gift of God. They precede the formation of government; and the purpose of our Constitution, above all else, is to secure them. This is the tradition that must continue to guide us as we enter our third century under the Bill of Rights.

We Americans have long demonstrated our ability to adapt to new social, economic and technological realities, without sacrificing the values and liberties our Nation was created to preserve and expand. If we accept uncritically what is being proposed in the way of limitations placed upon our personal freedoms, we will fundamentally change as a country.

Make no mistake about it: there is a serious debate raging within our profession, within the academic community, about changing the emphasis we place upon individual freedom, and about whether or not the Bill of Rights and the Constitution have as their essence the protection of that freedom. Those of us in the legal profession must become more aware of this Constitutional debate—and more involved in it—in order to insure that our children enjoy the same, fundamental, taken-for-granted, Godgiven, individual rights that we enjoy.

If we keep that tradition alive—if we continue to demand, above all else, that our Bill of Rights defend us against government intrusion into our private lives—then I believe, with Micah, that none shall prevail over us, and none shall make us afraid.

DR. ARNOLD E. SCHAEFER: WARRIOR AGAINST HUNGER

Mr. HOLLINGS. Mr. President, with the passing of Dr. Arnold Edward Schaefer earlier this week, the United States lost a truly distinguished physician and scientist, a top nutritionist who devoted the prime of his career to spotlighting the existence of hunger and malnutrition not just in the third world, but right here in the world's richest country.

It was Dr. Schaefer who headed up the authoritative National Nutrition Survey in the late 1960's, a 10-State study which produced evidence of a shockingly widespread hunger problem in the United States—especially in the South. It is a great shame that the newly inaugurated Nixon administration curtailed Dr. Schaefer's National Nutrition Survey in early 1969. They attempted to silence the brave messenger because his findings were a political embarrassment. But rather than be silenced, Dr. Schaefer left the Government and publicly aired the results of his study.

For some 20 years, Dr. Schaefer was the chief nutrition expert at the National Institutes of Health. In that capacity, he conducted nutrition surveys in 35 developing nations. In 1980, he moved to Omaha, NE, to become director of the Swanson Center for Nutrition. After retiring, he continued to work as volunteer nutrition consultant at the University of Nebraska, including service as nutrition advisor to the Cornhuskers football team.

I feel not just a personal loss at Dr. Schaefer's death, but a tremendous sense of gratitude for the many, many hours he spent tutoring me on the causes and consequences of hunger. My 1970 book, "The Case Against Hunger," benefited in countless ways from his insights and data. Dr. Schaefer was a remarkable man, and I will miss him greatly.

TRIBUTE TO DON BOLCE

Mr. DODD. Mr. President, I rise today to note with great regret the departure of an individual who has made a great deal of difference in the lives of many low-income children in this country. For the past 2 years, Don Bolce has been Director of Government Affairs for the National Head Start Association [NHSA]. During those years, which saw the passage of landmark Head Start legislation, Don has been an unfailing source of information about every aspect of Head Start. He has also been a wise counselor on policy directions for the program and a tireless advocate for children who begin life at a disadvantage. When you see such dedication to a program, Mr. President, it is not difficult to understand why Head Start is a success.

One reason Don is so effective is his deep understanding of the strengths and needs of Head Start families, an understanding that grew from his experience as a Head Start Director in California. When he joined NHSA, he brought with him knowledge not only of how a Head Start program actually works, but also of the importance of keeping our focus firmly on the children and families whom Head Start serves as we see develop policy.

In 1990, as chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism, which oversees Head Start, I had the pleasure of working with Don on legislation I sponsored to reauthorize the program. In the early stages of the reauthorization process, we had a dream that we hardly dared express—a dream that every eligible child could have the chance to participate in Head Start. Don was an integral part of the effort that led to passage of legislation embodying that dream. The Augustus F. Hawkins Human Services Reauthorization Act, which became law on November 3, 1990, created for the first time a blueprint for every eligible child to participate by 1995.

Looking back on that time, the most remarkable thing to me is that the legislation passed the Senate twice by unanimous consent. That there could be practically no dissent in either body was due in large part to the efforts of Don and others to make Head Start's accomplishments known to the Congress. Don should be particularly proud of his work, because the end result holds the promise of a better life for millions of children—including 11,000 children in my own State of Connecticut who are shut out of Head Start for lack of funds.

Don is leaving NHSA, but not the Head Start community. Returning to California, he will be directing one of the Head Start transition projects created by the 1990 legislation to help Head Start children and their families as they move into elementary school. Don will be sorely missed by many people here in Washington who consider him a valued colleague. But the families and staff in the program he will be heading are very lucky indeed to have someone so caring and conscientious working with them. I wish Don and his family well in their new endeavors, and I sincerely hope that we can continue to work together to make Head Start an even better program.

TAXPAYER BILL OF RIGHTS 2

Mr. HATCH. Mr. President, I rise today to express my support of the legislation introduced by the Senator from Arkansas, the taxpayer bill of rights 2 [T2].

Mr. President, in 1988 Congress passed the taxpayer bill of rights. This landmark legislation was a good first step in holding the Internal Revenue Service accountable for its actions toward the taxpayers of this country. Many of the provisions contained in that legislation are making a measurable difference in the relationship between the Service and the taxpayer.

In 1988, however, we only took the first step in protecting the American taxpayer. We still have work to do. The system remains highly burdensome to taxpayers and too often, inequities occur in the tax administration process. I still receive numerous complaints from my constituents in Utah and others about the discourteous and sometimes abusive treatment they are receiving from the IRS.

The Internal Revenue Service affects the lives of more Americans than any other Government agency. We necessarily grant the IRS the power to know a great deal about our personal and business lives. Unfortunately, along with this power comes the opportunity for abuse. I believe that the vast majority of IRS employees are hardworking and dedicated public servants. However, there are occasions when some IRS agents appear to be looking at American taxpayers as their adversary, potential victim, or springboard for advancement within the Service.

Something must be done to ensure that the taxpayers are treated like the human beings with rights and responsibilities that they are.

The taxpayer bill of rights 2 will do just this. Without altering the power of the Service, T2 will curb these abuses by making the IRS more accountable for its actions and strengthening the ability of taxpayers to fight unreasonable actions against them.

By strengthening oversight and resolution practices within the IRS and the ability of the taxpayers to fight abusive and unfair treatment, this legislation will help to restore a sense of balance between the Internal Revenue Service and the taxpayer.

This legislation is not about diminishing the role of the IRS or its ability to collect taxes. It is about ensuring that fairness and respect are returned to the American tax system. T2 will provide innocent taxpayers with the assurance that they will be able to protect themselves from the mistakes or misdeeds of the IRS, thus restoring the sense of balance that needs to exist in a system based on voluntary compliance. This legislation will help bring taxpayer confidence and respect back to the U.S. tax system.

I urge my colleagues to help the taxpayers protect their rights and support this legislation.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I am advised that the majority leader would approve of my making the following request.

I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 11:54 a.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 1:58 p.m., when called to order by the Presiding Officer [Mr. KOHL].

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 500, Andrew H. Card, Jr., to be Secretary of Transportation and all nominations placed on the Secretary's desk in the Coast Guard.

I further ask unanimous consent that the Senate proceed to immediate consideration and that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations, considered and confirmed, are as follows:

DEPARTMENT OF TRANSPORTATION

Andrew H. Card, Jr., of Massachusetts, to be Secretary of Transportation.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning James M. Leitner, and ending Raymond W. Blowitski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

Coast Guard nominations beginning Daniel N. Wood, and ending Matthew L. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 22, 1992.

STATEMENT ON THE NOMINATION OF ANDREW H. CARD, JR., TO BE SECRETARY OF TRANSPORTATION

Mr. THURMOND. Mr. President, I rise today in strong support of the nomination of Andrew H. Card, Jr., to be Secretary of Transportation.

Mr. Card is well-qualified to hold this demanding position. He received his engineering degree from the University of South Carolina where he was the recipient of a U.S. Navy ROTC scholarship. He received a congressional appointment to the U.S. Merchant Marine Academy which he attended for 1 year. Mr. Card also attended the Kennedy School of Government at Harvard University and subsequently as a guest lecturer at that institution.

After completion of his education, Andrew Card worked as a design, then a structural engineer in Massachusetts. He was elected to the Massachusetts House of Representatives in 1975 and he served in that body until 1983. While serving in the House, he was assistant Republican whip from 1977 until 1983.

In 1983, Mr. Card joined President Reagan as a Special Assistant for Intergovernmental Affairs. He remained at the White House until 1987 and returned there following President Bush's election, when he became Deputy to the Chief of Staff and then Deputy Chief of Staff.

Mr. Card has been involved in numerous civic activities, including the American Red Cross, United Cerebral Palsy, Rotary International, the Jaycees, and the Boy Scouts. He also served on the National Advisory Council for the University of South Carolina.

As we approach the 21st century, transportation will continue to be an important issue. I believe that Andrew Card is well equipped to handle the challenging position of Secretary of Transportation. He is committed to safety in all areas of transportation. He believes that the United States must rebuild its infrastructure so that transportation will function efficiently, thus increasing the Nation's competitiveness.

Mr. President, I commend President Bush for nominating Mr. Card. If confirmed by the Senate, as I am sure he will be, I have every confidence Mr. Card will serve honorably and capably as Secretary of Transportation.

STATEMENT OF SENATOR JOHN H. CHAFEE ON THE NOMINATION OF ANDREW H. CARD, JR., TO BE SECRETARY OF TRANSPORTATION

Mr. CHAFEE. Mr. President, I strongly support the President's choice of Andrew H. Card for the position of Secretary of Transportation.

As a fellow New Englander, I have known Andrew Card for many years. He comes to this job with excellent qualifications.

Mr. Card will bring to the Department of Transportation an engineering background with hands-on experience designing, building, and inspecting transportation projects. He has been tested as a State official serving effectively as a member of the Massachusetts Legislature. He also has had experience at the local level as a planner for the city of Holbrook, MA. His most recent responsibilities at the White House demonstrate his management skills.

Coming from New England, Mr. Card has first-hand knowledge of the importance of all the modes of transportation, the problems of congestion, and the necessity for improving air quality. Solving these problems will take the cooperation of all levels of government, and Andy's experience at the local, State, and Federal level will be very valuable.

The Committee on Environment and Public Works held an informational hearing with Mr. Card on February 19. I was pleased to hear Mr. Card state his commitment to carrying out the intent of the recently passed Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA].

This law marks the beginning of an exciting and challenging time in the field of transportation, and I believe Mr. Card is up to the challenge. He understands that the ISTEA signals a new era in transportation where highways will no longer solve all transportation problems, and I believe he will get this message out to all the constituencies of transportation.

Andrew Card understands what intermodal means and how important this concept is to the success of transportation. He developed a multi-modal strategy in a white paper he developed as a State legislator and candidate for Governor of the State of Massachusetts more than 10 years ago. It is obvious that he has spent a lot of time thinking about transportation issues, listening to experts, and talking with officials who deliver transportation services.

Mr. President, as I stated at the beginning, the President has made an excellent choice for the position of Secretary of Transportation. Andrew Card will be an outstanding Secretary of Transportation, and I look forward to working with him.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

NATIONAL ENERGY SECURITY ACT

The text of S. 2166, a bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes, as passed by the Senate on February 19, 1992, is as follows:

S. 2166

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

That this Act may be referred to as the "National Energy Security Act of 1992".

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TITLE I—FINDINGS AND PURPOSES

Subtitle A—Findings and Purposes

SEC. 1101. FINDINGS.—The Congress finds that—

(1) the achievement of energy security for the United States is essential to the health of the national economy and the maintenance of national security;

(2) as an energy-rich country that nonetheless depends on oil imports for an increasing share of oil use, United States energy security requires that the Nation reduce oil consumption, reduce oil imports, maximize domestic oil production, and particularly for transportation purposes, encourage use of energy sources other than oil;

(3) this can be accomplished with no significant adverse effect on the environment, and will stimulate economic growth, improve the competitiveness of United States industry in the global market, and reduce the possibility of global climate change; and

(4) the achievement of energy security for the United States will require that a long-term, comprehensive national energy policy be established and sustained.

SEC. 1102. PURPOSES.—The purposes of this Act are to—

(1) slow the Nation's increasing dependence on imported oil over the shortterm, and in the longterm significantly reduce that dependence;

(2) reduce the consumption of oil in the transportation sector, and encourage development and use of alternative energy sources, particularly for transportation;

(3) encourage development and deployment of renewable energy sources in the United States and on an international basis in lesser-developed countries;

(4) streamline the hydroelectric licensing process and encourage hydroelectric development at Federal dams;

(5) encourage more efficient use of energy throughout the economy, including improvements in the industrial, commercial and residential sectors, increasing energy efficiency in Federal energy management, and encouraging more efficient energy use by electric utilities;

(7) encourage the production and use of nuclear power by providing for the commercialization of advanced nuclear reactor technologies and improving the nuclear reactor licensing process;

(8) enhance the competitive position of the Federal uranium enrichment enterprise;

(9) encourage increased utilization of natural gas and other domestic energy resources to displace imported oil and meet domestic energy demand in a manner consistent with environmental values;

(10) encourage the development of domestic energy resources on the Outer Continental Shelf;

(11) establish priorities for Federal energy research, development, demonstration, and commercialization;

(12) encourage enhanced oil and gas recovery from known and producing domestic reserves;

(13) enhance the role of coal and clean coal technology in meeting the Nation's energy needs;

(14) foster competition in the electric utility industry;

(15) provide enhanced oil security protection through the Strategic Petroleum Reserve; and

(16) encourage the Federal Government to play a lead role in the widespread commercialization of alternative fuel vehicles.

Subtitle B—Climate Protection Goals, Least-Cost Energy Strategy, and Director of Climate Protection

SEC. 1201. CLIMATE PROTECTION GOALS AND POLICIES.—(a) GOALS.—The goals of this subtitle are to—

(1) investigate the feasibility and economic, energy, social, environmental and competitive implications of the stabilization of the generation of carbon dioxide and other greenhouse gases in the United States;

(2) assess the feasibility of further limiting, or reducing, the generation of carbon dioxide and other greenhouse gases not controlled by the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;

(3) investigate the feasibility and economic, energy, social, and environmental implications of achieving a 20 percent reduction in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(4) investigate the feasibility and economic, energy, social, and environmental implications of stabilizing carbon dioxide emissions by the year 2005; and

(5) evaluate the potential social, economic, energy, and environmental implications of implementing the policies mentioned in paragraphs (1), (2), (3), and (4) in order to enable the United States to comply with any obligations under an international global climate change framework convention or agreement.

(b) POLICIES.—The least-cost energy strategy under section 1202 shall evaluate the economic, energy, social, environmental, technical, and competitive impacts of the implementation of policies to be considered in section 1201(a) that include, but are not limited to, policies that:

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of carbon dioxide and other greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind power;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technologies; and

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that produce energy without carbon dioxide and other greenhouse gases as a byproduct, and encourage the deployment of nuclear electric generating capacity.

(c) FRAMEWORK CONVENTION.—In order to promote international cooperation in addressing potential global climate change, it is the goal of the United States to establish by 1992, an international framework convention on global climate change through the activities of the Negotiating Committee for a Framework Convention of the United Nations International Environmental Program and the World Meteorological Organization

and to secure the commitment of the community of nations to such convention.

SEC. 1202. LEAST-COST ENERGY STRATEGY.—(a) STRATEGY.—The first National Energy Policy Plan (the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and submitted by the President to Congress after the date of the enactment of this Act, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary.

(b) PRIORITIES.—(1) The least-cost energy strategy shall identify Federal priorities for the encouragement of the use of energy and energy efficiency resources. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, and environmental consequences of his choices. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(A) the energy production, utilization, and conservation objectives of the Plan;

(B) the stabilization and eventual reductions in the generation of carbon dioxide and other greenhouse gases mentioned in section 1201(a); and

(C) the energy efficiency, renewable energy, and oil reduction goals described in subtitle C.

(2) The least-cost energy strategy shall include—

(A) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, and utilization of such resources, including—

(i) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(ii) energy efficiency, including existing technologies for increased efficiency in production, transportation, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and

(iii) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, and hydropower.

(B) a proposed two-year program for assuring adequate supplies of energy and energy efficiency resources under paragraph (1), and an identification of actions that can be undertaken within existing Federal authority; and

(C) recommendations for any new Federal authority needed to achieve the purposes of this Act.

(c) SECRETARIAL CONSIDERATION.—(1) In developing the least-cost energy strategy, the Secretary shall give full consideration to:

(A) the relative costs of energy and energy efficiency resources based upon a comparison of the estimated system costs of other similarly reliable and available resources; and

(B) the economic, energy, social and environmental consequences resulting from the establishment of any particular order of Federal priority.

(2) System costs under paragraph (1) are all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(3) When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever its estimated system cost is equal to the estimated system cost of the energy resource.

SEC. 1203. DIRECTOR OF CLIMATE PROTECTION.—(a) APPOINTMENT.—Within six months after the date of the enactment of this Act, the Secretary shall appoint within the Department, a Director of Climate Protection (the "Director"). The Director shall:

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change;

(2) monitor domestic and international policies for their effects on the generation of carbon dioxide and other greenhouse gases; and

(3) have the authority to participate in the planning activities of relevant Departmental programs.

(b) Beginning 18 months after the date of the enactment of this Act, and annually thereafter, the Director shall participate in the formulation of the least-cost energy strategy under section 1202, research and development priorities under section 13101, and the management plan under section 13102.

SEC. 1204. REPEAL.—Title III of the Energy Security Act (42 U.S.C. 7361, et. seq.) is hereby repealed.

SUBTITLE C—ENERGY GOALS

SEC. 1301. ENERGY GOALS.—(a) IN GENERAL.—In order to focus and sustain a national effort toward achieving national energy security in an environmentally responsible manner, the United States should pursue the national energy goals listed in subsection (b) (referred to in this subtitle as "energy goals").

(b) GOALS.—

(1) REDUCED OIL CONSUMPTION.—The oil consumption of the United States should be reduced from the 1990 level of approximately 40 percent of the total United States energy resource consumption to 39 percent by 1995, 37 percent by 2000, 35 percent by 2005, and 33 percent by 2010.

(2) REDUCED OIL IMPORTS.—The annual net oil imports of the United States should be limited to 50 percent or less of United States oil consumption.

(3) INCREASED ENERGY EFFICIENCY.—The energy efficiency of the United States should be increased to 10 percent over the 1990 levels by 1995, 20 percent over the 1990 levels by 2000, 30 percent over the 1990 levels by 2005, and 40 percent over the 1990 levels by 2010.

(4) INCREASED UTILIZATION OF RENEWABLE ENERGY.—The portion of the energy consumption represented by renewable energy sources should increase from the 1990 level of approximately 8 percent to 9 percent in 1995, 10 percent in 2000, 12 percent in 2005, and 14 percent in 2010.

SEC. 1302. REPORTS.—(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to Congress setting forth a plan for the achievement of the energy goals.

(2) CONTENTS.—In the report, the Secretary shall—

(A) make recommendations as to any additional statutory or budget authority that the Secretary determines is necessary to achieve the energy goals;

(B) describe the measures of energy efficiency that the Secretary has determined to be appropriate for each end use sector; and

(C) describe the plans developed by the Secretary for acquiring the necessary data to be used in determining the energy efficiency of each end use sector.

(b) PROGRESS REPORTS.—

(1) IN GENERAL.—Every 2 years after the initial report is submitted pursuant to subsection (a), the Secretary shall submit to Congress a report, separate from the National Energy Policy Plan submitted pursuant to section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), detailing the progress of the United States towards achieving the energy goals.

(2) CONTENTS.—In the report, the Secretary shall—

(A) analyze the progress towards meeting the energy goals, and, if an energy goal is not being met, identify barriers to the achievement of the goal; and

(B) make recommendations as to any change in statutory or budget authority that the Secretary determines is necessary for the timely achievement of the energy goals.

(c) ALTERNATE ENERGY GOALS.—If at any time the Secretary determines that achievement of the energy goals is impracticable, the Secretary shall, in the next report submitted pursuant to this section—

(1) state the reasons and provide an analysis for the determination; and

(2) propose alternate energy goals that the Secretary determines to be practicable.

TITLE II—DEFINITIONS

SEC. 2101. DEFINITIONS.—As used in this Act the term—

(a) "Secretary" means the Secretary of Energy, unless otherwise provided;

(b) "joint venture" means any agreement entered into under this Act by the Secretary with more than one or a consortium of non-Federal persons (including a joint venture under the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.)) for cost-shared research, development, or demonstration of technologies, but does not include procurement contracts, grant agreements, or cooperative agreements as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code, and joint ventures authorized herein shall be conducted in accordance with the procedures and requirements of paragraphs (b)(1), (b)(2) and (b)(5) of section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218);

(c) "non-Federal person" has the same meaning as set forth in subsection (3) of section 3 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218); and

(d) "lesser-developed countries" shall include, but not be limited to, Eastern Europe and the Soviet Union.

TITLE IV—FLEETS AND ALTERNATIVE FUELS

Subtitle A—Alternative Fuel Fleets

SEC. 4101. DEFINITIONS.—For the purposes of this subtitle—

(1) "Administrator" means the Administrator of the General Services Administration;

(2) "alternative fuel" means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, ethanol, or other alcohol with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; electricity including electricity from solar energy; and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;

(3) "alternative fuel vehicle" means a motor vehicle that—

(A) operates solely on alternative fuel; or

(B) is a flexi-fueled vehicle;

(4) "comparable conventionally fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as

its fuel source and provides passenger capacity or payload capacity comparable or similar to an alternative fuel vehicle as determined by the Secretary;

(5) "diesel truck" means a truck that has a gross vehicle weight over 8,500 pounds and under 26,000 pounds and is powered by diesel fuel;

(6) "Federal agency" means any executive department, military department, government corporation, independent establishment, executive agency, the United States Postal Service, the Congress, and the courts of the United States;

(7) "fleet" means a number of motor vehicles that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a Federal agency, State, or person. This term does not include—

(A) motor vehicles held for daily lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement vehicles;

(E) emergency vehicles;

(F) military vehicles that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) non-road vehicles, including farm and construction vehicles; or

(H) except for vehicles covered by section 4102 and section 4103, vehicles that under normal operations are garaged at a personal residence at night;

(8) "flexi-fueled vehicle" means a motor vehicle that can operate on alternative and non-alternative fuel;

(9) "motor vehicle" means—

(A) any four-wheel passenger automobile, as the term "passenger automobile" is defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2));

(B) any truck with a gross vehicle weight up to 26,000 pounds, including "light trucks," as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15)) and "diesel trucks" as defined in this section;

(C) and any bus designed to transport more than ten persons;

(10) "person" means—

(A) any individual, corporation, partnership, or association;

(B) any municipality or political subdivision of a State;

(11) "covered person" means a person that owns, operates, leases, or otherwise controls—

(A) a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled, and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of 250,000 or more;

(B) at least 50 motor vehicles within the United States; and

(C) for the purposes of section 4108, 4109, and 4110, a "covered person" shall include the Postmaster General.

(12) "State" means a State, any agency of a State (but not a municipality or political subdivision of a State), or the District of Columbia.

SEC. 4102. FEDERAL FLEETS.—(a) Purchase Requirements.—

(1) The Federal Government shall purchase, lease, or otherwise acquire at least—

(A) 5,000 alternative fuel vehicles in 1993;

(B) 7,500 alternative fuel vehicles in 1994; and

(C) 10,000 alternative fuel vehicles in 1995.

(2) When any Federal agency purchases, leases, or otherwise acquires vehicles for a Federal fleet, in the years specified in this paragraph, at least the following percentage of the vehicles purchased, leased, or otherwise acquired shall be alternative fuel vehicles in the respective years—

(A) in 1996, 25 percent;

(B) in 1997, 33 percent;

(C) in 1998, 50 percent;

(D) in 1999, 75 percent; and

(E) in 2000 and each year thereafter, 90 percent.

(b) PROGRAM CRITERIA.—The Secretary, the Administrator, in consultation with the head of each Federal agency, shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

(1) the procurement plans of State and local governments and other public and private institutions;

(2) the current and future availability of refueling and repair facilities;

(3) the reduction in emissions of the Federal motor vehicle fleet;

(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

(5) the needs of Federal, State, and local agencies; and

(6) the contribution to the reduction in the consumption of oil in the transportation sector.

(c) PROGRAM COORDINATION.—The Secretary shall work with the Administrator of General Services and the head of each Federal agency to plan effective coordination and cooperation by Federal agencies in the purchase, use, and refueling of alternative fuel vehicles acquired under this section or other provisions of law.

(d) REFUELING.—The Administrator of General Services, the Sergeant at Arms of the United States Senate, the Sergeant at Arms of the United States House of Representatives, and the Architect of the Capitol, shall, to the maximum extent practicable, arrange for the fueling of alternative fuel vehicles acquired under this section at commercial fueling facilities that are open to the public and offer alternative fuels for sale to the public. If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fuel vehicles purchased under this title, the Administrator is authorized to enter into commercial arrangements with commercial fueling operators for the purpose of fueling Federal alternative fuel vehicles.

(e) COST OF VEHICLES TO FEDERAL AGENCY.—Notwithstanding the provisions of section 211 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491), the Administrator of General Services shall not include the incremental costs of alternative fuel vehicles in the amount to be reimbursed by Federal agencies if the Administrator determines that appropriations provided pursuant to this section are sufficient to provide for the incremental cost of such vehicles over the cost of comparable conventional vehicles.

(f) LIMITATIONS ON APPROPRIATIONS.—Funds appropriated pursuant to the authorization under this section shall be applicable only—

(1) to the portion of the cost of acquisition, maintenance, and operation of vehicles acquired under this paragraph which exceeds the cost of acquisition, maintenance, and operation of comparable conventional vehicles;

(2) to the portion of the costs of fuel storage and dispensing equipment attributable to such vehicles which exceeds the costs for such purposes required for conventional vehicles; and

(3) to the portion of the costs of acquisition of alternative fuel vehicles which represents a reduction in revenue from the disposal of such vehicles as compared to revenue resulting from the disposal of comparable conventional vehicles.

(g) VEHICLE COSTS.—The incremental cost of vehicles acquired under this section over the cost of comparable conventional vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

(h) ACQUISITION REQUIREMENT.—Federal agencies, to the extent practicable, shall obtain alternative fuel vehicles from original equipment manufacturers.

(i) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums as are appropriated for the Administrator of General Services pursuant to the authorization under this section shall be added to the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756).

(j) EXEMPTION.—Notwithstanding any other provision of this subtitle, the Postmaster General shall be exempt from the requirements of section 4102(b), 4102(c), and 4102(g).

SEC. 4103. STATE FLEETS.—When any State that owns, operates, leases, or otherwise controls at least 50 motor vehicles purchases, leases, or otherwise acquires motor vehicles for use in a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of Census, with a 1980 population of 250,000 or more, the following percentage of the vehicles purchased, leased, or otherwise acquired for such fleet in the years specified shall be alternative fuel vehicles—

(1) in 1995, 10 percent;

(2) in 1996, 15 percent;

(3) in 1997, 25 percent;

(4) in 1998, 50 percent;

(5) in 1999, 75 percent; and

(6) in 2000 and each year thereafter, 90 percent.

SEC. 4104. PRIVATE AND MUNICIPAL FLEETS.—When any covered person that owns, operates, leases, or otherwise controls at least 50 motor vehicles purchases, leases, or otherwise acquires vehicles for a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of Census, with a 1980 population of 250,000 or more, the following percentage of the vehicles purchased, leased, or otherwise acquired for such fleet in the years specified shall be alternative fuel vehicles—

(1) in 1998, 30 percent;

(2) in 1999, 50 percent; and

(3) in 2000 and each year thereafter, 70 percent.

SEC. 4105. RULES OF GENERAL APPLICABILITY.—(a) TREATMENT OF FRACTIONS.—If the number of vehicles purchased, leased, or otherwise acquired by a Federal agency, State, or covered person in any year when multiplied by the percentage specified in section

4102, 4103, or 4104 contains a fraction, the number of vehicles required to be alternative fuel vehicles shall be increased to the next whole number.

(b) FUEL USE REQUIREMENT.—The vehicles purchased pursuant to section 4102, 4103, or 4104 shall be operated solely on alternative fuels except when operating in an area where the appropriate alternative fuel is unavailable.

(c) DIESEL TRUCKS.—Any Federal agency, State, or covered person that operates a fleet that is subject to the requirements of section 4102, 4103, or 4104, respectively, and contains one or more diesel trucks may purchase, lease, or otherwise acquire diesel trucks after 1994 in proportion (relative to the total number of motor vehicles) to the number of diesel trucks in the agency, State, or person's fleet that is subject to the requirements of section 4102, 4103, or 4104 on the date of enactment of this subtitle, notwithstanding such sections.

(d) DELAYED PURCHASE OPTION.—Any covered person subject to section 4104 may postpone the acquisition of alternative fuel vehicles required to be acquired in 1998 and 1999, but after 1999, such person may only acquire alternative fuel vehicles until such person acquires a cumulative number of such vehicles which exceeds 150 percent of the cumulative number of alternative fuel vehicle purchases that would have been needed to meet the 1998 and 1999 requirements of section 4104. Such acquisitions shall be in addition to any acquisition requirements under section 4104 for years after 1999.

SEC. 4106. EXEMPTIONS.—(a) VEHICLE AND FUEL AVAILABILITY.—The Secretary shall exempt any Federal agency, State, or covered person from the requirements of section 4102, 4103, or 4104, respectively, in whole or in part, if the Secretary determines that:

(1) alternative fuel vehicles meeting the requirements of such Federal agency, State, or person are not available for purchase, lease, or acquisition by other means; or

(2)(A) commercial alternative fuel refueling facilities are not available to the Federal agency, State, or person in the area in which the vehicles are operated; and

(B) providing an alternative fuel refueling facility for such agency, State, or person's alternative fuel vehicles would be economically impracticable.

(b) DURATION OF EXEMPTIONS.—An exemption granted by the Secretary under subsection (a) shall be for an initial period of no more than 12 months and shall be renewable for additional periods of no more than 12 months.

SEC. 4107. VEHICLE CONVERSIONS.—The requirements of sections 4103 and 4104 may be met through the conversion of existing or new gasoline or diesel-powered vehicles to alternative fuel vehicles. For purposes of such sections, the conversion of a vehicle to an alternative fuel vehicle shall be treated as the purchase of an alternative fuel vehicle. However, if alternative fuel vehicles are not available from original equipment manufacturers, nothing in this section shall be construed to require any Federal agency, State or covered person subject to the fleet vehicle acquisition requirements under this title to convert existing or new gasoline or diesel-powered vehicles to alternative fuels vehicles or to purchase converted vehicles.

SEC. 4108. CREDITS.—(a) IN GENERAL.—The Secretary shall allocate a credit to a State or covered person that is subject to the requirements of section 4103 or 4104, respectively, if that State or person purchases an alternative fuel vehicle in excess of the number that State or person is required to purchase under section 4103 or 4104 or purchases an alternative fuel vehicle before the date that State or person is required to purchase an alternative fuel vehicle under such section.

(b) ALLOCATION.—In allocating credits under subsection (a), the Secretary shall allocate one credit for each alternative fuel vehicle the State or covered person purchases that exceeds the number of alternative fuel vehicles that State or person is required to purchase under section 4103 or 4104 or that is purchased before the date that State or person is required to purchase an alternative fuel vehicle under such section. In the event that a vehicle is purchased before the date otherwise required, the Secretary shall allocate one credit per vehicle for each year the vehicle is purchased before the required date. The credit shall be allocated for the same type vehicle as the excess vehicle or earlier purchased vehicle.

(c) USE OF CREDITS.—At the request of a State or covered person allocated a credit under this section, the Secretary shall treat the credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by that State or person when determining whether that State or person has complied with this subtitle in the year designated. A credit may be counted toward compliance for only one year.

(d) TRANSFERABILITY.—A State or covered person allocated a credit under this section or to whom a credit is transferred under this section, may transfer freely the credit to another State or person who is required to comply with this subtitle. At the request of the State or person to whom a credit is transferred, the Secretary shall treat the transferred credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by the State or person to whom the credit is transferred when determining whether that State or person has complied with this subtitle in the year designated. A transferred credit may be counted toward compliance for only one year.

SEC. 4109. REPORTS.—The Secretary may require a Federal agency, State, or covered person to file with the Secretary the reports the Secretary determines necessary to implement this subtitle.

SEC. 4110. RESALE OF ALTERNATIVE FUEL VEHICLES.—(a) Not less than three years from the date of purchase, the Administrator may resell any alternative fuel passenger automobile purchased pursuant to this subtitle. For purposes of this subsection, a "passenger automobile" means any passenger automobile as defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2)).

(b) Not less than six years, or 60,000 miles from the date of purchase, the Administrator may resell any alternative fuel light truck purchased pursuant to this subtitle. For purposes of this subsection, a "light truck" means any light truck as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15)).

(c) The Administrator may resell or dispose of an alternative fuel passenger automobile or light truck at an earlier date if such vehicle is damaged in an accident, or if the Administrator determines selling such alternative fuel passenger automobile or light truck is in the best interests of the Federal alternative fuel vehicle program.

(d) The Administrator shall take all feasible steps to ensure that all alternative fuel vehicles sold under the provisions in (a) and (b) of this section shall remain alternative vehicles at time of sale.

SEC. 4111. FEDERAL AGENCY PROMOTION, EDUCATION, AND COORDINATION.—(a) PROMOTION AND EDUCATION.—The Administrator shall institute a program to promote programs and educate officials and employees of Federal agencies on the merits of alternative fuel vehicles. The Administrator shall provide and disseminate information to Federal agencies on the—

(1) location of refueling and maintenance facilities available to alternative fuel vehicles in the Federal fleet;

(2) range and performance capabilities of alternative fuel vehicles;

(3) State and local government and commercial alternative fuel vehicle programs;

(4) Federal alternative fuel vehicle purchases and placements;

(5) operation and maintenance of alternative fuel vehicles in accordance with the manufacturer's standards and recommendations; and

(6) incentive programs established pursuant to sections 4112 and 4113 of this Act.

(b) ASSISTANCE IN PROCUREMENT AND PLACEMENT.—The Administrator shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fuel vehicles purchased through the Administrator. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 4102 of this Act.

(c) INTERGOVERNMENTAL COORDINATION.—The Administrator shall identify other Federal, State, and local efforts to promote and use alternative fuel vehicles. To the maximum extend practicable, the Administrator shall coordinate Federal alternative fuel vehicle procurement, placement, refueling and maintenance programs with those at the State and local level.

(d) POSTAL SERVICE COORDINATION.—To the maximum extent practicable, the Postmaster General shall coordinate its alternative fuel vehicle procurement, placement, refueling, and maintenance programs with those at the Federal, State, and local level. The Postmaster General shall communicate, share, and disseminate, on a regular basis, information on such programs with the Secretary, the Administrator, and heads of appropriate Federal agencies.

(e) POSTAL SERVICE PROGRAM CRITERIA.—The Postmaster General shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

(1) the procurement plans of State and local governments and other public and private institutions;

(2) the current and future availability of refueling and repair facilities;

(3) the reduction in emissions of the Postal fleet;

(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

(5) the operational requirements of the Postal fleet;

(6) the contribution to the reduction in the consumption of oil in the transportation sector.

SEC. 4112. AGENCY INCENTIVES PROGRAM.—(a) REDUCTION IN RATES.—To encourage and promote use of alternative fuel vehicles in Federal agencies, the Administrator may offer a five percent reduction in fees charged to agencies for the lease of alternative fuel vehicles below those fees charged for the lease of comparable conventionally fueled vehicles.

(b) FEDERAL EMPLOYEE POOLING AND DRIVER PROGRAM.—Notwithstanding the provisions of section 1344(a) of title 31, United States Code, Federal agencies may authorize Federal employees to use alternative fuel vehicles from their residence to their place of employment for purposes of—

(1) Federal employee carpooling of not less than four Federal employees for each trip; and

(2) refueling and maintenance, if the Federal agency head, or the designee of the agency head, determines that such services are not convenient to the location of place of employment.

SEC. 4113. RECOGNITION AND INCENTIVE AWARDS PROGRAM.—(a) AWARDS PROGRAM.—The Administrator shall establish an annual cash awards program to recognize those employees of the General Services Administration and other Federal agencies who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal motor vehicles.

(b) CRITERIA FOR GENERAL SERVICES ADMINISTRATION EMPLOYEES.—The Administrator shall provide annual cash awards of not more than $2,000 each to three General Services Administration employees who best demonstrate a commitment—

(1) to the success of the Federal alternative fuels vehicle program through—

(A) exemplary promotion of alternative fuel vehicle use within the General Services Administration and other Federal agencies;

(B) proper alternative fuel vehicle care and maintenance;

(C) coordination with Federal, State, and local efforts:

(D) innovative alternative fuel vehicle procurement, refueling and maintenance arrangements with commercial entities; and

(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance and other conservation and awareness measures.

(c) LIMITATIONS ON AWARDS.—The three awards under paragraph (b) shall be awarded to three different employees each year. No employee may win a cash award in more than two consecutive years.

(d) AWARE TO REGIONAL GENERAL SERVICES ADMINISTRATION EMPLOYEES.—(1) In each standard Federal region where the General Services Administration operates alternative fuel vehicles, the Administrator shall offer two annual cash awards of not more than $1,000 to the regional General Services Administration employees who meet the criteria under paragraph (b).

(2) Employees who receive an award under subsection (b) may not receive an award under this section in the same fiscal year. No more than two awards shall be awarded under this subsection in each region in any fiscal year.

(e) AWARD TO FEDERAL AGENCY EMPLOYEES.—In each region where the General Services Administration operates alternative fuel vehicles, the Administrator shall provide one annual $2,000 cash award to the Federal employee (other than an employee of the General Services Administration) who demonstrates the greatest interest and commitment to alternative fuel vehicles by—

(1) making regular requests for alternative fuel vehicles for agency use;

(2) maintaining a high number of alternative fuel vehicles used relative to comparable conventionally fueled vehicles used;

(3) promoting alternative fuel vehicle use by agency personnel; and

(4) demonstrating care and attention to alternative fuel vehicles.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000 in fiscal year 1992, $35,000 in fiscal year 1993, and $45,000 in fiscal year 1994 to carry out the purposes of this section.

SEC. 4114. MEASUREMENT OF ALTERNATIVE FUEL USE.—The Administrator shall use such means as may be necessary to measure the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator.

SEC. 4115. INFORMATION COLLECTION.—The Secretary, in consultation with the Administrator, shall determine a representative sample of alternative fuel vehicles in the Federal fleet. Such a sample shall be sufficient to address at a minimum—

(1) the performance of such vehicles, including performance in cold weather and at high altitudes;

(2) the fuel economy, safety, and emissions of such vehicles; and

(3) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger vehicles and light duty trucks.

SEC. 4116. GENERAL SERVICES ADMINISTRATION REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator shall report to the Congress on the General Services Administration's alternative fuel vehicle program under this Act. The report shall contain information on—

(1) the number and type of alternative fuel vehicles procured;

(2) the location of alternative fuel vehicles by standard Federal region;

(3) the total number of alternative fuel vehicles used by each Federal agency;

(4) arrangements with commercial entities for refueling and maintenance of alternative fuel vehicles;

(5) future alternative fuel vehicle procurement and placement strategy;

(6) the difference in cost between the purchase, maintenance and operation of alternative fuel vehicles and the purchase, maintenance, and operation of comparable conventionally fueled vehicles;

(7) coordination among Federal, State and local governments for alternative fuel vehicle procurement and placement;

(8) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator as measured under section 4114;

(9) a description of the representative sample of alternative fuel vehicles as determined under section 4115; and

(10) award recipients under this subtitle.

SEC. 4117. UNITED STATES POSTAL SERVICE REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Postmaster General shall submit a report to the Congress on the Postal Service's alternative fuel vehicle program. The report shall contain information on—

(1) the total number and type of alternative fuel vehicles procured prior to the date of the enactment of this Act (first report only);

(2) the number and type of alternative fuel vehicles procured in the preceding year;

(3) the location of alternative fuel vehicles by region;

(4) arrangements with commercial entities for purposes of refueling and maintenance;

(5) future alternative fuel procurement and placement strategy;

(6) the difference in cost between the purchase, maintanance and operation of alternative fuel vehicles and the purchase, maintanance, and operation of comparable conventionally fueled vehicles;

(7) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Postmaster General;

(8) promotions and incentives to encourage the use of alternative fuels in flexi-fueled vehicles; and

(9) an assessment of the program's relative success and policy recommendations for strengthening the program.

SEC. 4118. ENFORCEMENT.—(a) CIVIL PENALTIES.—A State or covered person who violates a requirement or prohibition of section 4103 or 4104, respectively, or 4105(b) is subject to a civil penalty of not more than $2,500 per violation. Each month in which a violation occurs constitutes a separate violation, unless the violator establishes that the vehicle necessary to comply with this subtitle could not be purchased, leased, or otherwise acquired in that month. The first month of a violation of the yearly acquisition requirements of section 4103 or 4104 is the month in which a State or person purchases, leases, or otherwise acquires vehicles that result in noncompliance with the yearly alternative fuel vehicle purchase requirement under that section. Each month in which compliance has not been achieved after the first month is a separate violation.

(b) CIVIL ACTIONS.—The Secretary may request the Attorney General to commence a civil action for a permanent or temporary injunction or to assess and recover any civil penalty under subsection (a) of this section. An action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has his principal place of business. The court in which the action has been brought may restrain a violation, require compliance, assess a civil penalty, collect any noncompliance assessment and nonpayment penalty owed the United States, and award any other appropriate relief. In such an action, subpoenaes for witnesses who are required to attend a district court in any district may run into any other district.

(c) MITIGATION OF PENALTIES.—In the determining the amount of a penalty to be assessed under this section, the court shall take into consideration, in addition to other factors justice may require, the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

SEC. 4119. IMPLEMENTATION.—(a) REGULATIONS.—Within 180 days after the date of enactment of this subtitle the Secretary shall issue regulations to implement this subtitle. Such regulations shall include measures to ensure that Federal agencies, States, and covered persons comply with the requirements of sections 4102, 4103, and 4104, respectively, and the criteria by which the Secretary will determine whether to exempt agencies, States, and covered persons from such requirements under section 4105. The regulations governing compliance with sections 4102, 4103, and 4104 shall be developed in consultation with the Secretary of Commerce and shall require that the procurement practices of manufacturers of alternative fuel vehicles and diesel trucks that are purchased, leased, or otherwise acquired in order to meet the requirements of such

sections do not discriminate against United States manufacturers of motor vehicle parts.

(b) DELEGATION TO STATES.—The Secretary may delegate the administration and enforcement of this subtitle within any State to the Governor of such State if—

(1) the Governor certifies that the State has a program to administer and enforce the subtitle; and

(2) the Secretary finds that the State program is in accordance with the requirements of the subtitle.

(c) FINANCIAL ASSISTANCE.—There is authorized to be appropriated not more than $20,000,000 to remain available until expended for purposes of providing financial assistance to States to which the Secretary delegates administration and enforcement of this subtitle.

(d) STATE INCENTIVES.—Within 18 months after the date of enactment of this title, the Governor of each State in which there is located a fleet subject to the alternative fuel vehicle purchase requirements of section 4103 or 4104, shall submit to the Secretary a report concerning the incentives for alternative fuel vehicles considered or approved by the State. Each State subject to the requirements of this section shall consider:

(1) allowing public utilities to include in rates costs associated with the development and installation of alternative fuel facilities to the extent that such inclusion would not create competitive disadvantages for other market participants;

(2) exempting alternative fuel vehicles that operate only on alternative fuel from high occupancy vehicle and other such highway vehicle restrictions;

(3) exempting alternative fuel vehicles from State highway taxes, road tolls, vehicle and fuel sales taxes, and other State taxes or charges otherwise applicable to motor vehicles; and

(4) providing alternative fuel vehicles special parking at public buildings, airports, and transportation facilities.

SEC. 4120. SCHOOL BUS FLEET FINANCIAL ASSISTANCE PROGRAM.—There is authorized to be appropriated to the Secretary not more than $10,000,000 for each of the fiscal years 1993, 1994, and 1995 to remain available until expended for purposes of providing financial assistance to any State, including any agency, municipality or political subdivision of a State or the District of Columbia, to meet incremental costs attributable to the use by school buses of alternative fuels, as that term is defined in section 4101(1) of this subtitle, including purchase and installation of alternative fuel refueling facilities to be used primarily for school bus refueling and conversion of school buses to make them capable of using only an alternative fuel (except that diesel school buses may be converted to run on a combination of diesel and natural gas): *Provided*, That any conversion using funds authorized by this section must comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990.

SUBTITLE B—Electric and Electric-Hybrid Vehicle Demonstration, Infrastructure, Development, and Conforming Amendments

PART A—ELECTRIC AND ELECTRIC-HYBRID VEHICLE DEMONSTRATION

SEC. 4201. SHORT TITLE.—This part may be cited as the "Electric and Electric-Hybrid Vehicle Demonstration Act".

SEC. 4202. DEFINITIONS.—For the purposes of this part, the term—

(1) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electric energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, that equipment necessary for the application or use of the non-electric source of power in such vehicles;

(2) "comparable conventionally-fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity comparable or similar to an electric vehicle or electric hybrid vehicle, as determined by the Secretary;

(3) "discount payment" means that discount from the electric vehicle suggested retail price provided to the user of an electric vehicle or electric-hybrid vehicle as determined pursuant to section 4205 of this part;

(4) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current, including, photovoltaic arrays;

(5) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power;

(6) "electric vehicle suggested retail price" or "electric-hybrid vehicle suggested retail price" means the price (including any additions to the price of such vehicle added as a result of delivery to the point of use of such vehicles) of an electric vehicle or electric-hybrid vehicle set forth in a cooperative agreement under section 4203(b), not adjusted to reflect any discount payment that may be available under this part;

(7) "eligible metropolitan area" means—

(A) any ozone non-attainment area classified under subpart 2 of part D of title I of the Clean Air Act, as amended, as Serious, Severe, or Extreme as of the date of enactment of this part;

(B) any carbon monoxide nonattainment area with a carbon monoxide design value at or above 16.0 parts per million based on data available as of the date of enactment of this part, but does not include carbon monoxide nonattainment areas in which mobile sources do not contribute significantly to carbon monoxide exceedences; or

(C) any other metropolitan statistical area with a 1980 population of 250,000 or more that has been designated by a proposer and the Secretary for a demonstration project under this part;

(8) "manufacturer" means a person or entity that produces an electric vehicle or electric-hybrid vehicle and is capable, if determined to be by the Secretary, of providing service and parts for such vehicle for a period of five years or more;

(9) "proposer" means a person or entity that submits a proposal to conduct a demonstration project under the program authorized by this part and may include a unit of State or local government;

(10) "retail price differential" means the difference between the comparable conventionally-fueled vehicle suggested retail price and the electric vehicle or electric-hybrid vehicle suggested retail price;

(11) "suggested retail price" means the price (including any additions to the price of such vehicle added as a result of delivery to the point of use of such vehicle) of a commercially available conventionally-fueled vehicle, as determined by the manufacturer's established retail price, not adjusted to reflect any reductions in such price discounts that may be available; and

(12) "user" means a person or entity that purchases or leases an electric vehicle or electric-hybrid vehicle, including fleet operators.

SEC. 4203. PROGRAM AND SOLICITATION.—(a) PROGRAM.—The Secretary shall conduct a program to demonstrate electric vehicles, electric-hybrid vehicles and the associated equipment of such vehicles, in consultation with the Electric and Hybrid Vehicle Program Site Operators, vehicle manufacturers, the electric utility industry, and such other persons as the Secretary deems appropriate. Such program shall be structured to evaluate the performance of such vehicles in field operation, including fleet operation, and evaluate the necessary supporting infrastructure for electric and electric-hybrid vehicle commercialization.

(b) SOLICITATION.—(1) Not later than one year after the date of enactment of this part, the Secretary shall solicit proposals to demonstrate electric vehicles, electric-hybrid vehicles or such vehicles and associated equipment in one or more eligible metropolitan areas.

(2) The solicitation shall require the proposer to include in the proposal a description of the proposal including the manufacturer or manufacturers of the electric or electric-hybrid vehicles; the intended users of the vehicles; the eligible metropolitan area or areas involved; the number of vehicles to be demonstrated and their type, characteristics, and life-cycle costs; the retail price differential; the proposed discount payment; the contributions of State or local governments and other persons to the demonstration project; the type of associated equipment to be demonstrated; and any other information the Secretary requires to make selections under section 4204. If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the electric vehicles, electric-hybrid vehicles or associated equipment.

(c) ADDITIONAL SOLICITATIONS.—The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out the purposes of this part.

SEC. 4204. SELECTION OF PROPOSALS.—(a) SELECTION.—(1) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Commerce and the Administrator of the Environmental Protection Agency, may, not later than 120 days after receipt of proposals under section 4203, select at least one, but not more than ten, proposals for negotiation of cooperative agreements to receive financial assistance under section 4205.

(2) Any proposal selected for negotiation under paragraph (1) must satisfy the limitations set forth in section 4205(c).

(3) If the Secretary intends to enter into four or more cooperative agreements, at least one such cooperative agreement shall be for a demonstration project located in an eligible metropolitan area referred to in section 4202(7)(C) and which is not located in a nonattainment area referred to in sections 4202(7)(A) or (B).

(b) CONSIDERATION.—In selecting a proposal and in negotiating a cooperative agreement under this section, the Secretary shall consider—

(1) the ability of a proposer to undertake and complete the proposed demonstration project;

(2) the openness of a manufacturer's procurement practices to United States manufacturers of vehicle parts;

(3) the ability of a manufacturer, directly or indirectly, or in combination with the

proposer, to develop, assist in the demonstration of, manufacture, distribute, sell or lease and provide service for, including the ability to provide warranties and to assure the availability of all parts, those electric vehicles or electric-hybrid vehicles that are proposed to be included in the demonstration project;

(4) the geographic and climatic diversity of the eligible metropolitan area or areas in which the demonstration project is to be undertaken when compared with other proposals or other selected demonstration projects;

(5) the long-term technical and competitive viability of the electric and electric-hybrid vehicle, and the ability of the manufacturer of such vehicles to make and incorporate subsequent advancements, cost reductions, modifications, and technology improvements;

(6) the electric vehicle or electric-hybrid vehicle suggested retail price of the vehicles to be included in the demonstration project, the comparable conventionally-fueled vehicle suggested retail price, the proposed discount payment, and in the case of a demonstration project that includes a lease arrangement, the terms of such arrangement for the vehicle or associated equipment;

(7) the extent of involvement of State or local government and other persons in the demonstration project;

(8) whether the involvement of State or local government or other persons in the demonstration project (A) will permit a reduction of the Federal cost share per vehicle or (B) will otherwise be used to leverage the Federal contribution to be provided among a greater number of vehicles; and

(9) other criteria as the Secretary deems appropriate.

(c) CONDITIONS.—The Secretary shall include in any cooperative agreement under this section provisions intended to assure that—

(1) the vehicle or vehicles will be used primarily in the eligible metropolitan area or areas identified in the proposal and set forth in the final agreement made with the Secretary;

(2) the procurement practices of the manufacturer do not discriminate against United States manufacturers of vehicle parts;

(3) the number of vehicles to be included in the demonstration project shall be no less than 50 vehicles, except that the Secretary—

(A) may select and enter into a cooperative agreement for a demonstration project with fewer than 50 vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity of the proposals selected and that an adequate demonstration to accelerate the development and use of vehicles can be undertaken with fewer than 50 vehicles; and

(B) may permit a group of such vehicles to be used in an area outside such eligible metropolitan area or areas identified in such proposal if the Secretary determines that such proposal would further the purposes of this part.

(4) as a part of the demonstration project, the proposer shall seek to obtain from the user or users of the vehicles and to provide to the manufacturer information regarding operation, maintenance, and useability of the vehicle for five years after purchase or during the lease period; and

(5) the proposer shall provide such information regarding operation, maintenance and use of vehicles as the Secretary may request during the period of the demonstration project.

(d) ADDITIONAL DEMONSTRATIONS.—The Secretary may enter into more than ten cooperative agreements under this section, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

SEC. 4205. DISCOUNT PAYMENTS TO USERS.—(a) CERTIFICATION.—The Secretary shall provide a discount payment to a proposer for reimbursement of the discount provided to the user, if the proposer certifies to the Secretary, in such form and in such manner and time as may be required by the Secretary, that—

(1) the electric vehicle or electric-hybrid vehicle has been purchased or leased by a user in accordance with the terms and conditions of the cooperative agreement referred to in section 4204; and

(2) the proposer has provided to the user a discount payment from the electric vehicle or electric-hybrid vehicle suggested retail price in accordance with the terms and conditions for the discount payment in the cooperative agreement under section 4204.

(b) PAYMENT.—Not later than 30 days after receipt from the proposer of certification that the Secretary determines satisfies subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment.

(c)(1) RESTRICTIONS ON DISCOUNT PAYMENTS.—The discount payment shall be no greater than the retail price differential or the price of the comparable conventionally-fueled vehicle, whichever is the lesser.

(2) The actual purchase price of the vehicle, adjusted to reflect the discount payment and any additional reduction in the actual purchase price of the vehicle that may result from contributions to a purchase price reduction provided by other parties, may not be less than the manufacturer's suggested retail price of a comparable conventionally-fueled vehicle.

(3) The maximum Federal share of the discount payment that may be provided to reimburse a proposer for a discount payment provided to a user shall be no greater than $10,000 per electric vehicle or electric-hybrid vehicle.

(4) The aggregate discount payments paid to a proposer under this part may not exceed $3,000,000.

(d) LEASE AGREEMENTS.—For purposes of the discount payment, in the case of an electric vehicle or electric-hybrid vehicle included in a demonstration project that is the subject of a lease agreement, the Secretary shall provide a rebate in accordance with the terms of the cooperative agreement.

SEC. 4206. COST-SHARING.—(a) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreement under this part, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(b) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under subsection (a) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this part.

SEC. 4207. REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the United States Senate and the United States House of Representatives on the progress being made, through the cooperative agreements under this part, to accelerate the development and use of electric vehicles and electric-hybrid vehicles.

SEC. 4208. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993 and 1994 such sums as may be necessary to carry out the purposes of this part, to remain available until expended.

PART B—ELECTRIC AND ELECTRIC-HYBRID VEHICLE INFRASTRUCTURE DEVELOPMENT

SEC. 4211. SHORT TITLE.—This part may be cited as the "Electric Vehicle and Electric-Hybrid Infrastructure Development Act".

SEC. 4212. DEFINITIONS.—For purposes of this part, the term—

(1) "infrastructure" includes, but is not limited to, those support and maintenance services and facilities, electricity delivery mechanisms and methods, treatment of investment in electric vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling and disposal, that may be required to enable electric utilities, automobile manufacturers and others, to support the operation, maintenance and utilization of electric vehicles, electric-hybrid vehicles, and associated equipment;

(2) "non-Federal person" means an entity not part of the Federal Government that is organized under the laws of the United States and located in the United States, the controlling interest (as defined by the Secretary) of which is held by United States nationals or permanent resident aliens, including—

(A) a for-profit business;

(B) a private foundation;

(C) a nonprofit organization such as a university;

(D) a trade or professional society; and

(E) a unit of State or local government.

(3) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electrical energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, the non-electric source of energy;

(4) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current; and

(5) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current but also relies on a non-electrical source of power.

SEC. 4213. DATA ACQUISITION TO SUPPORT INFRASTRUCTURE DEVELOPMENT AND MARKETS FOR USE OF ELECTRIC VEHICLES AND ELECTRIC-HYBRID VEHICLES.—(a) GENERAL.—Not later than 180 days after the date of enactment of this part, the Secretary, in consultation with appropriate State, regional and local authorities, shall establish a program for the collection and dissemination of information and data which would be useful to persons seeking to manufacture, sell, lease, own or operate electric vehicles and electric-hybrid vehicles. Such information and data—

(1) shall be sufficient to evaluate—

(A) the degree to which the availability of energy and fuel supplies may constrain the introduction of electric vehicles or electric-hybrid vehicles; and

(B) the electric vehicle or electric-hybrid vehicle trips made daily, miles driven per trip, projections as to the number of trips that could be accomplished in combination with mass transit so as to conserve energy; and

(2) may include other appropriate demographic and consumer preferences information necessary to make the evaluation under paragraph (1).

(b) CONSULTATION BY THE SECRETARY.—The Secretary shall consult with interested persons including, but not limited to, vehicle manufacturers, fleet operators, public utilities and State or local governmental entities, to determine the types of information and data to be collected and analyzed pursuant to the program authorized by subsection (a).

SEC. 4214. STATE INFRASTRUCTURE DEVELOPMENT PLANS.—(a) GUIDELINES.—(1) Within 180 days after the date of enactment of this part, the Secretary shall issue guidelines for use by States and local governmental entities to develop comprehensive infrastructure plans to support the deployment of electric vehicles and electric-hybrid vehicles. Such guidelines shall include sufficient information to help States to evaluate—

(A) the availability of the necessary infrastructure to provide electricity and other forms of energy in the quantities and at the locations required to support operation of electric vehicles or electric-hybrid vehicles;

(B) the development of electric vehicle and electric-hybrid vehicle incentives and implementation programs designed to accelerate the introduction and use of such vehicles; and

(C) such studies that may be conducted or information that may be acquired with respect to how the production, development, or use of electric vehicles and electric-hybrid vehicles are likely to affect the more efficient use of energy resources and thereby enhance national energy security.

(2) Such guidelines also shall address the development, modification, and implementation of State infrastructure plans and shall describe those program elements, as described in subsection (c) to be addressed in such plans.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—(1) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall offer the Governor of each State, within 120 days of the date of issuance of the guidelines under subsection (a), the opportunity to request technical and financial assistance under subsection (c) for the formulation of a comprehensive infrastructure plan for such State in conformance with the guidelines issued under subsection (a). Such request shall include a determination by the Governor that—

(A) electricity and other forms of energy are likely to be available in sufficient quantities to support the introduction of electric vehicles and electric-hybrid vehicles in such State; and

(B) the introduction of electric vehicles or electric-hybrid vehicles in such State is feasible.

(2)(A) If the Secretary is satisfied that the determination of a Governor under paragraph (1) is consistent with the purposes of this part, the Secretary shall offer the Governor of such State the opportunity to submit, within 180 days after submission of the determination under paragraph (1), a comprehensive infrastructure plan for approval under subsection (c)(2).

(B) Any plan developed under subparagraph (A) shall be developed in consultation with local governmental entities and shall include—

(i) the anticipated number and schedule for introduction of electric vehicles or electric-hybrid vehicles in such State;

(ii) provisions intended to ensure that electricity and other forms of energy will be available in sufficient quantities to support the anticipated quantities and schedule for introduction of electric vehicles or electric-hybrid vehicles;

(iii) provisions designed to assure the progress toward, and achievement of, the goal of introducing substantial numbers of electric vehicles and electric-hybrid vehicles in such State by the year 2001;

(iv) a detailed description of the requirements, including the estimated cost of implementation, of the infrastructure plan; and

(v) an assessment of whether accomplishing any of the goals in this subsection would require amendment to State law or regulation.

(c) TECHNICAL AND FINANCIAL ASSISTANCE.—(1) Upon request of the Governor of any State who has submitted the assessment and made the determination under subsection (b), the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to electric vehicles and electric-hybrid vehicles;

(B) financial assistance for the purpose of the development of such plan; and

(C) financial assistance for the purpose of the implementation of such plan as approved by the Secretary pursuant to this section.

(2) In determining whether to approve a State infrastructure plan submitted under subsection (b)(2), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this section, the Secretary shall consider:

(A) energy and environmental-related impacts of introduction and use of electric vehicles or electric-hybrid vehicles included in the proposed infrastructure plan;

(B) the availability of electricity and other forms of energy required to support varying numbers of electric vehicles or electric-hybrid vehicles;

(C) the number of electric vehicles or electric-hybrid vehicles likely to be introduced by the year 2001 and the availability of electricity and other fuels resulting from successful implementation of the plan; and

(D) such other factors as the Secretary considers appropriate.

(d) REPORT.—The Secretary shall report annually to the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this part.

SEC. 4215. ELECTRIC UTILITY AND OTHER INDUSTRY INFRASTRUCTURE DEVELOPMENT PROJECTS.—(a) GENERAL.—The Secretary shall undertake cooperative agreements with one or more non-Federal persons, including fleet operators, to provide the infrastructure necessary to support the use of electric vehicles or electric-hybrid vehicles.

(b) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals from non-Federal persons, including fleet operators, to carry out the purposes of this section.

(2) Within 180 days after proposals have been solicited, the Secretary shall select from among those proposals submitted under this section and thereafter enter into negotiations. If, after negotiation, the Secretary determines that a proposal meets the purposes of this section, he may enter into a cooperative agreement with the non-Federal person submitting such proposal.

(3) The Secretary shall undertake no more than five cooperative agreements under this section. The proposals to be selected by the Secretary shall, to the extent practicable, represent geographically and climatically diverse regions of the United States.

(4) The aggregate Federal financial assistance for each cooperative agreement under this part may not exceed $3,000,000.

(c) PROPOSALS.—The infrastructure proposals under this section may address—

(1) the addition to existing facilities of the capability to service electric or electric-hybrid vehicles, and to provide or service associated equipment, as well as the installation of charging facilities where such service might be required for the use and operation of electric vehicles or electric-hybrid vehicles;

(2) the feasibility of designing rate structures, rate levels, ratemaking procedures, billing systems and financing methods, related to investment by electric utilities in infrastructure capital-related expenditures and public information programs conducted by electric utilities regarding use of electricity, the conservation of electric energy and the use of electric vehicles or electric-hybrid vehicles;

(3) the development of associated safety and health procedures; and

(4) such other requirements as the Secretary considers necessary in order to address the infrastructure needed to support the development and use of energy storage technologies, including advanced batteries, and the demonstration of electric vehicles or electric-hybrid vehicles.

SEC. 4216. COST-SHARING.—(a) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreements under this part, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(b) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under subsection (a) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this part.

SEC. 4217. COMPLIANCE WITH EXISTING LAW.—Nothing in this part shall be deemed to convey to any person, partnership, corporation, or other entity, immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this part, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

SEC. 4218. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994, such sums as may be necessary to carry out the purposes of this part.

PART C—AMENDMENT TO THE ALTERNATIVE MOTOR FUELS ACT

SEC. 4221. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.—(a) Section 400AA(a) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6374 (a)(1)) is amended by striking out "or natural gas dual energy vehicles." and inserting in lieu thereof "natural gas dual energy vehicles, electric vehicles, or electric-hybrid vehicles.".

(b) Section 400AA(g) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6374 (g)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(7) the term 'natural gas' includes liquified petroleum gas, including propane;

"(8) the term 'electric vehicle' means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current; and

"(9) 'electric-hybrid vehicle' means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power.".

(c) Section 400AA(i) of the Energy Policy and Conservation Act (42 U.S.C. 6374(i)) is amended by adding at the end thereof the following new paragraph:

"(3) For the purposes of this section, there is authorized to be appropriated for the fiscal years 1994, 1995, and 1996 such sums as may be necessary to carry out the provisions of this section.".

SEC. 4222. AMENDMENTS TO THE MOTOR VEHICLE INFORMATION AND COST SAVING ACT.—(a) Section 513(c) of the Motor Vehicle Information and Cost Savings Act (Pub. L. No. 92-513; 15 U.S.C. 2013(c)) is amended in the first sentence by inserting after "natural gas" each place it occurs the parenthetical "(including liquefied petroleum gas)".

(b) Section 513(d) of said Act (Pub. L. No. 92-513; 15 U.S.C. 2013(d)) is amended by inserting after "natural gas" the first time it occurs the following parenthetical, "(including liquefied petroleum gas)".

Subtitle C—Alternative Fuels

SEC. 4301. SHORT TITLE.—This subtitle may be cited as the "Replacement and Alternative Fuels Act of 1992".

SEC. 4302. FINDINGS.—The Congress finds and declares that—

(1) United States national security demands that we reduce our dependency on imported oil;

(2) domestic resources are available to substantially reduce our dependency on imported oil;

(3) the transportation sector, currently 95 percent dependent on oil, accounts for more than 60 percent of our national oil consumption;

(4) a comprehensive energy program, including the stimulation of the production and use of automobiles and off-road vehicles capable of using alternative fuels, is needed to reduce pollution as well as reduce our dependency on imported oil;

(5) such program should be designed to create a positive impact on the economy, our national trade balance, and our national budget; and

(6) such program should allow market forces, within appropriate environmental parameters, to affect the selection of replacement or alternative fuels.

SEC. 4303. PURPOSES.—The purposes of this subtitle are to—

(1) enhance energy security;

(2) reduce air pollution;

(3) improve our balance of trade;

(4) reduce the budget deficit;

(5) improve the marketability of alternative and flexible fuel vehicles; and

(6) improve the condition of the national economy through the enhancement of the replacement fuel industry and the creation of an alternative fuel industry.

SEC. 4304. DEFINITIONS.—For purposes of this subtitle—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alcohol" means methanol, ethanol, or other alcohol that are suitable for use by themselves or in combination with other fuels as a motor fuel;

(3) the term "conventional petroleum" means imported or domestic petroleum derived from oil wells, including stripper wells;

(4) the term "domestic" means derived from resources within the 50 States or the territories of the United States;

(5) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle, as the term "motor vehicle" is defined in section 216(2) of the Clean Air Act (42 U.S.C. 7550(2));

(6) the term "alternative fuel" means a motor fuel not designed to be mixed with gasoline, including liquefied petroleum gas, natural gas, "neat" alcohol, hydrogen, coal-derived liquid fuels, electricity; and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;

(7) the term "replacement fuel" means a motor fuel capable of mixing with gasoline or diesel, including alcohol and ethers or products derived from alcohol;

(8) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A); and

(9) the term "provider" means—

(A) any person engaged in the refining of crude oil to produce motor fuel;

(B) any importer of motor fuel;

(C) any person engaged in the transportation and sale of natural gas or liquefied petroleum gas for use as a motor fuel;

(D) any person engaged in the production of alcohol or hydrogen for sale and use as a motor fuel; and

(E) any utility engaged in the generation and sale to the public of electricity.

SEC. 4305. REPLACEMENT AND ALTERNATIVE FUEL PROGRAM.—(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to promote the development and use of domestically produced replacement and alternative fuels. Such program shall promote the replacement of conventional petroleum motor fuels with replacement and alternative fuels to the maximum extent practicable. Such program shall, to the extent practicable, seek to ensure the availability of those replacement and alternative fuels that will have the greatest impact in improving air quality in urban areas, along transportation corridors, and nationwide.

(b) DEVELOPMENT PLAN.—Under the program established under subsection (a), the Secretary, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of appropriate agencies, shall review appropriate information and—

(1) estimate the production capacity in the United States for replacement fuel and alternative fuel needed to implement the provisions of this subtitle;

(2) determine the technical and economic feasibility of producing in the United States sufficient replacement fuels and alternative fuels, by the calendar year 2010 to replace 30 per centum or more, on an energy equivalent basis, of the projected consumption of motor fuel in the United States for that year;

(3) assess the suitability and cost-effectiveness of raw materials, other than conventional petroleum, for the production in the United States of replacement and alternative fuels;

(4) assess the suitability and cost-effectiveness of the means and methods of developing and encouraging the production, distribution, and use of replacement and alternative fuels; and

(5) identify ways to encourage the development of reliable replacement fuel and alternative fuel industries in the United States, and the technical, economic, and institutional barriers to such development.

SEC. 4306. ALTERNATIVE FUEL DEMAND ESTIMATES.—(a) ANNUAL ESTIMATES.—Not later than October 1, 1994, and not later than October 1 of each year thereafter, the Secretary, in consultation with the Administrator and appropriate State and Federal officials, shall estimate—

(1) the number of each type of alternative fuel vehicles likely to be in use in the United States during the following calendar year;

(2) the probable geographic distribution of such vehicles; and

(3) the amount of each type of alternative fuel that is needed to fuel such number of vehicles.

(b) PROVIDER CERTIFICATIONS.—Not later than October 1, 1994, and not later than October 1 of each year thereafter, the Secretary shall require providers of domestic replacement and alternative fuels to certify to the Secretary the amount of each type of replacement and alternative fuel that such provider plans to produce.

SEC. 4307. VOLUNTARY SUPPLY COMMITMENTS.—The Secretary shall undertake to obtain commitments from providers of domestic replacement and alternative fuels to produce and offer for sale to the public sufficient amounts of domestic replacement and alternative fuels to meet the needs of vehicles requiring such fuels.

SEC. 4308. SECRETARIAL AUTHORITY.—(a) NOTIFICATION OF CONGRESS.—In the event that the Secretary determines under this subtitle that the amount of replacement and alternative fuels available in any area of the United States is insufficient to meet public demand and the Secretary is unable to obtain voluntary commitments under section 4307 to supply such demand, the Secretary shall provide written notice to Congress.

(b) SUBMITTAL OF PLAN.—Not later than thirty days after submitting notice under subsection (a), the Secretary shall submit a plan setting forth the actions the Secretary may take to require providers of motor fuels to make available to the public adequate domestic supplies of the replacement or alternative fuel of which there is a shortage. In developing any such plan, the Secretary shall consult with providers of motor fuels to consider alternative means of securing adequate supplies of such fuel and shall give providers an opportunity to comment on any specific proposed requirements to make such fuel available.

(c) IMPLEMENTATION OF PLAN.—The Secretary may implement a plan under subsection (b) sixty calendar days after it has been submitted to Congress in accordance with this section.

(d) PERSONS SUBJECT TO REQUIREMENT.—In exercising the authority under this section, the Secretary shall impose the requirement of providing the required amount of replacement or alternative fuel proportionately on all appropriate providers of motor fuels in a fair and equitable manner.

SEC. 4309. AUTHORIZATION.—There is authorized to be appropriated to the Secretary to carry out this subtitle not to exceed $10,000,000 for each of the fiscal years 1992 through 1996.

Subtitle D—Mass Transit and Training

SEC. 4401. MASS TRANSIT PROGRAM.—(a) COOPERATIVE AGREEMENTS AND JOINT VEN-

TURES.—(1) The Secretary, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with this Act and the Alternative Motor Fuels Act of 1988 (Public Law 100-494), enter into cooperative agreements and joint ventures proposed by municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(b) COST-SHARE.—(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government entity agrees to provide at least 25 percent of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 4402. TRAINING PROGRAM.—(a) PROGRAM.—The Secretary of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or other alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, under this section, appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) CONSISTENCY.—The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494).

(d) AUTHORIZATION.—There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

TITLE V—RENEWABLE ENERGY

Subtitle A—CORECT AND COEECT

SEC. 5101. DUTIES OF CORECT AND COEECT.—Section 256 of Part B of Title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by striking subsection (d) and inserting the following in lieu thereof:

"(d)(1) DUTIES.—There shall be established two interagency working groups (hereafter in this subsection referred to as the Committee on Renewable Energy Commerce and Trade (CORECT) and the Committee on Energy Efficiency Commerce and Trade (COEECT)). These interagency working groups shall, in consultation with the representative industry groups and relevant agency heads, make recommendations to coordinate the actions and programs of the Federal Government to promote the export of domestic renewable energy and energy efficiency products and technologies, respectively. The Secretary of Energy shall chair each group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working groups, with or without reimbursement, as may be necessary to carry out their functions and undertake other actions or activities, consistent with existing laws and regulation, as, in the judgement of the Secretary, may be necessary to achieve the purposes of this section.

"(2)(A) ADDITIONAL DUTIES OF CORECT.—CORECT, through its member agencies, shall promote the development and application in lesser-developed countries of renewable energy resource products and technologies that—

"(i) promote the use of hybrid fossil-renewable energy systems;

"(ii) reduce dependence on unreliable sources of energy by encouraging the use of sustainable biomass, windpower, small-scale hydropower, solar, geothermal and other renewable energy resource technologies; and

"(iii) foster rural and urban energy development and energy self-sufficiency through the use of reliable and cost-effective renewable energy resource technologies.

"(B) In addition, CORECT shall:

"(i) explore mechanisms for assisting domestic manufacturers, particularly small business manufacturers, of renewable energy resource technologies, to export their products and technologies;

"(ii) provide staffing to support the authority and responsibilities described in this section;

"(iii) provide technical and financial support for the establishment and sponsorship by United States' firms of training programs, workshops, and other educational programs on renewable energy technologies for representatives of lesser-developed countries and their firms; and

"(iv) augment budgets for the trade and development programs of the member agencies of the Council in order to support pre-feasibility or feasibility studies for projects that utilize renewable energy resource technologies.

"(3)(A) ADDITIONAL DUTIES OF COEECT.—COEECT, through its member agencies, shall promote the development and application in lesser-developed countries of energy efficiency resource products and technologies that—

"(i) reduce dependence on unreliable sources of energy by encouraging the use of energy efficiency resource products and technologies; and

"(ii) foster rural and urban energy development and energy self-sufficiency through the use of reliable and economical energy efficiency resource products and technologies including services.

"(B) In addition, COEECT shall:

"(i) explore mechanisms for assisting domestic manufacturers, particularly small business manufacturers, of energy efficiency resource products and technologies, to export their products and services; and

"(ii) provide staffing to support the authority and responsibilities described in this section.

"(4) TRAINING AND ASSISTANCE.—In furthering the purposes of this section, CORECT and COEECT shall, through their member agencies—

"(A) provide aggressive in-country technical training for local users and international development personnel;

"(B) provide financial and technical assistance to nonprofit institutions that support the export and marketing efforts of domestic renewable energy and energy efficiency service companies, and develop environmentally responsible renewable energy and energy efficiency projects in developing nations;

"(C) establish feasibility and loan guarantee programs to facilitate access to capital and credit;

"(D) provide assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States, and such other personnel as the Council deems appropriate, in order to provide information about renewable energy and energy efficiency products and technologies to foreign governments or other potential project sponsors;

"(E) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency resource technologies.

"(5) OUTREACH.—CORECT and COEECT, through their member agencies, may establish renewable energy and energy efficiency industry outreach offices in the Pacific Rim and in the Caribbean Basin for the purpose of providing information concerning renewable energy and energy efficiency products, technologies, and industries of the United States to territories, foreign governments, industries, and other entities.".

SEC. 5102. INFORMATION AND TECHNICAL PROGRAM.—Section 256(c)(2)(D) of part B of title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding after clause (ii) the following new clause:

"and

"(iii) information on the specific renewable energy and energy efficiency technology needs of lesser-developed countries, the technical and economic competitiveness of various renewable energy and energy efficiency resource products, processes and technologies, and the status of ongoing technology assistance programs shall be provided. Information from this program shall be made available to industry, Federal and multilateral lending agencies, non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary,

"(iv) expand training and information dissemination programs in cooperation and participation with industry using existing technology transfer programs for such sums that may be necessary in fiscal years 1993, 1994, 1995, and

"(v) assist existing renewable energy industry consortia and State energy offices to work cooperatively with existing technology transfer programs.".

SEC. 5103. COMPREHENSIVE ENERGY TECHNOLOGY EVALUATION.—Section 256 of part B of title II of the Energy Policy and Conservation Act (Public Law 94-163) is amended by striking subsections (g) and (h) and inserting in lieu thereof subsections (g) and (h) as follows:

"(g)(1) Not later than June 1, 1992, and biennially thereafter, the Secretary, in consultation with member agencies, shall prepare and submit to Congress a report evaluating the range of energy efficiency and renewable energy resource technologies available to meet the energy needs of lesser-de-

veloped countries. This report also shall provide information on the specific energy and energy conservation needs of lesser-developed countries, an inventory of United States products and technologies available to meet those needs, and an update on the status of ongoing bilateral and multilateral technology assistance and renewable energy and energy efficiency programs.

"(2) The report should also include an evaluation of current renewable energy and energy efficiency resource technology export efforts, their success in meeting program objectives, and recommendations for future programs that:

"(A) develop and promote sustainable use of indigenous renewable energy and energy efficiency resources and technologies in lesser-developed countries;

"(B) given the credit and capital restrictions for meeting energy demands in the lesser-developed countries, focus on technologies that are both appropriate and cost-effective;

"(C) assist lesser-developed countries in meeting their existing energy needs rather than creating new needs, in order to ensure immediate income-generating and timely use of the power generated;

"(D) work with local individuals to assure that programs and projects meet specific national and local energy resource needs;

"(E) use indigenous materials and associated hardware, wherever possible, in order to reduce costs and ensure project duplication;

"(F) provide examples of cost-effective systems and applications for in-country nongovernmental organizations and project technical personnel;

"(G) provide mechanisms for assisting United States manufacturers, particularly smaller manufacturers, of energy efficiency and renewable energy resource technologies, in exporting their goods and services;

"(H) expand technical and administrative training programs, as well as distribution of multilingual technical training manuals and related materials; and

"(I) examine the potential for using economic incentives, such as shared savings contracts, loan guarantees, and tax incentives, to promote technology transfer to lesser-developed countries.

"(h) AUTHORIZATION.—(1) There is authorized to be appropriated for purposes of carrying out the programs under sections (d) and (e) $10,000,000 for fiscal year 1992, including $2,000,000 to carry out the purposes of subparagraph (d)(2), and such sums as may be necessary for fiscal year 1993 and 1994 to carry out the purposes of this subtitle except for subparagraph (d)(4).

"(2) There is authorized to be appropriated to the Secretary for the purposes of subparagraph 256(d)(4), in addition to the amount specified in the previous sentence, $2,750,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994.".

SEC. 5104. CONFORMING AMENDMENT.—Section 203(a) of the Department of Energy Organization Act (Public Law 95-91; 42 U.S.C. 7133) is amended by adding a new paragraph (12) at the end thereof:

"(12) the export and promotion to lesser-developed countries of domestic energy resource technologies and products, including renewable energy, energy efficiency, and clean coal technologies, and the development of policies and programs designed to enhance the knowledge of foreign governments and companies, and relevant international lending institutions regarding domestic energy resource technologies and products.".

Subtitle B—Renewable Energy Initiatives

SEC. 5201. RENEWABLE ENERGY DEVELOPMENT, TECHNOLOGY EXPORT TRAINING, AND COMMERCIALIZATION.—(a) JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT AND TECHNOLOGY EXPORT TRAINING.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended by adding new subsections (f), (g), and (h) as follows:

"(f) ADDITIONAL JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT.—

"(1) OIL DISPLACEMENT BY BIOFUELS ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of biofuels energy systems technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the development of biofuels energy systems for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(2) OIL DISPLACEMENT BY HIGH TEMPERATURE GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of high-temperature geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of high-temperature geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(3) OIL DISPLACEMENT BY LOW-TEMPERATURE GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of low-temperature geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purposes of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of low-temperature geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(4) OIL DISPLACEMENT BY SOLAR WATER HEATING.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of solar water heating technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for solar water heating for commercial application in institutional water heating and process heat uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(5) DIESEL FUEL OIL DISPLACEMENT BY PHOTOVOLTAIC AND WIND ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of photovoltaic and wind energy systems in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for photovoltaic and wind energy systems for commercial application in electric power generation uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(6) DIESEL FUEL OIL DISPLACEMENT BY DIRECT COMBUSTION OR GASIFICATION OF BIOMASS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of technologies for the direct combustion or gasification of biomass in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for direct combustion or gasification of biomass, including waste wood, for industrial process heat and electric power generation for commercial application in uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(7) OIL DISPLACEMENT BY FUEL CELLS TECHNOLOGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of fuel cells technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(g) RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY EXPORT TRAINING.—

"(1) The Secretary shall solicit proposals for and provide financial assistance to at least two joint ventures for the training of individuals from lesser-developed countries at a location or locations in the United States, at least one of which shall be in the operation and maintenance of renewable energy equipment and at least one of which shall be in the operation and maintenance of energy efficiency equipment, in accordance with the provisions of this subsection.

"(2) The purpose of joint ventures supported under this subsection shall be to train

individuals, including engineers and other professionals, in the operation and maintenance of renewable energy and energy efficiency equipment manufactured in the United States, including equipment for water pumping and the production of electric power in remote areas, in order to enhance the prospects that such equipment can be used to displace the use of diesel fuel oil in developing countries.

"(3) There is authorized to be appropriated to the Secretary not to exceed $6,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this subsection.

"(h) UTILITY-SCALE PHOTOVOLTAIC JOINT VENTURES.—

"(1) The Secretary shall solicit proposals and provide financial assistance for at least one joint venture for a utility-scale photovoltaic project of at least ten megawatts.

"(2) In general, the goals of joint ventures under this subsection shall include—

"(A) the integration of photovoltaics in approaches to the transmission and delivery systems;

"(B) the development of cost-saving adjuncts to utility delivery such as sub-station upgrades, peak power, and large-scale voltage line augmentation; and

"(C) the incorporation of new photovoltaic innovations into standard utility rate-making practices.

"(3) Joint ventures supported under this subsection may include participants that are considered to be end-users of the technology such as rural electric cooperatives, public utilities, investor-owned utilities, and independent power producers.

"(4) In selecting joint ventures for support under this subsection, the Secretary shall consider giving preference to proposals for projects that would be located in States where State law would allow inclusion of the project in the rate base or would otherwise allow for favorable regulatory treatment or return on investment.

"(5) There is authorized to be appropriated to the Secretary not to exceed $9,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this subsection.".

(b) Section 6(d)(1) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended as follows:

(1) after the semicolon by deleting the word "or"; and

(2) by inserting after paragraph (B) a new paragraph (C) as follows: "; or (C) there is insufficient Federal funding to adequately fund each of the joint venture technologies as required under subsection (b)(1),".

(c) CONFORMING AMENDMENTS.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended as follows:

(1) By replacing the phrase "subsection (c)" with the phrase "subsections (c), (f), (g) and (h)" in the first sentence of paragraph (b)(1).

(2) By substituting a new paragraph (4) of subsection (b) to read as follows:

"(4) DRAFT SOLICITATIONS AND PUBLIC COMMENT.—The Secretary shall issue a draft solicitation for joint ventures under subsection (c) by September 30, 1990 and a draft solicitation for joint ventures under subsections (f), (g), and (h) by September 30, 1992. After any such draft solicitation has been issued, the Secretary shall provide for a period of public comment before the issuance of a final solicitation.".

(3) By striking the phrase "subsection (c)" everywhere it appears in subsection (d) and replacing it with "subsections (c) or (f), (g), and (h)".

(4) By inserting after the word "shall" in paragraph (b)(5), the word "not".

(d) RENEWABLE ENERGY COMMERCIALIZATION.—The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended by adding at the end the following new section:

"SEC. 11. COMMERCIALIZATION.—"(a) DEFINITIONS.—For the purposes of this section the term—

"(1) 'qualified borrower' means an enterprise, that engages in the production and sale of electricity, thermal energy or other forms of energy using a renewable energy technology, or a manufacturer of renewable energy equipment who wishes to finance improvements in, or expansion of, facilities for the manufacture of renewable energy technologies;

"(2) 'renewable energy technology', with respect to a participant in any provision under this section, means any technology that produces, or uses as its principal energy source, biomass, geothermal, photovoltaic, wind, or solar thermal (including solar water heating, solar industrial process preheat, and solar industrial process heat); and

"(3) 'Federal share' means that portion of the interest on a loan financed by a private lender that is paid by the Federal Government, subject to subsection (b).

"(b) BUY DOWN AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with private lenders to pay the Federal share of the interest on loans made to qualified borrowers for the purpose of financing the manufacture, construction or acquisition of equipment that principally utilizes a renewable energy technology. Buy down agreements entered into by the Secretary, may be implemented either directly through private lenders for Federal facilities or indirectly through an appropriate State energy office.

"(2) RESTRICTION.—Interest rate buy down agreements under this section shall not apply to projects where electricity is sold to electric utilities under section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

"(3) FEDERAL SHARE.—The Federal share of interest on a loan shall be determined by the Secretary on the basis of—

"(A) the need of the borrower for the assistance;

"(B) the degree to which financing of the project will assist in the regional diversification and commercialization of renewable energy resources in the United States; and

"(C) the achievement of the purposes and goals of this section.

"(4) LOAN TERMS.—The Secretary may enter into an agreement under paragraph (1) to pay the Federal share of interest on not less than ten separate loans that—

"(A)(i) have a principal amount of at least $250,000 and less than $1,000,000 and have a maturity of not less than fifteen years; or

"(ii) have a principal amount of at least $1,000,000, and have a maturity of not less than twenty years;

"(B) carry an interest rate no greater than five percent above the prime rate or at an interest rate that the Secretary determines to be reasonable; and

"(C) contain such other terms and conditions that the Secretary deems appropriate.

"(c) REPORT.—Not later than two years after the date of enactment of this section and annually thereafter, the Secretary shall report to Congress on the projects funded under this section and the progress being made toward accomplishing the goals and purposes of this section.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.".

(e) ADDITIONAL DUTIES OF JOINT VENTURE ADVISORY COMMITTEE.—Section (b)(3) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended by adding a new subparagraph as follows:

"(C) Not later than 18 months after the date of the enactment of the National Energy Security Act of 1992, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the joint venture program under this section including specific recommendations for improvements or changes to the program and solicitation process.".

(f) NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.—Section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended:

(A) in paragraph (1) by inserting "three-year" before "management plan"; and

(B) by deleting paragraph (5) and inserting the following new paragraphs (5) and (6) in lieu thereof:

"(5) In addition, the Plan shall—

"(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under sections 4, 5, and 6 of this Act;

"(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

"(C) establish milestones for setting forth specific technology transfer activities under each program area;

"(D) include annual and five-year cost estimates for individual programs under this Act; and

"(E) identify program areas for which funding levels have been changed from the previous year's Plan.

"(6) Within one year after the date of the enactment of this paragraph, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.".

SEC. 5202. REPORT ON WASTE MINIMIZATION TECHNOLOGIES IN INDUSTRY. (a) REPORT.—Within one year after the date of enactment of this Act, the Secretary shall provide to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report evaluating opportunities to minimize waste outputs from production processes in industries in the United States including activities of the United States Government.

(b) CONTENTS.—The report required by this section shall include—

(1) an assessment of the technologies available to increase productivity and simultaneously reduce the consumption of energy and material resources and the production of wastes;

(2) an assessment of the current use of such technologies by industry in the United States;

(3) the status of any such technologies currently being developed, together with projected timeframes for their commercial availability;

(4) the energy savings resulting from the use of such technologies;

(5) the environmental benefits of such technologies;

(6) the costs of such technologies;

(7) an evaluation of any existing Federal or State regulatory disincentives for the employment of such technologies; and

(8) an evaluation of any other barriers to the use of such technologies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary shall consult with the Administrator of the Environmental Protection Agency, any other Federal, State, or local official the Secretary deems necessary, representatives of appropriate industries, members of organizations formed to further the goals of environmental protection or energy efficiency, and other appropriate interested members of the public, as determined by the Secretary.

SEC. 5203. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 362(d) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6322(d)) is amended by redesignating paragraphs (12) and (13) as paragraphs (14) and (15), respectively, and adding new paragraphs (12) and (13) as follows:

"(12) support for pre-feasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

"(13) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Department of Agriculture programs including the Rural Electrification Administration and the Farmers Home Administration;".

SEC. 5204. SPARK M. MATSUNAGA RENEWABLE ENERGY AND OCEAN TECHNOLOGY CENTER.—(a) FINDINGS.—The Congress finds that—

(1) the late Spark M. Matsunaga, United States Senator from Hawaii, was a longstanding champion of research and development of renewable energy, particularly wind and ocean energy, photovoltaics, and hydrogen fuels;

(2) it was Senator Matsunaga's vision that renewable energy could provide a sustained source of non-polluting energy and that such forms of alternative energy might ultimately be employed in the production of liquid hydrogen as a transportation fuel and energy storage medium available as an energy export;

(3) Senator Matsunaga also believed that research on other aspects of renewable energy and ocean resources, such as advanced materials, could be crucial to full development of energy storage and conversion systems; and

(4) Keahole Point, Hawaii is particularly well-suited as a site to conduct renewable energy and associated marine research.

(b) PURPOSE.—It is the purpose of this section to establish the facilities and equipment located at Keahole Point, Hawaii as a cooperative research and development facility, to be known as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center.

(c) ESTABLISHMENT.—The facilities and equipment located at Keahole Point, Hawaii are established as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center (referred to as the "Center").

(d) ADMINISTRATION.—(1) Not later than 180 days after the date of enactment of this section, the Secretary shall seek to enter into a cooperative agreement with a qualified research institution to administer the Center.

(2) For the purpose of paragraph (1), a qualified research institution is a research institution located in the State of Hawaii that has demonstrated competence and will be the lead organization in the State in renewable energy and ocean technologies.

(e) ACTIVITIES.—The Center may carry out research, development, and technology transfer activities on—

(1) solar and renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean resource concepts, including sea ranching and global climate change; and

(5) such other matters as the Secretary may direct.

(f) MATCHING FUNDS.—To be eligible for Federal funds under this section, the Center must provide funding in cash or in kind from non-Federal sources for each amount provided by the Secretary.

(g) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, and such sums as are necessary thereafter for the purposes of this section.

SEC. 5205. RENEWABLE ENERGY TECHNICAL ACHIEVEMENT AWARD.—(a) PROGRAM.—Within one year after the date of enactment of this Act, the Secretary, in consultation with the National Academy of Sciences, shall establish a program to reward outstanding achievement in each of the following technologies: solar thermal, photovoltaics, wind, biomass, geothermal, and such other renewable energy technologies as the Secretary deems appropriate.

(b) TECHNICAL ACHIEVEMENT MILESTONES.—The Secretary, in consultation with the National Academy of Sciences, shall establish a milestone for technical achievement for the year 2010 for each technology listed in subsection (a). The Secretary shall also establish criteria necessary to determine whether the technical achievement milestones have been met. Such criteria shall include:

(1) the cost of power delivered under each technology;

(2) the efficiency of each technology's energy conversion;

(3) the potential for large-scale commercial production; and

(4) such other criteria as the Secretary deems appropriate.

(c) AWARD.—The Secretary, in consultation with the National Academy of Sciences, shall award up to $5,000,000 in each renewable energy technology category to the first person who is a United States citizen and has been determined by the Secretary to have met the technical achievement milestones described under subsection (b).

(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this section.

SEC. 5206. RENEWABLE ENERGY RESEARCH.—(a) IN GENERAL.—Section 4 of the Renewable Energy and Energy Efficiency and Technology Competitiveness Act of 1989 (42 U.S.C. 12003) is amended—

(1) in subsection (a), by adding at the end of the subsection the following new paragraph:

"(5) RENEWABLE ENERGY RESEARCH PROGRAM.—In general, the goal of the Renewable Energy Research Program shall be to advance research and development concerning the production of ethanol. Research, development, and demonstration programs under the Renewable Energy Research Program shall include programs related to the following topics relating to the production of ethanol:

"(A) The conversion of corn fiber to ethanol.

"(B) The production of olefins (including isobutylene) from biomass.

"(C) The minimization of contamination to improve yields.

"(D) The recovery of enzymes and yeasts.

"(E) The improvement of distillation.

"(F) The use of membrane technology.

"(G) Value added uses of carbon dioxide.

"(H) Chemical production from corn components.

"(I) The minimization of by-products that foul processes and reduce ethanol yields.

"(J) Pretreatment processes."; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by inserting "the Renewable Energy Research Program" after "the Ocean Energy Systems Program"; and

(B) in paragraph (3)—

(i) by striking "and" at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting "and"; and

(iii) by adding at the end of the paragraph the following new subparagraph:

"(D) not to exceed $50,000,000 shall be available for the Renewable Energy Research Program.".

(b) PROGRAM TRANSFER.—The Secretary is authorized to transfer such research, development, and demonstration programs from the Biofuels Energy Systems programs as are appropriate to the Renewable Energy Research Program established under subsection (a) of this section.

SEC. 5207. ESTABLISHMENT OF THE SOLAR ASSISTANCE FINANCING ENTITY.—(a) PROGRAM.—The Secretary of Housing and Urban Development shall hereby establish the "Solar Assistance Financing Entity" hereafter referred to as "SAFE". SAFE shall be based on the provisions in the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3603(a)).

(b) PURPOSE.—The purpose of SAFE shall be to assist in the financing of solar and renewable energy building technology applications through increased loan amortizations (from non-Federal sources) and joint ventures. Schools and hospitals shall be considered eligible for loans for purposes of this program.

(c) FUNDING.—Funding pursuant to this section shall be administered and distributed through one of the following agencies:

(1) State agencies, or divisions of State agencies, responsible for developing the State energy conservation plan pursuant to section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322);

(2) State government offices administered by the Department of Housing and Urban Development; or

(3) an Agency authorized to specifically carry out the purposes of this section.

(d) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Housing and Urban Development and the Secretary of Energy shall issue any regulations necessary to carry out the purposes of this section.

(e) APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated not to exceed $10,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and $10,000,000 for fiscal year 1995.

Subtitle C—Hydropower

SEC. 5301. STREAMLINING REGULATION UNDER THE FEDERAL POWER ACT.—The Federal Power Act, as amended (16 U.S.C. 791a et seq.) is further amended by inserting in section 4 ", and for the purposes of subsections

(h) and (i), the Commission shall" after "empowered" and inserting the following after subsection (g):

"(h) Establish procedures that, to the extent practicable, provide for the earliest identification and performance of all studies and analyses required to be performed in conjunction with an application for a license under this part.

"(i) Within one year after enactment of this subsection, enter into memoranda of understanding with each Secretary under whose supervision a reservation falls which provides for:

"(1) timely submission by the Secretary to the Commission of any proposed terms and conditions which are relevant to the Secretary's statutory responsibilities for the reservation with respect to the proposed project;

"(2) establishment and implementation of a process for resolution of disputes, if any, between the Commission and the Secretary concerning conditions proposed by the Secretary in connection with the licensing of a project; and

"(3) identification and implementation of measures to avoid duplication of effort, delay, and costs to all parties in connection with the licensing of a project.".

SEC. 5302. HYDROELECTRIC PROJECTS.—(a) MEMORANDA OF UNDERSTANDING.—The Commission and all relevant Federal agencies are directed to enter into memoranda of understanding which will establish procedures for a consolidated review to the fullest extent possible under the National Environmental Policy Act of 1969 of Federal actions affecting the authorization of hydroelectric projects subject to the jurisdiction of the Commission.

(b) THIRD PARTY CONTRACTING.—(1) Where environmental documents are prepared in connection with an application for a license under part 1 of the Federal Power Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work, to prepare such environmental document. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(2) Where an environmental assessment is prepared in connection with an application for a license under part 1 of the Federal Power Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information foreseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

SEC. 5303. IMPROVEMENT AT EXISTING FEDERAL FACILITIES.—(a) STUDIES OF OPPORTUNITIES FOR INCREASED HYDROELECTRIC GENERATION.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army, shall perform reconnaissance level studies of cost effective opportunities to increase hydropower production at existing federally-owned or operated water regulation, storage, and conveyance facilities. Such studies shall be completed within two years after the date of enactment of this Act and transmitted to the Committee on Energy and Natural Resources and the Committee on Environment and Public works of the United States Senate and to the United States House of Representatives. An individual study shall be prepared for each of the Nation's principal river basins. Each such study shall identify and describe with specificity the following matters:

(1) opportunities to improve the efficiency of hydroelectric generation at such facilities through, but not limited to, mechanical, structural, or operational changes;

(2) opportunities to improve the efficiency of the use of water supplied or regulated by Federal projects where such improvement could, in the absence of legal or administrative constraints, make additional water supplies available for hydroelectric generation or reduce project energy use;

(3) opportunities to create additional generating capacity at existing facilities through, but not limited to, the construction of additional generating units, the uprating of generators and turbines, and the construction of pumped storage facilities; and

(4) preliminary assessment of the costs and the economic and environmental consequences of such measures.

(b) EXCEPTION FOR PREVIOUS STUDIES.—In those cases where studies of the type required by this section have been prepared by any agency of the United States and published within the ten years prior to the date of enactment of this Act, the Secretary may choose not to perform new studies but incorporate the information developed by such studies into the study reports required by this section.

(c) AUTHORIZATION.—There is authorized to be appropriated in each of the fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

SEC. 5304. WATER CONSERVATION AND ENERGY PRODUCTION.—(a) STUDIES.—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts supplementary thereto and amendatory thereof, is authorized and directed to conduct feasibility investigations of opportunities to increase the amount of hydroelectric energy available for marketing by the Secretary from Federal hydroelectric power generation facilities resulting from a reduction in the consumptive use of such power for Federal reclamation project purposes or as a result of an increase in the amount of water available for such generation because of water conservation efforts on Federal reclamation projects or a combination thereof. The Secretary of the Interior is further authorized and directed to conduct feasibility investigations of opportunities to mitigate damages to or enhance fish and wildlife as a result of increasing the amount of water available for such purposes because of water conservation efforts on Federal reclamation projects. Such feasibility investigations shall include, but not be limited to—

(1) an analysis of the technical, environmental, and economic feasibility of reducing the amount of water diverted upstream of such Federal hydroelectric power generation facilities by Federal reclamation projects;

(2) an estimate of the reduction, if any, of project power consumed as a result of the decreased amount of diversion;

(3) an estimate of the increase in the amount of electrical energy and related revenues which would result from the marketing of such power by the Secretary;

(4) an estimate of the fish and wildlife benefits which would result from the decreased or modified diversions;

(5) a finding by the Secretary of the Interior that the activities proposed in the feasibility study can be carried out in accordance with applicable Federal and State law, interstate compacts and the contractual obligations of the Secretary; and

(6) a finding by the affected Federal Power Marketing Administrator that the hydroelectric component of the proposed water conservation feature is cost-effective and that the affected Administrator is able to market the hydro-electric power expected to be generated.

(b) CONSULTATION.—In preparing feasibility studies pursuant to this section, the Secretary of the Interior shall consult with, and seek the recommendations of, affected State, local and Indian tribal interests, and shall provide for appropriate public comment.

(c) CONSTRUCTION.—Upon a finding of feasibility by the Secretary of the Interior, and agreement with the affected Power Marketing Administrator, and the expiration of ninety days during which the feasibility investigation related thereto has lain before the Congress, the Secretary of the Interior, acting pursuant to the Federal reclamation laws, is authorized to construct, operate and maintain the water conservation features described by and justified in the feasibility investigations prepared pursuant to subsection (a) of this section.

(d) FINANCING.—Revenues received by the respective Federal Power Marketing Administrators from the marketing of hydroelectric energy made available as a result of the water conservation activities undertaken pursuant to this section shall be disposed of by the respective Federal Power Marketing Administrators pursuant to applicable Federal power marketing law.

(e) AUTHORIZATION.—There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.

(f) Without further appropriation and without fiscal year limitation and notwithstanding subsections (b) and (d) of this section, the Secretary of the Interior is authorized to design, construct, operate and maintain water conservation features that the Secretary and the Administrator of the Bonneville Power Administration determine necessary or appropriate at Federal Reclamation projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96-501 (16 U.S.C. 839a(14)) pursuant to subsection (a), with any funds that the Administrator determines to make available to the Secretary for such purposes. The Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: *Provided*, That, notwithstanding any other provision of law, no sequestration order, including a sequestration of discretionary spending, shall reduce expenditures from the Bonneville Power Administration Fund or reduce the expenditures of the Secretary from Fund transfers made pursuant to this

section: *Provided further*, That any application of a sequestration order shall apply only to non-Bonneville Power Administration Fund transfers: *Provided further*, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

SEC. 5305. PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.—(a) GENERAL LICENSING AUTHORITY.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by striking "several States, or upon" and inserting "several States (except fresh waters in the State of Hawaii), or upon".

(b) MANDATORY LICENSING AUTHORITY.—Section 23(b) of the Federal Power Act (16 U.S.C. 817(b)) is amended by striking "United States, or upon" and inserting "United States (except fresh waters in the State of Hawaii), or upon".

SEC. 5306. CERTAIN PROJECTS IN THE STATE OF ALASKA.—The following projects located entirely within the State of Alaska are removed from jurisdiction of the Federal Energy Regulatory Commission and all applicable laws and regulations relating to such jurisdiction:

(1) a project located at Sitka, Alaska, with application numbered UL89-08-000; and

(2) a project located at Juneau, Alaska, with preliminary permit numbered 10681-000; and

(3) a project located near Nondalton, Alaska, with application numbered EL88-25-001.

SEC. 5307. EXTENSION OF TIME LIMITATIONS FOR CERTAIN PROJECTS IN ARKANSAS.—(a) AUTHORIZATION OF EXTENSIONS. Notwithstanding the time limitations of section 13 of the Federal Power Act, (16 U.S.C. 806) the Federal Energy Regulatory Commission upon the request of the licensee for FERC projects numbered 3033 and 3034 (and after reasonable notice) is authorized in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend—

(1) until August 10, 1994 the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999 the time required for completion of construction of such project; and

(2) until August 10, 1996 the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001 the time required for completion of construction of such project.

(b) TERMINATION OF AUTHORIZATION FOR EXTENSIONS.—The authorization for issuing extensions shall terminate three years after the date of enactment of this Act. The Commission to facilitate requests under this section may consolidate such requests.

SEC. 5308. FEDERAL PROJECTS IN THE PACIFIC NORTHWEST.—Without further appropriation and without fiscal year limitation, the Secretaries of the Interior and Army are authorized to design, construct, operate and maintain generation additions, improvements and replacements, at their respective Federal projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96-501 (16 U.S.C. 839a(14)), and to operate and maintain the respective Secretary's power facilities in the region that the respective Secretary determines necessary or appropriate and that the Bonneville Power Administrator subsequently determines necessary or appropriate, with any funds that the Administrator determines to make available to the respective Secretary for such purposes. Each Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: *Provided*, That, notwithstanding any other provision of law, no sequestration order, including a sequestration of discretionary spending, shall reduce expenditures from the Bonneville Power Administration Fund or reduce the expenditures of the Secretary from Fund transfers made pursuant to this section: *Provided further*, That any application of a sequestration order shall apply only to non-Bonneville Power Administration Fund transfers: *Provided further*, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Industrial, Commercial and Residential

SEC. 6101. BUILDING ENERGY EFFICIENCY CODES.—(a) ESTABLISHMENT OF CODES.—Title III of the Energy Conservation and Production Act (Pub. L. No. 94-385), as amended, is amended by—

(1) amending section 303 by—

(A) striking paragraph (9),

(B) renumbering the subsequent paragraphs, and

(C) adding at the end the following new paragraphs—

"(13) the term "Federal building energy code" means an energy consumption goal to be met without specification of the methods, materials, or equipment to be employed in achieving that goal, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

"(14) The term "industry voluntary building energy code" means a building energy code developed and updated through an industry process, such as that used by the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; or other appropriate organizations."; and

(2) striking sections 304, 306, 308, 309, 310, and 311 and their captions and inserting the following in lieu thereof—

"FEDERAL BUILDING ENERGY CODE

"SEC. 304. (a) Within two years of enactment of the National Energy Security Act of 1992, the Secretary, after consulting with appropriate Federal agencies; the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; the National Association of Home Builders; the Illuminating Engineering Society; the American Institute of Architects; and the National Conference of States on Building Codes and Standards, shall issue by rule a Federal building energy code that assures the inclusion in Federal buildings of all energy efficiency measures that are technologically feasible and economically justified. This code shall become effective no earlier than six months and no later than two years after issued.

"(b) The Federal building energy code shall—

"(1) contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of the industry voluntary building energy codes and standards,

"(2) include a method of compliance that uses the same format as that used by the industry voluntary building energy codes and standards, and methods which will enhance and facilitate the use of renewable technologies, and

"(3) consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate contain, measures to mitigate the levels of radon and other indoor air pollutants in cases where such pollutants may exist.

"(c) The Secretary shall identify and describe the basis for any substantive difference between the Federal building energy code and the industry voluntary building energy code.

"(d) The Secretary shall periodically, but no less than once every five years, review the Federal building energy code and shall, if significant energy savings would result, upgrade such code to include all new energy efficiency measures that are technologically feasible and economically justified.

"(e) Interim energy performance standards for new Federal residential and commercial buildings issued by the Secretary under this title as it existed before enactment of the National Energy Security Act of 1992 shall remain in effect until the head of a Federal agency required to adopt procedures under section 305(a) adopts those procedures.

"FEDERAL COMPLIANCE

"(f) the provisions of this section shall apply to the United States Congress.

"SEC. 305. (a) The head of each Federal agency and the Architect of the Capitol shall adopt procedures necessary to assure that new Federal residential or commercial buildings meet or exceed the Federal building energy code.

"(b) The head of a Federal agency may expend Federal funds for the construction of a new Federal building only if the building meets or exceeds the Federal building energy code.

"(c) The head of each Federal agency that guarantees a mortgage for constructing a new building shall adopt the procedures necessary to assure that the building meets or exceeds the Federal building energy code.

"SUPPORT FOR INDUSTRY VOLUNTARY BUILDING ENERGY CODE

"SEC. 306. (a) Within one year of the enactment of the National Energy Security Act of 1992, the Secretary, after consulting with appropriate Federal agencies; the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; the National Conference of States on Building Codes and Standards; and any other appropriate building codes and standards organization, shall support the upgrading of an industry voluntary building energy code for new residential and commercial buildings. The support shall include—

"(1) a compilation of data and other information regarding building energy efficiency codes in the possession of the Federal government, State and local governments, and industry organizations;

"(2) assistance in improving the technical basis for the energy code;

"(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in the code;

"(4) assistance in identifying appropriate measures to mitigate the levels of radon and other indoor air pollutants; and

"(5) development of interim energy performance standards for new non-Federal residential buildings.

"(b) The Secretary, in consultation with the appropriate Federal agencies, shall periodically review the technical and economic basis of the industry voluntary building energy code. Based upon ongoing research ac-

tivities and a review of appropriate industry energy standards, the Secretary shall—

"(1) recommend amendments to the industry voluntary building energy code including measures needed to mitigate the levels of radon and other indoor air pollutants in cases where such air pollutants may exist,

"(2) seek adoption of all technically feasible and economically justified energy efficiency measures, and

"(3) participate otherwise in any industry process for review and modification of the industry voluntary building energy code.

"ADOPTION INCENTIVES

"SEC. 307. (a) STATE REPORT.—Within two years of the enactment of the National Energy Security Act of 1992, each State shall submit a report to the Secretary on the type and status of, and compliance and enforcement procedures for building energy codes used within the State, including a list of the units of general purpose local government within the State that identifies which, if any, have adopted building energy codes.

"(b) AVAILABILITY OF INCENTIVE FUNDING.—If the Secretary certifies that a state or any units of general purpose local government which have jurisdiction regarding energy building codes, has adopted building energy codes at least as stringent as those of the industry voluntary energy building codes, then the Secretary shall provide incentive funding to that State or such units of general purpose local government to fund activities to further promote the adoption and implementation of the industry voluntary energy building codes. Such incentive funds shall be allocated from funds made available under subsection (c), on the basis of the average number of residential housing starts within such State or unit of general purpose local government during the previous three years. The Secretary may use up to five percent of the funds made available under subsection (c) for administration of activities conducted pursuant to this section.

"(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to provide incentive funding to the States pursuant to this section.

"TECHNICAL ASSISTANCE

"SEC. 308. The Secretary may provide technical assistance to States, units of general purpose local government, and other appropriate organizations to promote the adoption and implementation of the voluntary energy building codes or to otherwise promote the design and construction of energy efficient buildings.

"REPORTS

"SEC. 309. The Secretary, in consultation with the appropriate Federal agencies, shall report annually to Congress on activities conducted pursuant to this title including:

"(1) the recommendations made regarding the prevailing industry voluntary building energy code under section 304(c);

"(2) a State-by-State summary of progress made in the adoption and implementation of the voluntary energy building codes or more stringent codes; and

"(3) recommendations to Congress on opportunities to further promote energy efficiency and other purposes of this part.".

(b) CONFORMING AMENDMENT.—The table of contents of the Energy Conservation and Production Act (Public Law 94-385) is amended by striking the items relating to sections 304, 306, 308, and 309, and inserting in lieu thereof the following—

"Sec. 304. Federal building energy code.
"Sec. 305. Federal compliance.
"Sec. 306. Support for industry voluntary building energy code.
"Sec. 307. Adoption incentives.
"Sec. 308. Technical Assistance.
"Sec. 309. Reports.".

SEC. 6102. RESIDENTIAL ENERGY EFFICIENCY RATINGS AND MORTGAGES.—(a) RATINGS.—Title II of the National Energy Conservation Policy Act (NECPA) (Public Law 96-619) is amended by adding a new part 6 as follows:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

"SEC. 271. VOLUNTARY RATING GUIDELINES.

"(a) Within eighteen months of the date of enactment of the National Energy Security Act of 1992, the Secretary, in consultation with the Secretary of Housing and Urban Development and other appropriate institutions, shall, by rule, promulgate voluntary guidelines that may be used by State and local governments, utilities, builders and others, that would enable the assignment of an energy efficiency rating to residential buildings.

"(b) The voluntary guidelines under subsection (a) shall:

"(1) provide for a uniform rating scale of the efficiency with which any residential building uses energy on an annual basis;

"(2) provide that such rating shall take into account local climate conditions and construction practices, and does not discriminate among fuel types, except that both active and passive solar energy collected onsite shall be credited toward the energy efficiency rating of such building;

"(3) that such rating shall take into account the benefits of peak load shifting construction practices;

"(4) provide that all residential buildings can receive a rating at the time of sale;

"(5) provide that the rating is prominently communicated to potential buyers and renters; and

"(6) provide that the rating system is consistent with, and supportive of, the uniform plan for energy efficient mortgages developed pursuant to Section 946 of the Cranston-Gonzales National Affordable Housing Act (Pub. L. No. 101-625).

"SEC. 272. TECHNICAL ASSISTANCE.

"Within eighteen months after the date of the enactment of the National Energy Security Act of 1992, the Secretary shall establish a program to provide technical assistance to State and local organizations to encourage the adoption of residential energy efficiency rating systems based on the voluntary guidelines promulgated under this part.

"SEC. 273. AUTHORIZATION.

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.".

(b) CONFORMING AMENDMENT.—The National Energy Conservation Policy Act (Public Law 95-619) is further amended by adding in the table of contents at the end of title II, the following items:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"Sec. 271. Rating guidelines.
"Sec. 272. Technical assistance.
"Sec. 273. Authorization.".

(c) ENERGY EFFICIENCY MORTGAGES.—The Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) is amended as follows:

(1) At the end of section 104 add the following new definition:

"(24) The term 'energy efficient mortgage' means a mortgage which provides financial incentives for the purchase of energy efficient homes, or which provides financial incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage."

(2) In section 946 make the following amendments:

(A) In subsection (a) strike the words "mortgage financing incentives for energy efficiency" and insert in lieu thereof "energy efficient mortgages";

(B) at the end of subsection (a) add the following new sentence:

"The plan shall be consistent with and mutually supportive of the Federal building energy code and the residential energy efficiency rating voluntary guidelines to be developed by the Secretary of Energy pursuant to the National Energy Security Act of 1992.".

(C) in subsection (b) after the word "include" add the words "but not be limited to";

(D) at the end of subsection (b) add the following new sentence:

"The Task Force shall determine whether a notification of the availability of energy efficient mortgages to potential home purchasers would promote energy efficiency in residential buildings, and if so, then the Task Force shall recommend appropriate notification guidelines, and member agencies are authorized to implement such guidelines.".

(d) ENERGY EFFICIENT MORTGAGE PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Veterans Affairs shall, within six months after the date of enactment of this Act, jointly establish an energy efficient mortgage pilot program in five States, to promote the purchase of new and existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) the lender shall originate an otherwise normal VA or FHA home loan;

(B) the mortgagor's income and credit record is found to be satisfactory and his base loan application is approved; and

(C) the cost of cost-effective energy efficiency improvements do not exceed five percent of the property value (not to exceed $8,000) or $4,000, whichever is greater.

(3) ADDITIONAL.—When granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority to:

(A) permit the final loan amount to exceed the normal VA, FHA, loan limits by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, provided that the mortgagors request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary of Housing and Urban Development and the Secretary of Veterans' Affairs shall encourage participation in the energy efficient mortgage pilot program by:

(A) making available information to lending agencies and other appropriate authori-

ties regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring all applicants for VA and FHA mortgages in those States participating under this pilot program to sign a statement stating that they have been informed of the program and understand the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than nine months after the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Veterans' Affairs and the Secretary of Energy, shall establish and implement a program for training personnel at relevent lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Housing and Urban Affairs and the Secretary of Veterans' Affairs shall prepare a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, as well as an assessment of the potential for expanding the pilot program nationwide.

(7) EXTENSION OF PROGRAM.—Not later than two years after the date of the implementation of the Energy Efficient Mortgage Pilot Program, the Secretary of Housing and Urban Development and the Secretary of Veterans' Affairs shall extend the pilot program nationwide unless the Secretary's can demonstrate to Congress that such an extension would not be practicable.

(8) DEFINITIONS.—As used in this subsection the term—

(A) "energy efficient mortgage" means a mortgage on a residential property that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan;

(B) "cost-effective" means those energy efficiency improvements to an attached or unattached single family residence that will produce an immediate and quantifiable positive cash flow and will result in monthly energy savings greater than the resulting increase in the monthly loan payment when 100 percent of the cost of improvements is added to the base loan;

(C) "base loan" means any FHA or VA loan that does not include the cost of cost-effective energy improvements; and

(D) "residential buildings" means any attached or unattached single family residence.

SEC. 6103. MANUFACTURED HOUSING ENERGY EFFICIENCY.—(a) AMENDMENTS TO CRANSTON-GONZALEZ.—Section 943 of the Cranston-Gonzalez National Affordable Housing Act, (Public Law 101-625), is amended by—

(1) striking the phrase "thermal insulation, energy efficiency" in subparagraph (d)(1)(D); and

(2) inserting a new subparagraph (E) as follows, and relettering the existing subparagraphs accordingly:

"(E) consult with the Secretary of Energy and make recommendations regarding additional or revised standards for thermal insulation and energy efficiency applicable to manufactured housing;".

(b) DUTIES OF THE SECRETARY.—The Secretary shall assess the energy performance of manufactured housing and make recommendations to the Commission established under section 943 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) regarding thermal insulation and energy efficiency improvements applicable to manufactured housing which are technically feasible and economically justified. The Secretary shall also test the performance and determine the cost-effectiveness of manufactured housing constructed to the standards established under such section.

(c) ELIMINATION OF FEDERAL PREEMPTION.—Notwithstanding the provisions of section 943 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), if the Department of Housing and Urban Development has not issued, within one year of the date of enactment of this Act, regulations establishing thermal insulation and energy efficiency standards for manufactured housing promulgated (and effective before 1995) pursuant to section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) then States shall have the authorization to set such thermal insulation and energy efficiency standards for manufactured housing at levels at least as stringent as the thermal performance standards under ASHRAE 90-2.

SEC. 6104. IMPROVING EFFICIENCY IN ENERGY-INTENSIVE INDUSTRIES.—(a) SECRETARIAL ACTION.—The Secretary, acting in accordance with authority contained in the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (Public Law 93-577) and other applicable laws, shall—

(1) pursue a research and development program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) undertake joint ventures to encourage the commercialization of technologies developed under paragraph (1).

(b) JOINT VENTURES.—(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from specialized private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test, and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the research and development activities conducted under this section improve the quality and energy efficiency of industries or industrial processes;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint venture project would be located in the region which has the energy-intensive industry and industrial processes that would benefit from the project.

(c) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994, to carry out the purposes of this section.

SEC. 6105. REPORT.—The Secretary, in consultation with the Council of Economic Advisors, shall submit to the Congress within one year after the date of enactment of this Act, and every three years thereafter through the year 2004, a report setting forth energy efficiency policy options that would both decrease domestic oil consumption and overall domestic energy consumption by one, two, three, and four percent, per-year per-unit of GNP, through the year 2005, below the projected consumption for 2005. The Secretary shall evaluate, describe and rank these policy options according to their cost-effectiveness and their feasibility of implementation.

SEC. 6106. VOLUNTARY GUIDELINES FOR INDUSTRIAL PLANTS—(a) VOLUNTARY GUIDELINES FOR ENERGY EFFICIENCY AUDITING AND INSULATING.—Within one year after the date of enactment of this Act, the Secretary, after consultation with utilities, major industrial energy consumers and representatives of the insulation industry, shall establish voluntary guidelines for—

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

(b) EDUCATION AND TECHNICAL ASSISTANCE.—The Secretary shall conduct a program of education and technical assistance to promote the use of the voluntary guidelines established under subsection (a).

(c) ANNUAL REPORT.—The Secretary shall report annually to Congress on activities conducted pursuant to this section, including an evaluation of the effectiveness of these guidelines, and the responsiveness of the industrial sector to these guidelines.

(d) AUTHORIZATION.—There is authorized to be appropriated $750,000 annually to carry out the purposes of this section.

SEC. 6107. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, the Secretary shall, after consulting with the National Fenestration Rating Council, industry representatives, and other appropriate organizations, provide financial and technical assistance to support the voluntary development of a national window rating program to establish energy efficiency ratings for windows and window systems. Such program shall set forth information and specifications that will enable purchasers of windows or window systems to make more informed purchasing decisions based upon the potential cost and energy savings of alternative window products.

(b) SECRETARIAL ACTION.—If a voluntary national window rating program, consistent with the objectives of subsection (a), is not established within two years of the date of the enactment of this Act, then the Secretary shall, after consulting with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (hereinafter in this title referred to as EPCA) (Public Law 94-163).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules under section 324 of EPCA for the rating program established pursuant to either subsection (a) or (b) of this section, unless the Commission determines that labeling in accordance with subsections (a) or (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of window or window system (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of EPCA, windows and window systems shall be considered covered products under section 322 of such Act unless excluded by the Commission pursuant to subsection (c) of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6108. ENERGY EFFICIENCY INFORMATION.—(a) DATA ON ENERGY EFFICIENCY.—Pursuant to section 52(a) of the Federal Energy Administration Act of 1974 (Public Law 93-275), and after consulting with State and Federal energy officials, representatives of energy-using classes and sectors, and representatives of energy policy public-interest or research organizations, the Administrator of the Energy Information Administration shall expand the scope and frequency of the data it collects and reports on energy use in the United States with the objective of significantly improving the ability to evaluate the effectiveness of the Nation's energy efficiency policies and programs. The Administrator shall take into account reporting burdens and the protection of proprietary information as required by law. In expanding the collection of such data to meet this objective, the Administrator shall consider—

(1) expanding data collection to include energy intensive sectors not presently covered in Energy Information Administration surveys;

(2) increasing the frequency with which the Energy Information Administration conducts end-use energy surveys among households, commercial buildings, and manufacturing;

(3) expanding the survey instruments to include questions regarding participation in government and utility conservation programs, the energy efficiency of existing stocks of equipment and structures, and recent changes in the technical efficiency and operating practices that affect energy use;

(4) expanding the time period for which fuel-use data is collected from individual survey respondents;

(5) expanding the sample sizes for fuel-use surveys in order to improve the accuracy of subgroups of energy users;

(6) expanding the scope and frequency of data collection on the energy efficiency and load-management programs, including the effects of building construction practices designed to obtain peak load shifting, operated by electric and gas utilities; and

(7) establishment of reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries.

(b) ANNUAL REPORT.—The Administrator shall report annually to Congress on the energy efficiency in classes and sectors of the economy and on any data resulting from this section.

(c) REPORT ON INDUSTRIAL REPORTING AND VOLUNTARY TARGETS.—Not later than one year after the date of enactment of this Act the Administrator shall report to Congress on the conclusions of the Administrator's consideration of establishing reporting requirements and voluntary energy efficiency improvement targets pursuant to paragraph (a)(7) of this section, including an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and including recommendations by the Administrator on proposals or activities to improve energy efficiency in energy intensive industries.

SEC. 6109. ENERGY EFFICIENCY LABELING FOR LUMINAIRES.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, and in consultation with the National Electric Manufacturers Association, industry representatives, and other appropriate organizations, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program for luminaires. Such program shall set forth information and specifications that will enable purchasers of luminaires to make informed decisions among the energy efficiency and cost of alternative luminaires.

(b) SECRETARIAL ACTION.—If a national energy efficiency rating and labeling program consistent with the objectives of subsection (a) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program for luminaires under section 323 of EPCA (Public Law 94-163).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission shall prescribe labeling rules under section 324 of EPCA for luminaires, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of luminaire (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of EPCA, luminaires shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) unless excluded by the Commission pursuant to subsection (c) of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6110.—COMMERCIAL AND INDUSTRIAL EQUIPMENT STANDARDS.—(a) Title III, part C, of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new section 344A:

"SEC. 344a—(a) DEFINITIONS.—For the purposes of this section:

"(1) the term 'small commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water-source (not including ground water source), and electrically operated unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity); and

"(2) the term 'large commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water-source (not including ground water source), and electrically operated unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(3) the term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.

"(4) the term 'packaged terminal air conditioner' means a wall sleeve and a separate unencased combination of heating and cooling assembles specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability energy;

"(5) the term 'packaged terminal heat pump' means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heating availability by builder's choice of energy;

"(6) the term 'warm air furnace' means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it. For purposes of this section, the term warm air furnace includes combination warm air furnace/electric air conditioning units but excludes unit heaters, duct furnaces and units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(7) the term 'packaged boiler' means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections. For purposes of this section, the term packaged boiler excludes units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(8) the term 'storage water heater' means a waterheater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. For purposes of this section, the term storage water heater excludes (a) units with an input rating of 4000 Btu per hour or more per gallon of stored water; and (b) units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a));

"(9) the term 'instantaneous water heater' means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water. For purposes of this section, the term instantaneous water heater excludes units covered by section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)); and

"(10) the term 'unfired hot water storage tank' means a tank used to store water that is heated externally.

"(b) INITIAL DETERMINATIONS.—The Secretary shall, within 12 months after the date of enactment of the National Energy Security Act of 1992, determine, with respect to utility distribution transformers; whether—

"(1) it is practicable to classify such products into types and to prescribe test procedures to measure energy use, energy efficiency, or estimated annual operating cost during a representative average use cycle or period of use which are not unduly burdensome to conduct; and

"(2) it is likely that energy efficiency standards would result in significant energy savings, without a reduction in performance, for those products which the Secretary has determined under paragraph (1) that it is practicable to classify and prescribe test procedures.

"(c) TEST PROCEDURES.—The Secretary shall, within 18 months after the date of enactment of the National Energy Security

Act of 1992, prescribe test procedures for those lamps, motors, small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks for which specific efficiency standards are established by this Act. In addition, the Secretary shall, within 18 months after the date of enactment of this Act, prescribe test procedures for those utility distribution transformers for which he has determined under subsection (b) that classification into types and testing procedures are practicable and that it is likely that energy efficiency standards would result in significant energy savings, without a reduction in performance. In establishing these test procedures, the Secretary shall use existing and generally accepted industry testing procedures when practicable and consistent with the objective of increasing energy efficiency to the extent technically feasible and economically justified. For small commercial package air conditioning and heating equipment and large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks for which the Secretary establishes test procedures pursuant to this section, such test procedures shall be consistent with those generally accepted industry testing procedures or rating procedures, if any, developed by the Air Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers as in effect on the date of the enactment of the National Energy Security Act of 1992. If such an industry test procedure or rating procedure for such small commercial package air conditioning and heating equipment or large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks is subsequently amended the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless he determines by rule published in the Federal Register, supported by clear and convincing evidence, that to do so would not meet the purposes and criteria of this section with respect to the product. If the Secretary issues a rule containing such a determination the rule may establish an amended test procedure for such product that meets the purposes and criteria of this section with respect to that product.

"(d) CLASSIFICATION AND STANDARDS.—(1) The Secretary, for those products for which test procedures have been prescribed under subsection (c), shall, within eighteen months thereafter:

"(A) determine types (or classes) for utility distribution transformers; and

"(B) develop energy conservation standards for each type (or class) of utility distribution transformers for which such standards would be technologically feasible and economically justified. Such standards shall become effective no less than eighteen months and no more than three years after development of such standards.

"(2) In establishing standards for utility distribution transformers, the Secretary shall use the criteria contained in sections 325 (l) and (m) of this Act.

"(3)(A) In establishing standards for utility distribution transformers, the Secretary shall first review existing and generally accepted industry voluntary energy efficiency standards for these products, if any, to determine whether the adoption of industry standards would be consistent with the objective of increasing energy efficiency to the extent technically feasible and economically justified. In which case, the Secretary shall adopt such industry standards.

"(B) For small package air conditioning and heating equipment, the Secretary shall establish such standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standards levels shall be as follows:

"(i) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0 for products manufactured on or after January 1, 1994.

"(ii) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7 for products manufactured on or after January 1, 1994.

"(iii) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db)) for products manufactured on or after January 1, 1994.

"(iv) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8 for products manufactured on or after January 1, 1994.

"(v) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6 for products manufactured on or after January 1, 1994.

"(vi) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db) for products manufactured on or after January 1, 1994.

"(vii) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment) for products manufactured on or after January 1, 1994.

"(viii) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment) for products manufactured on or after January 1, 1994.

"(ix) The minimum coefficient of performance of water-source heat pumps less than 135,000 Btu per hour (cooling capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water) for products manufactured on or after January 1, 1994.

"(C) For large package air conditioning and heating equipment, the Secretary shall establish such standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1995. Such standard levels shall be as follows:

"(i) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db) for products manufactured on or after January 1, 1995.

"(ii) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9 for products manufactured on or after January 1, 1995.

"(iii) The minimum energy efficiency ratio of water- and evaporatively-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360-86) for products manufactured on or after January 1, 1995.

"(D) For packaged terminal air conditioners and packaged terminal heat pumps the Secretary shall establish standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) The minimum energy efficiency ratio of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be 10.0—(0.16 Capacity [in thousands of Btu per hour]) EER (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db), outdoor temperature) for products manufactured on or after January 1, 1994. If a unit has a capacity of less than 7000 Btu per hour, then 7000 Btu per hour shall be used in the calculation. If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

"(ii) The minimum coefficient of performance of packaged terminal heat pumps in the heating mode shall be 1.3 + (0.16 the minimum cooling EER as specified in subparagraph (i) at a standard rating of 47 degrees Fahrenheit, dry bulb (F db)) for products manufactured on or after January 1, 1994.

"(E) For warm air furnaces and packaged boilers the Secretary shall establish standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) The minimum thermal efficiency at the maximum rated capacity of gas-fired

warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent for products manufactured after January 1, 1994.

"(ii) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent for products manufactured after January 1, 1994.

"(iii) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent products manufactured after January 1, 1994.

"(iv) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent for products manufactured after January 1, 1994.

"(F) For storage water heaters, instantaneous water heaters, and unfired water storage tanks the Secretary shall establish standards at the Standard levels set forth for such products in ASHRAE/IES Standard 90.1–1989 addendum b. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standard levels shall be as follows:

"(i) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of electric storage water heaters shall be 0.30 + (27/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994.

"(ii) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be 1.30 + (114/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994. The minimum thermal efficiency of such units shall be 78 percent (at a 70 degree Fahrenheit water temperature difference).

"(iii) Except as provided in subparagraph (vii), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be 1.30 + (95/Measured Storage Volume [in gallons]) for products manufactured on or after January 1, 1994. The minimum thermal efficiency of such units shall be 78 percent (at a 70 degree Fahrenheit water temperature difference).

"(iv) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent (at a 70 degree Fahrenheit water temperature difference) for units manufactured on or after January 1, 1994.

"(v) Except as provided in subparagraph (vii), the minimum thermal efficiency of instantaneous water heaters with a storage volume of 10 gallons or more shall be 77 percent (at a 70 degree Fahrenheit water temperature difference) for units manufactured on or after January 1, 1994. The maximum standby loss, in percent/hour, of such units shall be 2.30 + (67/Measured Storage Volume [in gallons]).

"(vi) Except as provided in subparagraph (vii), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area (at an 80 degree Fahrenheit water-air temperature difference).

"(vii) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (i) through (iii) and subparagraphs (v) through (vi) if the tank surface area is thermally insulated to R–12.5 and if a standing pilot light is not used.

"(G) If ASHRAE/IES Standard 90.1 as in effect on the date of enactment of the National Energy Security Act of 1992 is subsequently amended with respect to any type or class of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, or unfired hot water storage tank, then the Secretary shall establish an amended uniform national standard for that product type or class at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1 unless he determines by rule published in the Federal Register, supported by clear and convincing evidence, that adoption of a standard more stringent than the amended ASHRAE/IES Standard 90.1 for such product type of class would result in significant additional conservation of energy and is technologically feasible and economically justified. If the Secretary issues a rule containing such a determination, the rule shall establish an amended uniform national standard for such product type or class if establishment of such standard will result in significant additional conservation of energy and if the establishment of such standard is technologically feasible and economically justified. In determining whether a standard is economically justified, the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

"(i) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

"(ii) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products which are likely to result from the imposition of the standard;

"(iii) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(iv) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

"(v) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(vi) the need for national energy conservation; and

"(vii) other factors the Secretary considers relevant.

The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. The Secretary may not prescribe an amended standard under this subparagraph (d)(3)(G) if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types (or classes). A standard as amended by the Secretary under this subsection shall become effective for products manufactured on or after a date which is—

"(I) two years after the effective date of the relevant standard in amended ASHRAE/IES Standard 90.1 for small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, and

"(II) three years after the effective date of the relevant standard in amended ASHRAE/IES Standard 90.1 for large commercial package air conditioning and heating equipment,

except that an amended standard issued by the Secretary pursuant to a rule under this subparagraph (d)(3)(G) shall become effective for products manufactured on or after a date which is four years after the date the rule is published in the Federal Register.

"(H) The criteria specified in subparagraph (d)(3)(G) shall apply only to products listed in subparagraph (d)(3)(G).

"(4)(A) Standards prescribed or established under this subsection (d) shall, upon their effective date, preempt any State or local regulation concerning the energy efficiency or energy use of such products.

"(B) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt a standard for such a product in a building code for new construction if the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1: *Provided*, That such standard in the building code does not take effect prior to the effective date of amended ASHRAE/IES Standard 90.1.

"(C) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt the standards of the State of California for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993, which standards are set forth in table C–6 of the California Code of Regulations, title 24, part 2, chapter 2–53.

"(D) Notwithstanding subparagraph (a), a standard prescribed or established under this subsection (d) shall not preempt a State regulation which has been granted a waiver by the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures and other requirements specified in section 327(d) of this Act.

"(5) Except as provided in subparagraphs (d)(3) (B) through (G), the Secretary shall periodically, but at least every five years, review and update any standards established pursuant to this section, and shall reevaluate whether standards are justified for those products for which standards were not adopted.

"(e) LABELING.—(1) The Federal Trade Commission shall, within twelve months after the date on which a test procedure is prescribed by the Secretary for a product (or class thereof) under subsection (c), prescribe a labeling rule for the product (or class thereof), except to the extent that, with respect to a product (or class thereof) the Commission determines that a labeling rule is not economically or technically feasible, would not result in significant energy savings and is not necessary for informational purposes.

"(2) If the Commission determines that labeling is not necessary under paragraph (1) and the Secretary prescribes standards under subsection (d), then the Commission, within twelve months after the date on which a standard is prescribed by the Secretary,

shall prescribe a labeling rule designed solely to facilitate enforcement of the requirements of this section and other applicable provisions of law. A labeling rule for small commercial package air conditioning and heating equipment and large commercial package air conditioning and heating equipment shall be designed solely to facilitate enforcement of the regulations of this section and other applicable provisions of law.

"(3) In the case of products for which the Commission prescribes a labeling rule under paragraph (1) manufacturers and importers of such equipment shall establish efficiency ratings for each type of equipment in accordance with the applicable test procedures, and—

"(A) include the efficiency rating of the equipment on or near the permanent nameplate attached to each piece of equipment;

"(B) prominently display the efficiency rating of the equipment in new equipment catalogs used by the manufacturer or importer to advertise the equipment; and

"(C) such other markings as the Secretary may determine are needed solely to facilitate enforcement of the efficiency standards established under this Act.

In developing these labeling requirements for electric motors, the Commission shall take into consideration NEMA Standards Publication MG1-1987.

"(4) Effective 360 days after a test procedure rule applicable to any product is established under this subsection, no manufacturer, distributor, retailer, or private labeler may make any representation—

"(A) in writing (including any representation on a label), or

"(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly disclosed the results of such testing.

"(f) REQUIREMENT OF MANUFACTURERS.—For the purpose of requirements of this Act, manufacturers and private labelers are subject to the requirements of section 326 of this Act.

"(g) ENFORCEMENT.—After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

"(1) each product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of this Act a new covered product to which a rule under section 324 of this Act applies; and

"(2) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product manufactured after this date which is not in conformity with the applicable energy conservation standard prescribed for the product (or class thereof) under subsection (d). For purposes of section 333 of this Act, this paragraph shall be considered to be a part of section 332 of this Act.

"(h)(1) Effective on the effective date of this Act, this section preempts any State regulation insofar as such State regulation provides at any time for the disclosure of information with respect to any measure of energy consumption of any covered product if—

"(A) such State regulation requires testing or the use of any measure of energy consumption or energy descriptor in any manner other than that provided under this section; or

"(B) such State regulation requires disclosure of information with respect to the energy use or energy efficiency of any product subject to this section other than information required under this section.

"(2) For purposes of this section, the term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions.

"(i) ENERGY EFFICIENCY LABELING FOR COMMERCIAL OFFICE EQUIPMENT.—(1) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of the National Energy Security Act of 1992, and after consulting with appropriate industry representatives, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program including any necessary test procedures for commercial office equipment that is widely used and for which there is a potential for significant energy savings. The program shall set forth information and specifications that will enable purchasers of office equipment to make informed decisions about the energy efficiency and costs of alternative commercial office equipment.

"(2) SECRETARIAL ACTION.—If a national energy efficiency rating and labeling program consistent with the objectives of paragraph (1) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, after consulting with the National Institute of Standards and Technology, prescribe, within one year, test procedures for such commercial office equipment under section 323 of this Act.

"(3) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the 'Commission') shall prescribe labeling rules under section 324 of this Act for commercial office equipment, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to commercial office equipment (or class thereof).

"(4) COVERED PRODUCTS.—For purposes of sections 323 and 324 of this Act, commercial office equipment shall be considered covered products under section 322 of this Act unless excluded by the Commission pursuant to subsection (c).

"(5) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as are necessary to carry out the purposes of this section.

"(j) STUDY OF UTILITY DISTRIBUTION TRANSFORMERS.—

"(1) Not later than eighteen months after the date of the enactment of the National Energy Security Act of 1992, the Secretary shall evaluate the practicability and cost-effectiveness and potential energy savings of replacing or upgrading existing utility distribution transformers during routine maintenance.

"(2) The Secretary shall report the findings of his evaluation to Congress with recommendations on how such energy savings, if any, could be achieved.".

(b) Section 340(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended by striking "(v) air conditioning equipment;" and "(xi) furnaces;" and by redesignating items (vi), (vii), (viii), (ix), (x), (xii), (xiii), and (xiv) therein as items (v), (vi), (vii), (viii), (ix), (x), (xi), and (xii), respectively.

SEC. 6111. ENERGY EFFICIENCY OF SHOWERHEADS.—(a) STATEMENT OF PURPOSE.—Section 2 of EPCA (Public Law 94-163) is amended by—

(1) striking "and" at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting "; and"; and

(3) adding at the end thereof the following new paragraph:

"(8) to conserve energy and water by improving the water efficiency of showerheads.".

(b) DEFINITIONS.—Section 321(a) of EPCA (Public Law 94-163), is amended by adding at the end thereof the following new paragraph:

"(30) the term 'total water use' means the quantity of water directly used by a showerhead, determined in accordance with test procedures under section 323.".

(c) COVERAGE.—Section 322(a) of EPCA (Public Law 94-163), is amended by—

(1) redesignating paragraph (14) as paragraph (15); and

(2) inserting after paragraph (13) the following new paragraph:

"(14) Showerheads, except safety shower showerheads.".

(d) TEST PROCEDURES.—Section 323(b)(3) of EPCA is amended by striking "or estimated annual operating cost" and inserting "estimated annual operating cost, or, in the case of showerheads, total water use, in accordance with applicable American National Standards Institute (ANSI) flow rate standards".

(e) LABELING.—Section 324 of EPCA (Public Law 94-163), is amended—

(1) in subsection (a)(2) by adding at the end thereof the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (14) of section 322(a), requiring that a label state whether the product meets the standards under section 325(i), in accordance with American National Standards Institute (ANSI) marking and labeling requirements.";

(2) in subsection (a)(3) by striking "paragraph (14)" and inserting "paragraph (15)";

(3) in subsection (b)(1)(B) by striking "paragraph (14)" and inserting "paragraph (15)";

(4) in subsection (b)(3) by striking "paragraph (14)" and inserting "paragraph (15)"; and

(5) in subsection (b)(5) by striking "paragraph (14)" and inserting "paragraph (15)".

(f) STANDARDS.—Section 325 of EPCA (Public Law 94-163), is amended—

(1) by redesignating subsections (i), (j), (k), (l), (m), (n), (o), (p), and (q) as subsections (j), (k), (l), (m), (n), (o), (p), (q), and (r), respectively; and

(2) by inserting after subsection (h) the following new subsection:

"(i) STANDARDS FOR SHOWERHEADS.—(1) For a showerhead manufactured on or after July 1, 1992, the standard shall be one that ensures the maintenance of public health and safety, allowing a maximum rate of water use of—

"(A) 2.5 gallons per minute, when measured at a flowing water pressure of 80 pounds per square inch; or

"(B) if before March 1, 1992, the American National Standards Institute (ANSI) publishes an amended standard for showerheads prescribing a maximum rate of water use that is less than the rate prescribed by the ANSI standard in effect on the date of enactment of the National Energy Security Act of 1992, the rate prescribed in the amended standard becomes effective.

"(2)(A) If, after July 1, 1992, ANSI publishes an amended standard different from that in effect pursuant to paragraph (1), the Secretary, not later than 180 days after publication of the amended standard, shall publish a notice of the amended standard, and, subject to subparagraph (B), the amended standard shall be in effect for showerheads manufac-

tured on or after the date that is 90 days after the date of the notice.

"(B) The Secretary may not prescribe an amended standard that increases the maximum rate of water use of showerheads over the rate allowed by the standard established under paragraph (1), unless the Secretary determines that it is in the interest of public health and safety.

(g) EFFECT ON OTHER LAW.—Section 327 of EPCA (Public Law 94-163), is amended—

(1) in subsection (c)—

(A) by striking "or energy use of such covered product" and inserting "energy use or total water use of the covered product";

(B) by striking "or" at the end of paragraph (2);

(C) by striking the period at the end of paragraph (3) and inserting "; or"; and

(D) by adding at the end thereof the following new paragraph:

"(4) is a State, regional, or local regulation that establishes flow rate requirements for showerheads that was prescribed or enacted before June 15, 1991."; and

(2) by adding at the end thereof the following new subsection:

"(h) LABELING OF SHOWERHEADS.—No State, regional, or local regulation concerning the labeling of showerheads shall be effective on or after the date that the Commission prescribes a label for showerheads pursuant to section 324(a)(2)(C).".

SEC. 6112. VIBRATION TECHNOLOGY STUDY.—(a) The Secretary of Energy shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(b) In carrying out such study, the Secretary shall—

(1) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand-side management; and

(2) evaluate the cost effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(c) The Secretary shall transmit to the Congress, within 12 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this subsection.

(d) The Secretary may, based on the findings and conclusions of such study, carry out at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithms in products or equipment with a significant potential for increased energy efficiency.

SEC. 6113. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL AND INDUSTRIAL ELECTRIC MOTORS.—

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (2)(A)(iii), by striking out "as defined in section 321(a)(2)" and inserting in lieu thereof "to which standards are applicable under section 325";

(2) in paragraph (3) by striking "the" and inserting "The" in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(8)(A) Except as provided in subparagraph (B), the term 'electric motor' means any motor which is a general-purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association (NEMA), Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987.

"(B) The term 'electric motor' does not include any motor excluded by the Secretary, by rule, as a result of a determination that standards for such motor would not result in significant energy savings or that efficiency standards for such motor would not be technically feasible or economically justified.

"(C) The term 'definite-purpose motor' means any motor designed in standard ratings with standard operating characteristics or mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(D) The term 'special-purpose motor' means any motor with special operating characteristics or special mechanical construction, or both, designed for a particular application and not falling within the definition of a general-purpose or definite-purpose motor.

"(E) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the motor.

"(F) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed air-tight.

"(G) The term 'small electric motor' means a NEMA general-purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1-1987.

"(H) The term 'efficiency' means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(I) The term 'nominal efficiency' means the average efficiency of a large population of motors of duplicate design as determined in accordance with National Electrical Manufacturers Association Standards Publication MG1-1987.

"(9) The term 'NEMA' means the National Electrical Manufacturers Association.

"(10) The term 'IEEE' means Institute of Electrical and Electronics Engineers.

"(11) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.".

(b) TEST PROCEDURES.—Section 343 of such Act (42 U.S.C. 6314) is amended—

(1) by striking paragraph (a)(1) and inserting in lieu thereof the following:

"(a)(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section.";

(2) by adding at the end of subsection (a), the following new paragraph:

"(4) With respect to electric motors that are manufactured after the end of the 24-month period beginning on the date of the enactment of this paragraph and to which standards are applicable under section 342, the Secretary shall prescribe test procedures that take into consideration NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency."; and

(3) redesignate the first subsection 343(d) as 343(c).

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (e), (f), (g), (h), (i) and (j) respectively, and by inserting a new subsection (d) as follows:

"(d) In the case of electric motors, within 12 months after the Secretary establishes test procedures (as required in section 343(a)), manufacturers and importers of covered motors shall establish efficiency ratings for each type of motor in accordance with the applicable test procedures, and—

"(1) include the efficiency rating of the equipment on the permanent nameplate attached to each piece of equipment.

"(2) prominently display the efficiency rating of the equipment in equipment catalogs and other materials used to market the equipment.

"(3) such other markings that the Secretary may determine are needed solely to facilitate enforcement of the efficiency standards established in section 342(a).

In developing these labeling requirements for electric motors, the Secretary shall take into consideration NEMA Standards Publication MG1-1987.".

(d) STANDARDS.—Section 342 of such Act (42 U.S.C. 6313) is amended to read as follows:

"STANDARDS

"SEC. 342. (a) ELECTRIC MOTORS.—(1) Except for definite-purpose motors, special-purpose motors, and those motors exempted by the Secretary under the provisions of paragraph (2) of this section, any general-purpose electric motor manufactured or imported (alone or as part of another piece of equipment) after the 60-month period beginning on the date of enactment of the Energy Efficiency Standards Act of 1992, or 84-month period in the case of general-purpose motors which require listing or certification by a nationally recognized safety testing laboratory, shall have a nominal full-load efficiency of not less than the following:

"Nominal Full-Load Efficiency

"Number of Poles	Open Motors			Enclosed Motors		
	6	4	2	6	4	2
Motor h.p.						
1	80.0	82.5		80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	85.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

"(2)(A) The Secretary, may by rulemaking, exempt certain types or classes of motors from the standards specified in paragraph (b) of this section if the following apply—

"(i) efficiency standards for such motors would not result in significant energy savings because such motors either cannot be used in most general-purpose applications or are very unlikely to be used in most general-purpose applications; and

"(ii) efficiency standards for such motors would not be technically feasible or economically justified;

"(B) Within one year of the passage of this Act, motor manufacturers and importers

shall petition the Secretary to request exemptions for motors that meet the criteria specified in paragraph (2)(A) of this section. Each request shall provide evidence that the motor meets the criteria for exemption.

"(C) Within two years of the passage of this Act, the Secretary shall rule on each request for exemption. In reaching his decision, the Secretary shall afford an opportunity for public comment.

"(D) For new motors developed after the date of enactment of this Act, manufacturers may petition the Secretary for exemptions from the standards established under this Act based on the criteria specified in paragraph (2)(A) of this section.

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is 5 years after the effective date of the standards established under paragraph (1).

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is 5 years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.".

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT AND PREEMPTION.—Section 345 of such Act (42 U.S.C. 6316) is amended by—

(1) striking the designation "(a)";

(2) in the material preceding paragraph (1), by striking "sections 328" and inserting in lieu thereof ", the provisions of subsections (l) through (q) of section 325, and section 327";

(3) in paragraph (1) by—

(i) striking the words "and 324" and inserting in lieu thereof ", 324, and 325";

(ii) striking the words "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(4) in paragraph (3), by striking the word "and" at the end thereof;

(5) in paragraph (4), by striking the period and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (4) the following new paragraphs (5) through (8):

"(5) As of the date of enactment of the National Energy Security Act of 1992, no State or its subdivisions may enact, prescribe, or revise efficiency standards for any equipment for which efficiency standards are established under this Act.

"(6) As of the date of enactment of the National Energy Security Act, no State or its subdivisions may enact, prescribe, or revise labeling requirements for any equipment for which labeling requirements are established under this Act.

"(7) Notwithstanding paragraphs (5) and (6) of this section, States and their subdivisions may adopt efficiency requirements for new construction provided that such requirements are identical to standards established under this Act.

"(8) With respect to electric motors, the Secretary shall establish a technical performance audit program to ensure compliance with the prescribed testing and labeling standards."; and

(7) by striking out the title and inserting in lieu thereof "Administration, Penalties, Enforcement, and Preemption".

(f) AUTHORIZATION FOR APPROPRIATIONS.—Section 346 is amended by striking the existing text and inserting in lieu thereof the following: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this part.".

SEC. 6114. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.—Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.—

"(a) IN GENERAL.—(1)(A) The Secretary shall—

"(i) within 24 months after the date of the enactment of this Act, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technically feasible and economically justified, and would result in significant energy savings;

"(ii) within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under clause (i). Standards shall not apply to any small electric motor which is a component part of a product or equipment subject to the energy efficiency standards under this title; and

"(iii) any standard prescribed under (ii) of this Act shall apply to small electric motors manufactured, assembled or imported, 60 months after the date the final rule is published, or 84 months in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory.

"(B) For purposes of subparagraph (A):

"(i) the term 'energy conservation standard' means—

"(aa) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(bb) a design requirement for a product; and

"(ii) the term 'small electric motor' is defined under section 340(8) of the Energy Policy and Conservation Act (42 U.S.C. 6311), as amended.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(l) of the Energy Policy and Conservation Act.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards for small electric motors are prescribed by the Secretary pursuant to paragraph (1)(A)(ii), prescribe labeling requirements for such electric motors.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer of the product shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (b)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies; and

"(B) it shall be unlawful for any manufacturer, importer or private labeler to distribute in commerce any new small electric motors for which an energy conservation standard is prescribed under subsection (a)(1)(A)(ii) which is not in conformity with the applicable labeling requirement and energy conservation standard.

"(2) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

SEC. 6115. ENERGY CONSERVATION STANDARDS FOR CERTAIN LAMPS.—(a) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1)(A) by striking the designation subsection "(a)"; and

(B) in the material following subparagraph (B), by striking out "ballasts distributed in commerce for personal or commercial use or consumption" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, and incandescent reflector lamps distributed in commerce for personal or commercial use.";

(2) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight shaped rapid start lamp (commonly referred to as four foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as two foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as eight foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1–1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as eight foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3–1978 (R1984) and related supplement ANSI C78.3a–1985.

"(B) the term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but excluding any lamp described in subsection (E) and any lamp designed and marketed for non-general lighting applications as follows—

"(i) fluorescent lamps designed to promote plant growth;

"(ii) fluorescent lamps specifically designed for cold-temperature installations;

"(iii) colored fluorescent lamps;

"(iv) impact-resistant fluorescent lamps;

"(v) reflectorized or aperture lamps;

"(vi) fluorescent lamps designed for use in reprographic equipment;

"(vii) lamps primarily designed to produce radiation in the ultra-violet region of the spectrum, and

"(viii) lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which a light is produced by a fila-

ment heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as reflector lamp), which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding 'ER' or 'BR') with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts; and

"(iii) any general service incandescent lamp (commonly referred to as a high- or higher wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) the term 'general service incandescent lamp' means incandescent lamps (other than miniature or photographic lamps) which can be used to satisfy the majority of lighting applications, but excluding any lamp described in subparagraph (E) and any lamp specifically designed for—

"(i) traffic signal or street light service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The term 'lamp' does not include any lamp manufactured or assembled in the United States for export and use outside the United States, or any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'average lamp efficacy' means the lamp efficacy readings taken over a twelve-month period of manufacture with the readings averaged over that period.

"(G) The term 'base' means the portion of the lamp which connects with the socket described in ANSI C81.61-1990.

"(H) The term 'bulb shape' means the shape of the lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1-1980(R1984).

"(I) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(J) The term 'correlated color temperature' means the absolute temperature of a black body whose chromaticity most nearly resembles that of the light source.

"(K) The term 'IES' means the Illuminating Engineering Society of North America.

"(L) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(M) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(N) The term 'lamp wattage' means the total electrical power consumed by the lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

"(O) The terms 'life' and 'lifetime' mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures as described in the IES Lighting Handbook—Reference Volume.

"(P) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(Q) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(R) The term 'manufacturer' means anyone who makes, assembles or imports any covered product.

"(S) The term 'medium base compact fluorescent' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for general service incandescent lamps.

"(T) The term 'transition period' means the period of time between the enactment of the National Energy Security Act of 1992 and the date on which the standard shall take effect.".

(b) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following new paragraph:

"(14) General service fluorescent lamps and incandescent reflector lamps.".

(c) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended by adding the following new paragraph at the end of subsection (b):

"(6) With respect to fluorescent lamps and incandescent lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be implemented by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.".

(d) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Such rules shall provide that the labeling of any general service fluorescent lamps, medium base compact fluorescent lamps and general service incandescent lamp manufactured, assembled or imported after the 18-month period beginning on the date of the publication of such labeling rule will include conspicuously on the packaging of the lamp in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary for the consumers to select the most energy efficient lamps to meet their requirements. Labeling information for incandescent lamps will be based upon performance when operated at 120 volts input, regardless of the rated lamp voltage.".

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(15)";

(3) in paragraphs (1)(B), (3), and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(15)"; and

(4) in subsection (c)(7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13) and (14) of section 322(a)".

(e) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating clauses (i) through (q) as clauses (k) through (s); and

(2) by inserting after clause (h) the following:

"(i) GENERAL SERVICE FLUORESCENT AND INCANDESCENT REFLECTOR LAMPS.—(1) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured, assembled or imported after the transition period for each category of lamps beginning on the date of the enactment of this subsection shall meet or exceed the following lamp efficacy and CRI standards. Beginning twelve months after the expiration of the transition period for each of the listed categories of lamps, no lamp in such category may be sold which does not meet or exceed the following lamp efficacy and color rendition index standards:

"FLUORESCENT LAMPS

"Lamp Type	Nominal Lamp Wattage	Minimum Average CRI	Minimum Average Lamp Efficacy (LPW)	Transition Period (months)
4 foot	>35W	69	75.0	36
Medium bi-pin	≤35W	45	75.0	36
2 foot	>35W	69	68.0	36
"U" shaped	≤35W	45	64.0	36
8 foot	65W	69	80.0	18
Slimline	≤65W	45	80.0	18
8 foot	>100W	69	80.0	18
High Output	≤100W	45	80.0	18

"INCANDESCENT REFLECTOR LAMPS

"Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Transition Period (months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

"(2) Not less than 36 months after the date of enactment of the National Energy Security Act of 1992, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than 54 months after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period be-

ginning on the date such final rule is published.

"(3) Not less than eight years after the date of enactment of the National Energy Security Act of 1992, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than nine and one-half years after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(4) Twenty-four months after any labeling required by subsection (d) shall have taken effect, the Secretary shall initiate a rulemaking to determine if additional fluorescent and incandescent lamps should be subject to standards, and to publish, within 18 months of initiating such a rulemaking, a final rule including such standards, if warranted.

"(5) Any amendment prescribed under paragraph (4) shall apply only to products manufactured, assembled or imported after a date which is 36 months after the date the final rule is published.

"(6) In establishing or modifying any standard under this subsection, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1992.

"(7) With regard to any lamp covered by this subsection or section 6113 of the National Energy Security Act of 1992, it shall be the responsibility of the Secretary to inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of any covered product of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

"Any other provision of Federal law or regulation to the contrary notwithstanding, the Secretary shall not be prohibited from modifying any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any covered product if such action is warranted as the result of other Federal action, such as but not limited to restrictions on materials or processes, which would have the effect of either increasing energy use or decreasing energy efficiency.

"(8) Concurrent with the effective date of lamp standards established pursuant to this subsection or section 6113 of the National Energy Security Act of 1992, a manufacturer shall file with the Secretary the report of the laboratory certifying compliance with the standard for each lamp. Such report shall include the lumen output and wattage consumption as an average of measurements taken over the preceding 12 month period.".

SEC. 6116. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.—Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.—

"(a) IN GENERAL.—(1)(A) The Secretary of Energy shall—

"(i) within 18 months after the date of the enactment of this Act, prescribe testing requirements for those high-intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would result in significant energy savings; and

"(ii) within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those high-intensity discharge lamps for which the Secretary prescribed testing requirements under clause (i); and

"(iii) any standard prescribed under clause (ii) shall apply to products manufactured, assembled or imported 36 months after the date on which the final rule is published.

"(B) For purposes of subparagraph (A), the term 'energy conservation standard' means—

"(i) a performance standard that prescribed a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(ii) a design requirement for a product.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1992.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards are prescribed by the Secretary of Energy pursuant to paragraph (1)(A)(ii) for high-intensity discharge lamps, prescribe labeling requirements for such lamps.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer or importer of the product shall begin to label newly manufactured products with a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), each such product shall be considered, for purposes of paragraphs (1) and (2) of section 322(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies.

"(2) Twelve months after the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new high intensity discharge lamps which is not in conformity with the applicable labeling requirement and energy conservation standard prescribed under subsection (a)(1)(A)(ii).

"(3) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

SEC. 6117. REPORT ON THE POTENTIAL OF COOPERATIVE ADVANCED APPLIANCE DEVELOPMENT.—(1) Within 12 months after the date of enactment of this Act, the Secretary of Energy shall, in consultation with utilities and appliance manufacturers, prepare, and submit to Congress, a report on the potential for the development and commercialization of appliances which are substantially more efficient than required by Federal or State law.

(2) Such report shall identify candidate high-efficiency appliances which meet the following criteria:

(A) that the potential exists for substantial improvement in the appliance's energy efficiency, beyond the minimum established in Federal and State law;

(B) that there is the potential for significant energy savings at the national or regional level;

(C) that such appliances are likely to be cost-effective for consumers;

(D) that electric, water, or gas utilities are prepared to support and promote the commercialization of such appliances; and

(E) that manufacturers are unlikely to undertake development and commercialization of such appliances on their own, or development and production would be substantially accelerated by support to manufacturers.

(3) The plan shall also—

(A) describe the general actions the Secretary of Energy could take to coordinate and assist utilities and appliance manufacturers in developing and commercializing highly efficient appliances;

(B) describe specific proposals for Department of Energy assistance to utilities and appliance manufacturers to promote the development and commercialization of highly efficient appliances;

(C) identify methods by which Federal purchase of highly efficient appliances could assist in the development and commercialization of such appliances; and

(D) identify the funding levels needed to develop and implement a Federal program to assist in the development and commercialization of highly efficient appliances.

SUBTITLE B—FEDERAL ENERGY MANAGEMENT

SEC. 6201. DEFINITIONS.—For purposes of this subtitle—

(1) the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, any agency of the judicial branch of Government;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of the fundamentals of building energy systems; building energy codes and applicable professional standards; energy accounting and analysis; life-cycle cost methodology; fuel supply and pricing; and instrumentation for energy surveys and audits; and

(4) the term "Task Force" means the Interagency Energy Management Task force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257).

SEC. 6202. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.—(a) GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Office of Management and Budget, in cooperation with the Secretary, the General Services Administration, and the Department of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reporting quarterly and annual energy consumption and energy cost figures as required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, Congress and the general public.

(b) CONTENTS OF GUIDELINES.—Such guidelines shall include the establishment of a monitoring system to determine—

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) FEDERALLY LEASED SPACE ENERGY REPORTING REQUIREMENT.—Not later than December 31, 1992, and on each December 31 thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the estimated energy cost of leased buildings or space in which the Federal Government does not directly pay the utility bills.

(d) POSTAL SERVICE.—The United States Postal Service shall adopt regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates or manages. The regulations shall include establishing a monitoring system to determine which facilities are the most costly to operate; identify unusual or abnormal changes in energy consumption; and check the accuracy of utility charges for electricity and gas consumption.

SEC. 6203. FEDERAL ENERGY COST BUDGETING.—The President shall include in each budget submitted to the Congress under section 1105 of title 31, United States Code, a separate statement of the amount of appropriations requested, on an agency basis, for—

(1) energy costs to be incurred in operating and maintaining agency facilities; and

(2) compliance with the provisions of part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), the Energy Policy and Conservation Act, and applicable Executive orders, including Executive Orders No. 12003 and No. 12579.

SEC. 6204. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.—(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.) as amended, and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100-504) shall—

(1) identify agency compliance activities to meet the requirements of such section and any other matters relevant to implementing the goals of the National Energy Conservation Policy Act; and

(2) assess the accuracy and reliability of energy consumption and energy cost figures required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(b) PRESIDENTS COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.—Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives, on the review conducted by each Inspector General of each agency carried out under this section.

(c) INSPECTOR GENERAL REVIEW.—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent with the performance of the required duties of the Inspector General's office.

SEC. 6205. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.—(a) CONFERENCE WORKSHOPS.—The General Services Administration, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The General Services Administration shall work and consult with other Federal agencies to plan for particular regional conferences. The General Services Administration shall invite State, local, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such State, local and county officials in the planning and organization of such workshops.

(b) FOCUS OF WORKSHOPS.—Such workshops and conferences shall focus on the following, but may include other topics:

(1) developing strategies among Federal, State, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region;

(2) the design, construction, maintenance, and retrofitting of Federal facilities to incorporate energy efficient techniques;

(3) procurement and use of energy efficient products;

(4) alternative fuel vehicle procurement, placement, and usage;

(5) coordinated development with the private sector for the servicing, refueling, and maintenance of alternative fuel vehicles;

(6) dissemination of information on innovative programs, technologies, and methods which have proven successful in government; and

(7) technical assistance to design and incorporate effective energy management strategies.

(c) ESTABLISHMENT OF WORKSHOP TIMETABLE.—As a part of the first report to be submitted pursuant to section 6214 of this Act, the Administrator shall set forth the schedule for the Regional Energy Management Workshops. Not less than five workshops shall be held by September 30, 1993, and at least one such workshop shall be held in each of the 10 Federal regions every two years beginning on September 30, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purpose of this section.

SEC. 6206. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.—(a) PROCUREMENT.—The General Services Administration, in consultation with the Department of Defense and the Defense Logistics Agency, shall undertake a program to include energy efficient products on the Federal Supply Schedule and the New Item Introductory Schedule.

(b) IDENTIFICATION PROGRAM.—The General Services Administration, in consultation with the Department of Energy and the Defense Logistics Agency, shall implement a program to identify and designate on its respective Supply Schedules those energy efficient products which offer significant potential savings, as calculated using the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254), unless such life cycle cost information is not readily available.

(c) GUIDELINES.—The Office of Federal Procurement Policy, in consultation with the General Services Administration, the Department of Energy, and the Department of Defense, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Department of Defense and the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) UNITED STATES POSTAL SERVICE GUIDANCE.—The USPS shall undertake a program to identify and procure energy efficient products for use in its facilities. The USPS shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by GSA and DLA to carry out the purpose of this section.

(e) REPORT TO CONGRESS.—As a part of the report to be submitted pursuant to section 6214 of this Act, the Administrator of General Services, in consultation with the Defense Logistics Agency and the Department of Energy, shall report on the progress, status, activities, and results of the programs under subsections (b) and (c) of this section. The report shall include, but not be limited to—

(1) the number, types, and functions of each new product under subsection (a) added to the Federal Supply Schedule and the New Item Introductory Schedule during the previous fiscal year, and the name of the product manufacturer;

(2) the number, types, and functions of each product identified under subsection (b), and efforts undertaken by the General Services Administration and the Defense Logistics Agency to encourage the acquisition and use of such products;

(3) the actions taken by the General Services Administration and the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(4) whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been added to the Federal Supply Schedule or New Item Introductory Schedule;

(5) an estimate of the potential cost savings to agencies and the Federal Government, taking into account the quantity of energy efficient products which could be utilized throughout the Government, that would be realized through implementation or installation of products identified in this section; and

(6) the actual quantity of such products acquired and an estimate of the energy savings achieved by the use of such products.

SEC. 6207. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.—Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end thereof the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D). Amounts deposited in the Federal Buildings Fund under this subparagraph shall be used to implement energy efficiency programs.

"(B) The Administrator may accept such goods or services, consistent with approved Federal energy management objectives, provided in lieu of any rebates or other cash incentives for energy savings under subparagraph (A).

"(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such real property.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings Fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (B).

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care, fitness, or other employee benefit programs.".

SEC. 6208. FEDERAL ENERGY MANAGEMENT TRAINING.—(a) ENERGY MANAGEMENT TRAINING.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers as defined under section 6201(3). Such programs shall be managed—

(A) by the agency representative on the Task Force; or

(B) if an agency is not represented on the Task Force, by the designee of the head of the agency.

(2) Agencies shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study covering the areas described under section 6201(3) including, but not limited to courses offered by:

(A) a private or public educational institution;

(B) a Federal agency; or

(C) a professional association.

(b) AGENCY REPORT.—(1) Each agency listed in section 6208(a) shall, no later than 60 days following the enactment of this Act, report to the Task Force the following information:

(A) those individuals employed by the agency on the date of the passage of this Act who qualify as trained energy managers as defined under section 6201(3);

(B) the General Schedule (GS) or grade level at which each of these individuals are employed; and

(C) the facility or facilities for which these employees are responsible or otherwise stationed.

The Task Force shall provide a summary of these agency reports to the Committee on Governmental Affairs of the United States Senate and the Committee on Energy and Natural Resources of the United States Senate.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1)(A) Not later than September 30, 1992, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies described under subsection (a)(1) shall ensure that, no later than September 30, 1992, no fewer than two trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under subsection (c)(1)(B) shall not include those employees listed in the report in section 6208(b).

(2)(A) Not later than September 30, 1993, the departments and agencies described under subsection (a)(1) shall further upgrade their energy management capabilities by ensuring that no fewer than five trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under subsection (c)(2)(A) shall not include those employees listed in the report in section 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in subsections (c)(1)(B) and (c)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(d) DEPARTMENT OF DEFENSE REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the Department of Defense shall upgrade its energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the Department.

(B) The Department shall insure that, no later than September 30, 1992, no fewer than twenty trained energy managers are employed by the Department.

(C) Federal employees designated for energy training and counted under subsection (d)(1)(B) shall not include those employees listed in the report in section 6208(b).

(2)(A) Not later than September 30, 1993, the Department shall further upgrade its energy management capabilities by ensuring that no fewer than forty trained energy managers are employed by the Department.

(B) Federal employees designated for energy training and counted under subsection (2)(A) shall not include those employees listed in the report in section 6208(b).

(3) The Department may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goal established in subsections (d)(1)(B) and (d)(2)(A). Trained energy managers shall focus their efforts on improving energy efficiency in the following facilities:

(i) Department facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the Secretary of Defense as having significant energy savings potential.

(e) SPECIFIED AGENCY REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the General Services Administration, the Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in section 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies identified in subsection (e)(1)(A) shall insure that, no later than September 30, 1992, no fewer than ten trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under subsection (e)(1)(B) shall not include those employees listed in the report section 6208(b).

(2)(A) Not later than September 30, 1993, the General Services Administration, Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall further upgrade their energy management capabilities by ensuring that no fewer than twenty trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under subsection (e)(2)(A) shall not include those employees listed in the report in section 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in subsections (e)(1)(B) and (e)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(f) REPORTS OF AGENCIES.—Each agency shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each agency's report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

SEC. 6209. FEDERAL FACILITY ENERGY MANAGER RECOGNITION AND INCENTIVES AWARD

PROGRAM.—(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Office of Personnel Management and the Task Force, establish a financial award program to reward outstanding facility energy managers in Federal agencies, including the United States Postal Service, and other individuals making outstanding contributions toward the reduction of energy consumption or costs in Federal facilities.

(b) SELECTION CRITERIA.—Not later than June 1, 1992, the Secretary shall issue procedures for implementing the conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors. Such criteria shall include—

(1) improved energy performance through increased energy efficiency;

(2) implementation of proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

(3) effective training programs for facility energy managers, operators, and maintenance personnel;

(4) employee awareness programs;

(5) success in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

(6) successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253); and

(7) success in the implementation of the guidelines under section 6202 of this Act.

(c) AWARD LIMIT.—No single award shall be greater than $2,500.

(d) REPORT.—Each year the Secretary shall publish and disseminate to Federal agencies, and to Congress as a part of the report required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258) a report to highlight and recognize the achievements of bonus award winners.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $250,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purposes of this section.

SEC. 6210. IDENTIFICATION AND ATTAINMENT OF AGENCY ENERGY REDUCTION AND MANAGEMENT GOALS.—Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note; Public Law 100-615) is amended—

(1) in subsection (a)—

(A) by striking out "using funds appropriated to carry out this section," and inserting in lieu thereof "in consultation with the Task Force,";

(B) in paragraph (1) by striking out "and" after the semicolon;

(C) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(D) by adding at the end thereof the following new paragraph:

"(3) determining barriers which may prevent an agency's ability to comply with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and other energy management goals.";

(2) in subsection (b)—

(A) in paragraph (1) by striking out "Congress, within 180 days after the date on which funds are appropriated to carry out this section," and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, and the House of Representatives, within 180 days after the date of the enactment of the National Energy Security Act of 1992,"; and

(B) by adding at the end thereof the following new paragraph:

"(4) For the purpose of this section, a representative sample shall include, where appropriate, the following types of Federal facility space:

"(A) Housing;

"(B) Storage;

"(C) Office;

"(D) Services;

"(E) Schools;

"(F) Research and Development;

"(G) Industrial;

"(H) Prisons; and

"(I) Hospitals.";

(3) in subsection (d)—

(A) by striking out "Congress" and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, the Committee on Energy and Commerce of the House of Representatives, the Committee on Government Operations of the House of Representatives,"; and

(B) by adding at the end thereof "The report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal by January 1, 2000 established under Executive Order No. 12759.".

SEC. 6211. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.—(a) IN GENERAL.—The USPS shall conduct an energy survey, as defined in section 549(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the USPS in different areas of the country;

(2) making recommendations to the Postmaster General for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar USPS buildings; and

(3) determining barriers which may prevent USPS compliance with energy reduction goals, including Executive Orders No. 12003 and 12579.

(b) IMPLEMENTATION.—(1) The Postmaster General shall transmit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Post Office and Civil Service Committee, within 180 days of enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as to obtain a sample of Postal facilities of the types and in the climates that consume the major portion of the energy consumed by the Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the Postal facility or the remaining term of a lease of a building leased by the Postal Service.

(c) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the project to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on Post Office and Civil Service.

SEC. 6212. FEDERAL BUILDING ENERGY CONSUMPTION TARGETS.—Not later than two years after the date of the enactment of this Act, the Secretary shall consider, in consultation with the Administrator of General Services and the Task Force, establishing energy consumption targets for January 1, 2000, for each Federal agency to reduce energy consumption per square foot in Federal buildings based upon the information provided in the report under section 6210 of this Act. The United States Postal Service shall independently consider establishing its own energy consumption targets for January 1, 2000 based upon the information provided in the report under section 6211.

SEC. 6213. UTILITY INCENTIVE PROGRAMS.—(a) IN GENERAL.—Federal agencies are authorized and encouraged to participate in programs for energy conservation or the management of electricity demand conducted by gas or electric utilities and generally available to customers of such utilities.

(b) ACCEPTANCE OF FINANCIAL INCENTIVES.—Federal agencies may accept any financial incentive, generally available from any such utility, to adopt energy efficiency technologies and practices that the Secretary determines are cost effective for the Federal Government.

(c) NEGOTIATIONS.—Each Federal agency is encouraged to enter into negotiations with electric and gas utilities to design special demand management and conservation incentive programs to address the unique needs of facilities used by such agency.

(d) USE OF CERTAIN FUNDS.—(1) Fifty percent of funds from utility energy efficiency rebates shall, subject to appropriation, remain available for expenditure by the agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

(2)(A) Agencies shall maintain strict financial accounting and controls for savings realized and all expenditures made under this section.

(B) Records maintained under subparagraph (A) shall be made available for public inspection upon request.

SEC. 6214. REPORT BY GENERAL SERVICES ADMINISTRATION.—Not later than six months after the date of enactment of this Act, and on each December 31, at least six months thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives on the activities of the General Services Administration conducted pursuant to this subtitle. Such reports shall include, but not be limited to, the information requested under sections 6205(c) and 6206(d).

SEC. 6215. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT.—Not later than one year after the date of the enactment of this Act, and on each January 1 thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Post Office and Civil Service of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate on the Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to, the following:

(1) actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation program;

(4) energy costs incurred in operating and maintaining all postal facilities; and

(5) the status of the energy efficient procurement program established under section 6206(d).

SEC. 6216. AMENDMENTS TO PART 3, TITLE V OF NECPA.—Part 3 of title V of the National Energy Conservation Policy Act (NECPA) (Public Law 95-619), as amended, is further amended as follows:

(a) In section 543, (1) strike subsection (a) and insert the following new text in lieu thereof:

"(a) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL BUILDINGS.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the methods and procedures developed pursuant to section 544. Federal agencies may participate in the Environmental Protection Agency's 'Green Lights' program for purposes of technical assistance in complying with the requirements of this section. Within two years after the date of enactment of the National Energy Security Act of 1991, each agency shall submit to the Secretary a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

"(2) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, or the unique character of many facilities operated by the Departments of Defense and Energy. Each agency shall identify and list in each report made under section 548, the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth herein, and may within 90 days after receipt of the findings, reverse a finding of impracticability, in which case the agency shall comply with the requirements of paragraph (1). This section shall not apply to an agency's facilities that generate or transmit electric energy, nor to the uranium enrichment facilities operated by the Department of Energy.";

(2) In subsection (b):

(A) after the words "subsection (a)," insert the following: "The Secretary of Energy shall consult with the Secretary of Defense and the Administrator of the General Services Administration in developing guidelines for the implementation of this Part, and";

(B) strike the phrase "Federal Energy Management Improvement Act of 1988," in paragraph (1) and insert in lieu thereof "National Energy Security Act of 1992, and submit to the Secretary of Energy";

(C) after the words "high priority projects;" insert the following: "and such plan shall include steps to take maximum advantage of contracts authorized under title VII of this Act (42 U.S.C. 8287 et seq.), financial incentives, and other services provided by utilities for efficiency investment and other forms of financing to reduce the direct costs to the government;";

(D) at the end of paragraph (2), strike the semicolon and insert the following: ", and update such surveys periodically, but not less than every three years;";

(E) replace paragraph (3) with the following new paragraph:

"(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;"; and

(F) insert a new paragraph (4) as follows, and renumber paragraph (4) as "(5)":

"(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544, and".

(b) In section 544—

(1) strike "National Bureau of Standards," in subsection (a) and insert in lieu thereof "National Institute of Standards and Technology,"; and

(2) strike all after the word "each", in paragraph (b)(2) and insert in lieu thereof: "agency shall, after January 1, 1994, fully consider the energy efficiency of all potential building space at the time of renewing or entering into a new lease. Further, all government leased space constructed after January 1, 1994, shall meet model Federal energy conservation performance standards for new commercial buildings promulgated pursuant to section 304 of the Energy Conservation and Production Act (Public Law 94-385).".

(c) In section 545 add after the word "measures" the following: "as needed to meet the requirements of section 543.".

(d) In section 548—

(1) strike the word "Each" in subsection (a) and insert in lieu thereof the following: "In addition to the plan required to be submitted to the Secretary pursuant to section 543(b)(1), each";

(2) insert the phrase "by April 2 of each year," after the word "annually" in subsection (b); and

(3) insert the words "by each agency", after the words "under this part" in subsection (b)(1).

(e) Renumber section 549 as section 551 and insert the following two new sections:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1993, the Secretary, in cooperation with the Administrator of the General Services Administration, shall establish a demonstration program to install, in Federally owned facilities, energy efficiency technologies which the Secretary has determined are ready for commercial demonstration and which were developed by entities that have received or are receiving Federal financial assistance for energy conservation research and development.

"(b) EVALUATION.—The Secretary and the Administrator shall evaluate the commercial viability of each type of energy efficiency technology so installed, including its technical feasibility, operational feasibility, and economic effectiveness. Installations of each technology shall include a sufficient number of applications to produce statistically reliable evaluation results based on the technologies' application in various climates and building situations.

"(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section no more than $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.

"SEC. 550. FEDERAL ENERGY EFFICIENCY PROJECTS FUNDING.

"(a) IN GENERAL.—Not later than one year after the date of enactment of the National Energy Security Act of 1992, the Secretary shall establish guidelines for the transfer or loan of up to $1,000,000 per project to encourage any Federal agency to undertake energy efficiency projects in Federally owned facilities.

"(b) PROJECT SELECTION.—The Secretary shall establish procedures for the receipt of proposals under this section. The Secretary shall consider the following factors in determining whether to provide funding under subsection (a):

"(1) the cost-effectiveness of the project;

"(2) the proportion of energy and cost savings anticipated to the Federal Government;

"(3) the amount of funding committed to the project by the agency requesting financial assistance;

"(4) the extent that a proposal leverages financing from other non-Federal sources; and

"(5) any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

"(c) REPORTS.—The Secretary shall report annually to Congress, in the supporting documents accompanying the President's budget, on the activities under this section. The report shall include the projects funded and the projected energy and cost savings from installed measures.

"(d) AUTHORIZATION.—For purposes of this subsection, there is authorized to be appropriated, and to remain available until expended, not more than $200,000,000.".

(f) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the National Energy Conservation Policy Act is amended to read as follows:

"Sec. 549. Demonstration of New Technology.

"Sec. 550. Federal Energy Efficiency Projects Funding.

"Sec. 551. Definitions.".

SEC. 6217. CONGRESSIONAL OFFICE BUILDING ENERGY IMPROVEMENT ASSESSMENT.—The Architect of the Capitol shall undertake a study to determine the feasibility and costs associated with compliance with part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq), and Executive Orders No. 12003 and No. 12579 for all facilities under the Architect's jurisdiction, taking into account particular needs with respect to the security and physical operation of the legislative branch of the Government. The Architect shall report the results of such study to the appropriate committees of Congress.

SEC. 6218. STUDY OF FEDERAL PURCHASING POWER.—(a) STUDY.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency.

(b) REPORT.—The Secretary shall report to Congress on the results of the study within two years of the date of the enactment of this Act.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 6219. ENERGY MANAGEMENT GOALS FOR THE UNITED STATES POSTAL SERVICE.—(a) ENERGY PERFORMANCE GOAL FOR POSTAL FACILI-

TIES.—(1) Not later than January 1, 2000, the United States Postal Service shall, to the maximum extent practicable, install in all facilities under its control, energy conservation measures with payback periods of less than ten years as calculated using methods and procedures developed pursuant to section 544 of the National Energy Conservation Policy Act. Within two years after the date of enactment of the National Energy Security Act of 1992, the USPS shall submit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on the Post Office and Civil Service a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

(2) The USPS may exclude from the requirements of paragraph (1) any facility or collection of facilities, and the associated energy consumption and gross square footage, if the Postmaster General finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such facility or collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The USPS shall identify and list in the report made under section 6215 the facilities designated by it for such exclusion. This section shall not apply to the USPS facilities that generate or transmit electric energy.

(b) IMPLEMENTATION STEPS—To achieve the goal established in subsection (a), the USPS shall—

(1) prepare or update, within 1 year after the date of the enactment of this Act, a plan describing how the USPS intends to meet such goal. The plan may be submitted as part of the report under section 6215. The plan shall include how the USPS will implement this part, designate personnel primarily responsible for achieving such goal, and identify high priority projects;

(2) perform energy surveys of USPS facilities and update such surveys periodically, but not less than every three years;

(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;

(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act; and

(5) ensure that the operation and maintenance procedures applied under this section are continued.

SEC. 6220. ENERGY PERFORMANCE CONTRACTS.—

(a) Title VIII of the National Energy Conservation Policy Act (Public Law 99-412) is amended by striking "TITLE VIII—SHARED ENERGY SAVINGS" and inserting in lieu thereof "TITLE VIII—ENERGY SAVINGS PERFORMANCE CONTRACTS".

(b) Section 801 of such Act (42 U.S.C. 8287) is amended by striking the word "may" the first place it appears and inserting "shall, to the extent parcticable," in lieu thereof; and by redesignating such section as subsection 801(a)(1) and adding the following new text:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate annual payments by the government may not exceed the guaranteed energy savings during each contract year.

"(C) Federal agencies may incur obligations to finance a project provided guaranteed savings exceed the debt service requirements.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, in consultation with the Secretary of Defense, the Administrator of the General Services Administration, and the Administrator of NASA, within 90 days after the date of the enactment of the National Energy Security Act of 1992, shall develop appropriate procedures and methods for use by Federal agencies to select energy savings service contractors that will achieve the intent of this section in a cost-effective manner. The procedures and methods used for the calculation of energy savings shall be based on sound engineering practices, consideration of relevant variables such as application utility rate schedules, and fuel and utility billing cycles.

"(B) Notwithstanding any other procurement laws and regulations, such procedures and methods shall apply to the selection by each Federal agency of a contractor to provide energy savings services.

"(C) The process developed pursuant to this section may constitute adequate price competition, no cost justification shall be required, and waiver of the cost pricing and cost accounting standards shall be permitted.

"(2) In carrying out paragraph (1), the Secretary may:

"(A) request statements of qualifications, including financial and performance information, from firms engaged in providing energy saving services;

"(B) designate from the statements received, with an update at least annually, those firms that are qualified to provide energy savings services;

"(C) select at least three firms from the list of qualified contractors to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project; and

"(D) select from such firms the most qualified firm to provide energy savings services pursuant to such energy savings contractual arrangement that the Secretary determines is fair and reasonable, taking into account—

"(i) the qualifications, prior experience and capabilities of a contractor to perform the proposed type of energy savings services; and

"(ii) the estimated value of the energy savings services to be rendered and the scope and nature of the project.

"(3) In carrying out paragraph (1), the Secretary also may provide for direct negotiations by Federal agencies for energy savings services with contractors that have been selected competitively and approved by any gas or electric utility serving the agency involved.

"(c) DEFINITION.—For the purpose of this title, the terms 'energy savings contract' or 'energy savings performance contract' means a contract which provides for the performance of services for the design, acquisition, installation, testing, operation and, where appropriate, maintenance and repair, of an identified energy savings measure. Such contracts may provide for appropriate software licensing agreements.

"(d) SUNSET AND REPORTING REQUIREMENTS.—

"(A) The authority to enter into new contracts under this provision shall cease to be effective three years from the date of enactment of this Act.

"(B) Beginning six months after the date of enactment of this Act, and every six months thereafter, for a period of three years from enactment of this Act, the General Accounting Office shall report on the implementation of this section. These reports shall include, but not be limited to, an assessment of the following issues:

"(i) the quality of the energy audits conducted for the Agencies;

"(ii) the government's ability to maximize energy savings;

"(iii) the total energy cost savings accrued by the agencies that have entered into such contracts;

"(iv) the total costs associated with entering into such contracts and having them performed;

"(v) a comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector;

"(vi) the number of firms selected as qualified firms under this section and their respective shares of awarded contracts;

"(vii) the number of firms engaged in similar activity in the private sector and their respective market shares;

"(viii) the number of applicant firms not selected as qualified firms under this section and the reason for their nonselection;

"(ix) the frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

"(C) Three years from enactment of this Act, the General Accounting Office shall provide a summary report on the efficacy of this section. In addition, the General Accounting Office shall provide recommendations for statutory or regulatory changes that may be necessary. In making such recommendations, the General Accounting Office shall consider whether the contracting procedures utilized under this section by agencies have been effective and whether continued use of those procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy savings performance contracts.".

SEC. 6221. ENERGY EFFICIENT PRODUCTS.—Whenever the Federal Government establishes a new requirement or initiates a new procurement for the acquisition of electric lamps, electric ballasts, electric motors and/or refrigeration equipment, the Federal Government shall, where cost effective, give preference to the procurement of the most energy efficient products available to meet its needs. The General Services Administration shall keep a record of the quantity, country of manufacture, and cost of items purchased under this section. The Secretary of Energy shall estimate the quantity and cost of energy saved annually due to this section.

SEC. 6222. ENERGY ANALYSIS AND DIAGNOSTIC CENTERS PROGRAM.—(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Energy an Energy Analysis and Diagnostic Centers program designed to assist qualifying commercial and industrial facilities to conserve energy and reduce operating costs by applying efficient technologies to their operations and buildings and to provide opportunities for students to gain experience in the field of energy management.

(b) QUALIFYING COMMERCIAL AND INDUSTRIAL FACILITIES.—For purposes of this sec-

tion, qualifying commercial and industrial facilities are those facilities that meet at least three of the following four criteria:

(1) 500 or fewer employees;

(2) gross sales of not more than $75,000,000 per year;

(3) total energy costs of not more than $1,750,000 per year;

(4) an absence of in-house energy expertise.

(c) ADMINISTRATION.—(1) Not later than six months after the date of enactment of this section, the Secretary shall seek to enter into a management agreement with an appropriate institution to administer the program.

(2) For purposes of this section, an appropriate institution is a nonprofit institution with demonstrable expertise in engineering, physical science, communications, business, and such other disciplines as appropriate and with expertise in industrial manufacturing including new process and product research and development.

(d) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Within 9 months after the date of enactment of this section, the administering institution shall, under the direction of the Secretary and through a competitive bidding process, select not less than twenty-five sites to be designated Energy Analysis and Diagnostic Centers. The sites shall be educational institutions such as universities, engineering and technical schools, and other institutions of higher learning with demonstrable capability to—

(A) perform energy audits for qualifying industrial facilities designed to assist such facilities to reduce their energy consumption and improve the efficiency of their energy usage;

(B) provide detailed reports to the qualifying industrial facility identifying energy conservation and efficiency opportunities; and

(C) provide such other service as the Secretary deems appropriate.

(e) DISSEMINATION OF INFORMATION.—Not less than every twelve months, the administering institutions shall synthesize from the reports of the Energy Analysis and Diagnostic Centers and make publicly available information concerning significant energy conservation opportunities: *Provided, however*, That all proprietary information shall be kept confidential.

SEC. 6223. ENERGY AUDIT TEAMS.—(a) ESTABLISHMENT.—The Secretary shall assemble from existing personnel with appropriate expertise, and with particular utilization of the national laboratories, and make available to all Federal agencies, one or more energy audit teams which shall be equipped with instruments and other advanced equipment needed to perform energy audits of Federal facilities. Particular attention shall be given to exploiting expertise and resources that are not generally available in the private sector.

(b) MONITORING PROGRAMS.—The Secretary shall also assist in establishing, at each site that has utilized an energy audit team, a program for monitoring the implementation of energy efficiency improvements based upon energy audit team recommendations, and for recording the operating history of such improvements.

SEC. 6224. GOVERNMENT CONTRACT INCENTIVES.—(a) ESTABLISHMENT OF CRITERIA.—Each agency, in consultation with the Federal Acquisition Regulations Council, shall establish criteria for the improvement of energy efficiency in Federal facilities operated by Federal Government contractors or subcontractors.

(b) UTILIZATION OF CRITERIA.—To encourage Federal contractors, and their subcontractors, which manage and operate federally-owned facilities, to adopt and utilize energy conservation measures designed to reduce energy costs in Government-owned and contractor-operated facilities and which are ultimately borne by the Federal Government. Each agency head shall utilize the criteria developed under subsection (a) in all cost-plus-award-fee contracts.

Subtitle C—Utilities

SEC. 6301. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES AND STUDY OF CERTAIN STATE RATEMAKING POLICIES.—(a) AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.—The Public Utility Regulatory Policies Act of 1978 (Public Law 95-617), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(7) ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES.—

"(A) The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources and other demand side management measures are at least as profitable, taking into account income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generating equipment: *Provided*, That such energy conservation, energy efficiency resources and other demand side management measures are appropriately monitored and evaluated.

"(B)(i) The rates allowed to be charged by a State-regulated electric utility shall be such that the utility is encouraged to make investments and expenditures for all cost-effective improvements in the energy efficiency of power generation, transmission and distribution.

"(ii) For purposes of meeting the standard provided in clause (i) of this subparagraph, each State regulatory authority shall consider the disincentives caused by existing ratemaking policies, as well as incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution technologies.

"(C)(i) Each State regulatory authority shall require each electric utility for which it has ratemaking authority to employ a planning and selection process for new energy resources that evaluates the full range of alternatives, including new power supplies, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(ii) All plans or filings before a State regulatory authority to meet the requirements of clause (i) of this subparagraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

"(iii) For purposes of clause (i) of this subparagraph, the term "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

"(D) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Energy Security Act of 1992.".

(b) The Public Utility Regulatory Policies Act of 1978 is further amended by inserting the following new paragraph at the end of subsection 111(c):

"(3) If a State regulatory authority implements a standard established by subsection (d)(7), such authority shall (A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and (B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) REPORT.—Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities require or permit rates charged by an electric utility to reflect least-cost planning;

(2) an evaluation by the Secretary of whether, and to what extent, least-cost planning is likely to result in—

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources; and

(3) an evaluation by the Secretary of whether, and to what extent, ratemaking methodologies implementing least-cost planning adequately take into account the impact of such measures on electric utilities' costs, operations, and rate of return on investment.

(4) an analysis by the Federal Trade Commission of the competitive impact of implementation of energy conservation, energy efficiency and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation or servicing of similar energy conservation, energy efficiency or other demand side management measures and whether any unfair, deceptive or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

(d) DEFINITION.—For purposes of subsection (b), the term "least-cost planning" means any standard, regulation, practice, or policy by which a State regulatory authority considers, or requires a State regulated electric utility to consider or implement, a plan for action (including, but not limited to, the construction of or purchase of electric energy from new generation facilities and investment in or expenditures for conservation, energy efficiency resources, or other demand-side management measures) to be taken by a State regulated electric utility

for purposes of providing adequate and reliable service to its electric customers with the incurrence of lowest costs by such utility and its customers.

SEC. 6302. CONSERVATION GRANTS TO STATE REGULATORY AUTHORITIES.—(a) CONSERVATION GRANTS.—The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $500,000 per authority, for purposes of encouraging the consideration of conservation, energy efficiency resources and other demand side management measures as a mechanism for modifying future electricity demand. Such grants may be utilized by a State regulatory authority to provide financial assistance to subgrantees of the Department of Energy's Weatherization Assistance Program to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine least-cost planning.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section. Such actions—

(1) shall include procedures to facilitate the participation of subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authority to examine least-cost planning, and

(2) may include provision for utility coverage of the costs of such subgrantees participation in such proceedings.

(c) SECRETARIAL ACTION.—In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority—

(1) to consider implementation of the ratemaking standard established in section 111(d)(7) of the Public Utility Regulatory Policies Act of 1978; and

(2) to achieve the purposes of this section.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) RULES.—The Secretary may prescribe such rules as may be necessary or appropriate for carrying out the provisions of this section.

(f) DEFINITIONS.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as defined in section 3 of the Public Utility Regulatory Policies Act of 1978.

(g) AUTHORIZATION.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6303. INTEGRATED RESOURCE PLANNING BY CUSTOMERS OF POWER MARKETING ADMINISTRATIONS.—(a) IN GENERAL.—Within six months after the date of enactment of this Act, the Southwestern Power Administration and the Southeastern Power Administration (hereinafter PMAs) shall each initiate a proceeding for purposes of considering the adoption of a requirement that each long-term firm power service contract entered into or amended subsequent to one year from the date of enactment of this Act between a nonregulated electric utility and such PMA contain an article requiring such utility to develop and implement to the extent practicable an integrated resource planning program. For purposes of this section—

(1) A "long-term firm power service contract" shall mean any contract for the sale by a PMA of firm capacity, with or without energy, which is to be delivered over a period of more than one year;

(2) The term "non-regulated electric utility" shall have the same meaning as provided in section 3(9) of the Public Utility Regulatory Policies Act of 1978. In the case of a contract between a PMA and a joint action agency or similar entity, the term shall include the entity's distribution or user members; and

(3)(A) An "integrated resource planning program" shall be one under which a nonregulated utility engages in a planning and selection process for new energy resources that evaluates the full range of alternatives, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk, and shall treat demand and supply resources on a consistent and integrated basis.

(B) For purposes of this paragraph, the term "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(b) CONSIDERATIONS.—As part of a proceeding under subsection (a), each PMA shall consider a requirement that each contract article referred to in subsection (a) shall—

(1) require the nonregulated electric utility to establish an integrated resource planning program with specific goals;

(2) contain time schedules for meeting program goals and delineate actions to be taken in the event such goals are not met. Such actions may provide (A) for suspension of capacity and energy deliveries that would otherwise be supplied to the nonregulated electric utility under such contract, (B) for liquidated damages, and (C) for termination of such contract if compliance is not achieved within the period stated in such contract; and

(3) provide for review and modification of such program by the nonregulated utility every three years.

(c) PROCEDURES.—A proceeding under subsection (a) shall be conducted in accordance with the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553). Nothing in this section shall require a PMA to adopt either in whole or in part the requirements for contract articles described in subsections (a) and (b). To the extent that a PMA decides to adopt in whole or in part such requirements in a proceeding under subsection (a), it shall promulgate regulations implementing such requirements as part of the same proceeding.

(d) DETERMINATIONS.—If the Secretary determines that a PMA has conducted or is in the process of conducting, as of the date of enactment of this section, a proceeding that meets the requirements of this section, such PMA shall not be required to initiate a new proceeding, and the requirements of this section shall be deemed satisfied with respect to such PMA.

(e) EXCEPTION.—Nothing in this section shall authorize a PMA to require an article as described in subsection (b) of this section in a utility's long-term firm power services contract if any Federal agency requires such utility to prepare an integrated resource planning program.

SEC. 6304. TENNESSEE VALLEY AUTHORITY INTEGRATED RESOURCE PLANNING AND IMPLEMENTATION.—(a) IN GENERAL.—In the exercise of its functions the Tennessee Valley Authority shall employ an integrated resource planning program.

(b) DEFINITIONS.—For the purposes of this section the term: (1) "integrated resource planning program" shall be a program under which the Tennessee Valley Authority engages in a planning and selection process for new energy resources that evaluates the full range of existing and incremental resources, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis; and (2) "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) ASSISTANCE TO DISTRIBUTORS.—The Tennessee Valley Authority shall implement the provisions of this section in cooperation with its distributors and shall provide appropriate assistance to them. Such assistance may include publications, workshops, conferences, one-on-one assistance, equipment loans, technology-assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy-efficiency and renewable energy options and programs to customers.

(d) PUBLIC COMMENT.—Prior to the selection and addition of major new energy resources on the TVA system, TVA shall provide the public an opportunity for review and comment in the selection process.

Subtitle E—State, Local Insular, and Tribal Energy Assistance

SEC. 6501. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—(1) The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (Public Law 93-577), may grant financial assistance to Insular area governments or private sector persons working in cooperation with Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the Insular areas on imported fuels and promote development in the Insular areas.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, the affected local energy institutions.

(3) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to development or the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project.

(4) The Secretary shall require at least 20 per centum of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) DEFINITIONS.—For the purpose of this section, the term—

(1) "Insular area government" means American Samoa government, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Federated States of Micronesia, Government of Guam, Republic of the Marshall Islands, Republic of Palau, and United States Virgin Islands; and

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (Public Law 96-597, as amended).

SEC. 6502. STATE BUILDINGS ENERGY INCENTIVE FUND.—Title III, part D, of the Energy Policy and Conservation Act (Public Law 94-163) is amended as follows:

(a) Designate the existing text of subsection 365(f) as paragraph (1) and insert the following new paragraph (2):

"(2) In addition to the amounts authorized to be appropriated under paragraph (1), there is authorized to be appropriated such sums as may be necessary, to remain available until expended, to carry out the purposes of section 363(f)."; and

(b) at the end of section 363 add the following new subsection (f):

"(f) If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within the State, then beginning in fiscal year 1993, the Secretary may allocate funds appropriated pursuant to section 365(f)(2) to provide up to $1,000,000 to such State for deposit into a state revolving fund designed to finance energy efficiency improvements in State and local government buildings in such State. In making this determination the Secretary shall consider whether—

"(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, have adopted building codes at least as stringent as the industry voluntary building energy code as defined under title III of this Act;

"(2) such State has a program to finance energy efficiency improvement projects in State and local government facilities and buildings that includes a revolving fund to finance such projects; and

"(3) such State has raised funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions, sufficient to provide at least 75 percent of the total funds provided for deposit into such revolving fund.".

SEC. 6503. PRIVATE SECTOR INVESTMENTS IN LOW INCOME WEATHERIZATION.—Title IV of the Energy Conservation and Production Act (ECPA) (Public Law 94-385) is amended by adding the following new sections 414A and 414B:

"SEC. 414A. PRIVATE SECTOR INVESTMENTS.—(a) IN GENERAL.—The Secretary shall provide financial assistance to recipients of Federal financial assistance or financial assistance from States pursuant to sections 413 and 414 of this title to pay for the costs of the development and the initial implementation of partnerships, agreements or other arrangements with utilities, private sector interests or other institutions, pursuant to which financial assistance would be made available to make energy conservation improvements in low income housing. Financial assistance provided by the Secretary under this section may be used for the negotiation of partnerships, agreements and other arrangements; the presentation of arguments before State or local agencies; expert advice on the development of partnerships, agreements and other arrangements; or other activities reasonably associated with the development and initial implementation of such arrangements.

"(b) CONDITIONS.—Financial assistance provided under this section to institutions other than States shall, to the extent practicable, coincide with the timing of awards such institutions are receiving under sections 413 or 414 of this title. No less than 80 percent of the funds awarded under this section shall be provided to entities other than states. Recipients of assistance under this section shall have up to three years to carry out projects undertaken with such assistance.

"(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"SEC. 414B. TECHNICAL TRANSFER GRANTS.—(a) IN GENERAL.—The Secretary may provide financial assistance to recipients of Federal financial assistance or financial assistance from States pursuant to sections 413 and 414 of this title for the purpose of: evaluating technical and management measures which increase program and/or private entity performance in weatherizing low income housing; producing technical information for use by persons involved in weatherizing low income housing; exchanging information; and conducting training programs for persons involved in weatherizing low income housing. No less than 50 percent of the funds granted under this section shall be provided to entities other than states. Recipients of technical transfer grants may assign all or part of work under the grants to non-profit entities.

"(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 6504. TRAINING OF BUILDING DESIGNERS AND CONTRACTORS.—Section 362 of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new paragraph at the end of subsection (d):

"(15) programs to provide training and education to building designers and contractors involved in building design or in the sale, installation and maintenance of energy systems and equipment. Such programs shall (A) enlist appropriate trade and professional organizations in the development and financing of this program; and (B) shall also include training workshops, practice manuals, and testing for each area of energy efficiency technology. Designers and contractors who have successfully completed a training course operated pursuant to this section shall be presented a certificate of completion at the end of such course.".

SEC. 6505. ENERGY EDUCATION AND TEACHER TRAINING.—Section 363 of the Energy Policy and Conservation Act (Public Law 94-163) is amended by adding the following new subsection:

"(f) ENERGY EDUCATION GRANTS.—(1) The Secretary shall provide competitive grants to supplement state program activities conducted pursuant to section 362(d)(4) to support projects designed to increase public awareness and understanding of energy issues, or to train educators to use existing energy related information for teaching purposes. The Federal contribution toward such projects may not exceed 75 percent of their total cost.

"(2) There is authorized to be appropriated such sums as may be necessary to implement the provisions of this section.".

SEC. 6506. TRIBAL GOVERNMENT ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act (Public Law 93-577), may grant financial assistance to tribal governments, or private sector persons working in cooperation with tribal governments, to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy projects to include research and research facilities on tribal lands. Such grants may include the costs of technical assistance in resource assessment, feasibility analysis, technology transfer, and the resolution of other technical, financial or management issues identified by the applicants for such grants.

(b) CONDITIONS.—Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, local educational institutions and the affected local energy institutions.

(c) CONSIDERATIONS.—In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(1) the extent of involvement of local educational institutions and local energy institutions;

(2) the ease and costs of operation and maintenance of any project contemplated as a part of the project;

(3) whether the measure will contribute significantly to development or the quality of the environment of the affected tribal lands; and

(4) any other factors which the Secretary may determine to be relevant to a particular project.

(d) COST-SHARE.—With the exception of grants awarded for the purpose of feasibility studies and research programs, the Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources, unless the grant recipient is a for-profit private sector institution, in which case the Secretary shall require at least 50 percent of the costs of any project to be provided from non-Federal sources.

(e) DEFINITION.—For the purposes of this section—

(1) The term "tribal government" shall include Native Alaskan governments.

(2) The term "private sector person" shall include a consortium of Universities coordinated through Northern Arizona University.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the development and implementation phase of the program established by this section.

SEC. 6507. STATE ENERGY CONSERVATION PLAN REQUIREMENT.—Section 362 (c)(5) of the

Energy Policy and Conservation Act (Public Law 94-163) is amended by striking the semicolon and the word "and" and inserting in lieu thereof the following: "and to turn such vehicle left from a one-way street onto a one-way street at a red stop light after stopping; and".

SEC. 6508. USE OF SOLAR THERMAL WATER HEATERS FOR LOW INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)(E)) is amended by inserting a new clause as follows and relettering accordingly: "solar thermal water heaters".

SEC. 6509. BUILDING RETROFIT STANDARDS.—(a) Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by renumbering paragraph (13) as paragraph (14) and inserting before the "; and" in paragraph (12) a new paragraph (13) as follows:

"(13) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of the building;".

(b) Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended by adding a new subsection (f) as follows:

"(f) Technical assistance pursuant to subsection (a) may include: (i) reports on experience with existing retrofit programs; and (ii) model State laws and proposed regulations relating to the development of building retrofit standards and regulations, including retrofit ordinances.".

SEC. 6510. USE OF WOOD-BURNING HEATING APPLIANCES FOR LOW INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended by inserting the following new clause and relettering accordingly:

"( ) wood-heating appliances".

SEC. 6511. PROMOTING ENERGY RESOURCE DEVELOPMENT AND ENERGY VERTICAL INTEGRATION ON INDIAN RESERVATIONS.—(a) DEMONSTRATION PROGRAMS.—The Secretary of Energy, in conjunction with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes that wish to achieve self-determination in the energy area and that wish to promote the development of a vertically integrated energy industry on their reservations, in order to increase development of the substantial energy resources located on Indian reservations. Said program shall include but not be limited to the following components:

(1) The Secretary shall provide development grants to tribal governments to assist them to establish the legal and governmental infrastructure and obtain the managerial and technical capability they need to develop the energy resources on their reservations by themselves or through 51 per centum or more tribally owned and controlled joint ventures. Each grant shall be for a period of three years.

(2) The Secretary shall provide matching grants, not to exceed 50 per centum of the project costs, for projects located on Indian reservations that promote the vertical integration of the energy resources on Indian reservations, including but not limited to—oil refineries, the generation of electricity, natural gas distribution, and innovative uses of coal.

(3) The Secretary shall provide technical assistance and such other assistance as is appropriate to tribes on energy resource development and on the vertical integration of reservations energy resources.

(b) AUTHORIZATIONS.—There is hereby authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of subsection (a)(1) and $10,000,000 for each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a)(2).

Subtitle F—LIHEAP Options Pilot Program

SEC. 6601. SHORT TITLE.—This subtitle may be cited as the "Energy Options Study Act of 1992".

SEC. 6602. STUDY.—(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall conduct a study of the potential use of LIHEAP funds to purchase futures or options contracts for fuel through registered commodities brokers.

(1) The study shall examine any potential advantages of the use of such funds including—

(A) protection for Federal, State and local government entities which provide low-income fuel assistance from unanticipated surges in the price of fuel for residential use;

(B) more efficient use of such funds; and

(C) more fuel assistance for low-income persons without an increase in Federal expenditures.

(2) The study shall examine any potential disadvantages of the use of such funds including reduction in funds available for fuel assistance, and waste, fraud, or abuse.

(3) The study shall further examine—

(A) the extent to which new authority would be needed for the use of such funds;

(B) the extent to which the use of such funds would conflict with existing law governing the Federal budget;

(C) the extent to which the use of futures and options on futures could provide effective protection for consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk for residential use) from unanticipated surges in the price of fuel; and

(D) how government entities and consumer cooperatives or other organizations referred to in subparagraph (C) of this section could be educated in the prudent use of futures and options on futures to maximize their purchasing effectiveness and protect themselves against unanticipated surges in the price of fuel for residential use.

(b) REPORT.—The Secretary, no later than 12 months after the date of enactment of this Act, shall transmit the study required in this section to the Committee on Labor and Human Resources of the United States Senate, the Committee on Energy and Natural Resources of the United States Senate, and the United States House of Representatives.

SEC. 6603. AUTHORITY FOR PILOT PROGRAMS.—(a) PILOT PROGRAM.—The Secretary, in consultation with the Secretary of Energy, may conduct a pilot program in cooperation with one or more governmental or tribal recipients of funds in which the recipient uses futures and options on futures in its fuel assistance program with the advice of the Secretary.

(b) EDUCATION.—The Secretary, in consultation with the Secretary of Energy, may conduct a pilot program to educate governmental entities and consumer cooperatives or other organizations referred to in subparagraph (a)(3)(C) of section 6602 of this subtitle on the prudent and effective use of futures and options on futures to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(c) AUTHORIZATION.—There is authorized to be appropriated for fiscal years 1992, 1993, and 1994, such sums as may be necessary to carry out the purposes of this section.

SEC. 6604. DEFINITIONS.—For purposes of this subtitle the terms—(1) "Secretary" means the Secretary of Health and Human Services.

(2) "LIHEAP funds" means funds appropriated under the Low-Income Energy Assistance Act of 1981 (Public Law 97-35; 42 U.S.C. 8621 et. seq.).

SEC. 6605. SUSTAINABLE ENERGY TRANSITION PILOT PROGRAM.—Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) is amended by adding at the end the following new section:

"SEC. 367. SUSTAINABLE ENERGY TRANSITION PILOT PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall provide financial and technical assistance to not more than four States, or regional consortia of States, to prepare State or regional sustainable energy transition strategies in accordance with subsection (b). If practicable, the Secretary shall require the submission of completed strategies not later than 2 years after the date of the award of any financial assistance under this section.

"(2) SELECTION.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations setting forth procedures and criteria for the selection of States and regional consortia that will participate in the sustainable energy transition pilot program established by this section.

"(B) CRITERIA.—In carrying out subparagraph (A), the Secretary—

"(i) may require such applications as the Secretary considers appropriate;

"(ii) shall consider the ability of each applicant to prepare a sustainable energy transition strategy; and

"(iii) shall attempt to obtain regional diversity among the selected applicants.

"(3) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall transmit a report detailing the Secretary's plan for conducting the pilot program to the on Energy and Natural Resources of the Senate and the House of Representatives.

"(4) SUPPORT BY THE SECRETARY.—The Secretary may provide financial and technical support for the formation of regional consortia and consultative bodies , as necessary to carry out the purposes of this section.

"(b) CONTENT GUIDELINES.—

(1) IN GENERAL.—Each sustainable energy transition strategy shall consist of a strategy under which the State or regional consortium shall—

"(A) propose policies to increase—

"(i) energy efficiency in the residential, commercial, industrial, and transportation sectors; and

"(ii) the proportion of energy supplied to these sectors from renewable sources; and

"(B) establish long-term (20-year) energy efficiency and renewable supply goals that seek to achieve the maximum technologically feasible energy efficiency and renewable energy production levels that are economically justified.

"(2) EVALUATION AND PROGRAM.—

"(A) EVALUATION.—Each sustainable energy transition strategy shall be based on a comprehensive evaluation that shall include—

"(i) an assessment of the baseline energy use within the State or region, categorized by energy consuming sector for the most recent year feasible;

"(ii) an assessment of the technical potential for improving energy efficiency and increasing the proportion of energy from renewable energy sources;

"(iii) an assessment of alternative plans for achieving the maximum potential for en-

ergy efficiency and renewable energy sources,

"(iv) an assessment of the existing barriers and incentives to improving energy efficiency and expanding renewable energy supply, including utility rates and other financial structures; and

"(v) an assessment of the social, economic, environmental, employment, and other impacts of the alternative plans examined.

"(B) PROGRAM.—Each sustainable energy transition strategy shall include the following:

"(i) A proposed program for achieving, or exceeding, the energy goals established, under paragraph (1)(B) and, over the 5-year period beginning 2 years after the date of the enactment of this section. In developing the program, the State or regional consortium shall specifically consider—

"(I) investments in locally available renewable energy supplies, energy efficiency and conservation, utility and transportation infrastructure, district heating and cooling, renewable energy and energy efficiency infrastructure, waste minimization, and recycling;

"(II) education and technical demonstration projects, public utility regulatory policies, transportation management and planning, education and training, and other programs that affect the development and adoption of energy technologies;

"(III) employment transition programs and policies for both individuals and communities affected by the transition to new energy sources, the depletion of fossil fuel resources, or other related economic changes; and

"(IV) other programs that the State or regional consortium considers appropriate to achieve the goals and purposes of this section.

"(ii) A proposal for evaluating the State's or regional consortium's progress towards achieving the goals of its sustainable energy transition strategy, including the quantitative measures of to be employed to evaluate the success and failure of specific programs and projects undertaken as part of the strategy.

"(3) CONSIDERATION OF COSTS.—In developing the sustainable energy transition strategy, the State or regional consortium shall evaluate, for the various technological options considered, their life cycle costs and the costs of compliance with environmental, public health, and other relevant laws and regulations considered likely to be imposed over the 20 years study period.

"(c) DEVELOPMENT AND SUBMISSION.—

"(1) IN GENERAL.—Except as otherwise provided in a regional consortium agreement, each sustainable energy transition strategy shall be developed and submitted by the State agency, or division of the agency, responsible for developing State energy conservation plans pursuant to section 364.

"(2) CITIZENS ENERGY COUNCILS.—Each State or regional consortium that prepares a sustainable energy transition strategy shall establish an advisory council to provide opportunities during the preparation of its strategy for participation by representatives of a wide range of social, economic, and community interests affected by the State's or regional consortium's sustainable energy transition strategy. Council members may receive financial assistance from the funds provided under this section only for travel and reasonable per diem expenses incurred in an official capacity.

"(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 6606. GRANTS TO STATES TO PROMOTE UTILITY INDUSTRIAL EFFICIENCY PROGRAMS.—(a) DEFINITIONS.—For the purpose of this section—

(1) the term "covered industry" means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term "industrial audit" means—

(A) identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

(i) improving energy efficiency;

(ii) reducing environmental waste; and

(iii) technological improvements designed to increase competitiveness and achieve cost-effective product quality enhancement;

(B) identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and building envelope systems operating outside of the production process; and

(C) the identification of opportunities for using renewable energy technology both in the production process and in the systems described in subparagraph (B);

(3) the term "Secretary" means the Secretary of Energy; and

(4) the term "Utility" means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy.

(b) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary may make grants to States which pursuant to State law, (A) require utilities to provide financial and technical assistance to covered industries; and (B) offer incentives to utilities for providing such assistance.

(2) ELIGIBILITY CRITERIA.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall establish eligibility criteria for grants awarded under subsection (a). Such criteria shall require a State applying for a grant to demonstrate that such State, by State legislation or regulation—

(A) requires utilities to provide to covered industries served—

(i) industrial energy audits; and

(ii) financial incentives for implementing energy efficiency improvements; and

(B) allows utilities providing such assistance to—

(i) recover the costs of providing industrial audits; and

(ii) receive a reasonable rate of return on financial incentives provided.

(3) USE OF FUNDS.—Grants made pursuant to this section shall be used by a State to—

(A) make available to covered industries, through appropriate institutions such as Universities, nonprofit organizations, State and local government entities, and technical centers, information on energy efficient technologies;

(B) establish programs to train individuals in industrial energy audits; and

(C) assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers.

(4) ALLOCATION OF FUNDS.—Grants made pursuant to this section shall be allocated each fiscal year among States meeting the criteria of subsection (b) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each such State's share of value added in industry (as determined by the Census of Manufacturers) as a percentage of the value added by all such States.

(5) COORDINATION WITH ENERGY ANALYSIS AND DIAGNOSTIC CENTERS.—In carrying out the functions described in subsection (c), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Design Centers of the Department of Energy.

(c) OTHER FEDERAL ASSISTANCE.—DIRECTORY.—The Secretary shall establish a nationwide directory of organizations experienced in emerging energy efficiency and waste reduction technologies. Such directory shall be made available to interested parties.

(d) REPORTS.—

(1) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report which—

(A) identifies barriers encountered in implementing the Act;

(B) makes recommendations for overcoming such barriers; and

(C) documents the results achieved as a result of the programs established and grants awarded pursuant to this Act.

(2) OTHER REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report which reviews any difficulties encountered by industry in implementing energy efficiency improvements recommended as a result of programs established pursuant to this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

Subtitle G—Consultative Commission on Western Hemisphere Energy and Environment

SEC. 6701. FINDINGS.—The Congress finds that—

SUBTITLE F—CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT

(1) there is growing mutual economic interdependence among the countries of North America and the Western Hemisphere;

(2) energy and environmental issues are intrinsically linked and must be considered together when formulating policy on the broader issue of sustainable economic development for each of these countries and for the Western Hemisphere as a whole;

(3) when developing their respective energy infrastructures, countries in the Western Hemisphere must account for existing and emerging environmental constraints, and do so in a way that results in sustainable long-term economic growth;

(4) the coordination of respective national energy and environmental policies of the governments of Canada, Mexico, Venezuela, the United States and, as appropriate, other countries in the Western Hemisphere could be substantially improved through regular consultation among these countries;

(5) the development, production and consumption of energy can affect environmental quality, and the environmental consequences of energy-related activities are not confined within national boundaries, but are regional and global in scope;

(6) Although the Western Hemisphere is richly endowed with indigenous energy resources, an insufficient energy supply would

severely constrain future opportunities for sustainable economic development and growth in each of these countries;

(7) the energy sectors of the economies of Canada, Mexico, Venezuela, the United States and other energy producing countries of the Western Hemisphere are interdependent;

(8) the energy markets of the United States are linked with those in other countries of the Western Hemisphere and the world.

SEC. 6702. CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT.—(a) DEFINITIONS.—For purposes of this subtitle—

(1) "Commission" means the Consultative Commission on Western Hemisphere Energy and Environment; and

(2) "participating governments" refers to the governments of Canda, Mexico, Venezuela, the United States of America, and, as deemed appropriate by the President, other Western Hemisphere countries.

(b) NEGOTIATIONS.—The President is authorized and directed to initiate negotiations with the participating governments for the establishment of a multinational Consultative Commission on Western Hemisphere Energy and Environment.

(c) OBJECTIVES OF NEGOTIATIONS.—In the course of the negotiations, the President is encouraged to meet the following purposes—

(1) the objectives of the Commission shall be—

(A) to evaluate from the viewpoint of North America and the Western Hemisphere as a whole, the energy and environmental situations, trends and policies of the countries of the participating governments necessary to support sustainable economic development;

(B) to recommend to the participating governments actions, policies and institutional arrangements that will enhance cooperation and policy coordination among their respective countries in the future development and use of indigenous energy resources and technologies, and in the future development and implementation of measures to protect the environment of the Western Hemisphere; and

(C) to recommend to the participating governments actions and policies that will enhance energy and environmental cooperation and coordination among the countries of the Western Hemisphere and the world;

(2) the Commission shall include representatives of—

(A) the respective energy and environmental ministries or departments of the participating governments;

(B) the parliamentary or legislative bodies with legislative responsibilities for energy and environmental matters;

(C) other governmental and non-governmental observers appointed by the heads of each participating government on the basis of their experience and expertise; and

(D) a small secretariat chosen by the participating governments for their expertise in the areas of energy and the environment; and

(3) the Commission's authority—

(A) shall terminate five years from the date of the agreement under which it was created; and

(B) may be extended for a five-year term at the expiration of the previous term by agreement of the participating governments.

(d) REPORT.—The President shall, within one year of the enactment of this legislation, report to the Congress on the progress toward the establishment of the Commission and achievement of the purposes of this section.

TITLE VIII—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

SEC. 8101. SHORT TITLE.—This title may be cited as the "Civilian Advanced Nuclear Reactor Commercialization Act of 1992.".

SEC. 8102. FINDINGS, PURPOSES, AND DEFINITIONS.—(a) FINDINGS.—Congress finds that—

(1) energy generated from nuclear fission now supplants the burning of fossil fuels in an economical fashion and contributes substantially to safe and reliable supplies of electricity while reducing the rate and scope of environmental pollution and reducing dependence on foreign energy sources; and

(2) it is in the national interest for the Federal Government to provide leadership in encouraging advanced nuclear reactor technologies so that such technologies may be adopted as needed.

(b) PURPOSES.—The purposes of this title are to—

(1) require the Secretary to carry out the Department's civilian nuclear programs in a way that will lead toward commercialization of advanced nuclear reactor technologies; and

(2) authorize such activities to ensure the timely availability of advanced nuclear reactor technologies, including technologies that utilize standardized designs or exhibit passive safety features.

(c) DEFINITIONS.—For purposes of this title, the term—

(1) "advanced nuclear reactor technologies" means—

(A) advanced light water reactors that may be commercially available in the near-term, including but not limited to mid-sized, passively-safe reactors, for the generation of commercial electric power from nuclear fission;

(B) other advanced nuclear reactor technologies that may require prototype demonstration prior to commercial availability in the mid- or long-term, including but not limited to high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of commercial electric power from nuclear fission.

(2) "Commission" means the Nuclear Regulatory Commission;

(3) "Department" means the Department of Energy;

(4) "standardized design" means a design for a nuclear power plant that may be utilized for a multiple number of units or a multiple number of sites; and

(5) "certification" means approval by the Commission of a standardized design for a nuclear power plant.

SEC. 8103. PROGRAM, GOALS, AND PLAN.—(a) PROGRAM.—The Secretary shall carry out a comprehensive program in accordance with the provisions of this title to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost-effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, including consideration of the impact on the rate and scope of global climate change;

(2) utilize modular construction techniques;

(3) facilitate design, licensing, construction, and operation of a nuclear power plant using a standardized design;

(4) exhibit enhanced safety features; and

(5) incorporate features that advance the objectives of the Nuclear Nonproliferation Act by discouraging diversion of fissile material for use in nuclear weapons.

(b) GOALS.—(1) The program authorized under subsection (a) shall be designed to accomplish the following goals—

(A) completion of necessary research and development and first-of-a-kind engineering on advanced light water reactor technologies that will support commercialization of these technologies by 1995;

(B) development and submission for certification by the Commission by 1995 of completed standardized designs for advanced light water reactor technologies that the Secretary determines exhibit some or all of the characteristics set forth in subsection (a);

(C) completion of necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology that will support selection in 1996 of one or both of these two technologies, as appropriate, for prototype demonstration pursuant to section 8105; and

(D) commercialization of advanced reactor technologies capable of providing commercial electric power to a utility grid as soon as practicable but no later than the year 2010.

(2) The program authorized under subsection (a) shall be carried out to the maximum extent possible through cost-shared programs with the private sector.

(c) PROGRAM PLAN.—(1) Within ninety days after the date of enactment of this title, the Secretary shall prepare and submit to Congress a detailed five-year program plan to carry out the purposes of this title. The plan shall include schedule milestones, Federal funding requirements, and requirements for private sector cost-sharing necessary for meeting the goals of subsection (b).

(2) In preparing the plan, the Secretary shall take into consideration—

(A) the need for, and the potential for adoption in the future by electric utilities or other entities, of advanced nuclear reactor technologies that are available or under development for the generation of energy from nuclear fission;

(B) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of these advanced nuclear reactor technologies when they may be needed;

(C) how the Federal Government can work most effectively in cooperation with the private sector toward accomplishment of the goals laid out in subsection (b); and

(D) potential alternative funding sources for carrying out the purposes of this title.

(3) The plan under this section shall be updated annually, if necessary, to reflect any schedule slippage, funding shortfalls, or other circumstances that might impact the ability of the Secretary to fulfill the goals outlined in subsection (b).

(4) In preparing the plan required under this section, the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Commission and other interested parties.

SEC. 8104. COMMERCIALIZATION OF ADVANCED LIGHT WATER REACTOR TECHNOLOGY.—(a) CERTIFICATION OF DESIGNS.—In order to achieve the goal of certification of completed standardized designs by the Commission by 1995 as set forth in section 8103(b), the Secretary—

(1) shall conduct a program of technical and financial assistance to encourage the development and submission for certification of advanced light water reactor designs which, in the judgment of the Secretary, can be certified by the Commission by no later than the end of calendar year 1995;

(2) may enter into cooperative agreements with one or more private parties who agree to seek certification by the Commission of advanced light water reactor designs that further the purposes of section 8103(a); and

(3) may support through cost-shared agreements the engineering and research and development necessary to achieve certification of advanced light water reactor designs that further the purposes of section 8103(a).

(b) SECRETARY'S REPORT TO CONGRESS.—The Secretary shall transmit to Congress with its annual budget request a report describing progress in implementing this section and plans for the current and subsequent fiscal years.

(c) REPORT TO CONGRESS FROM THE COMMISSION.—The Commission shall transmit to Congress with its annual budget request a report describing progress in the certification of standardized advanced light water reactor designs, plans for the current and subsequent fiscal years, and resource requirements necessary to comply with the schedules established by the Commission.

SEC. 8105. PROTOTYPE DEMONSTRATION OF ADVANCED NUCLEAR REACTOR TECHNOLOGY.—(a) SOLICITATION OF PROPOSALS.—(1) Within three years after the date of enactment of this title, the Secretary shall solicit proposals to carry out the preliminary engineering design of one or more prototype advanced nuclear reactor technologies (other than an advanced light water reactor) necessary to support a decision on whether to recommend construction of a full-scale prototype demonstration utilizing such a technology to achieve the purposes of this title.

(2) The engineering design proposals under paragraph (1) shall be for prototype advanced nuclear reactors that—

(A) to the maximum extent practicable, exhibit the characteristics set forth in section 8103(a); and

(B) are of sufficient size to address the requirements for certification by the Commission of a completed standardized design for an advanced nuclear reactor technology.

(b) RECOMMENDATION.—(1) No later than January 31, 1996, the Secretary shall make a recommendation to Congress on whether to build one or more full-scale prototype demonstration reactors utilizing advanced nuclear technology developed by the Department under the program authorized by this title.

(2) Any recommendation to build a prototype demonstration reactor shall—

(A) specify a preferred technology or technologies;

(B) include detailed information on schedule milestones for licensing, construction, and operation; and

(C) estimate the funding requirements and specify the extent and nature of anticipated non-Federal support which shall be not less than 50 per centum of the costs of such demonstration.

(3) As part of the recommendation required under this section, the Secretary shall also submit to Congress any recommended changes in Federal statute or regulations that would improve the prospects of successful and timely licensing of any prototype demonstration reactor.

(c) SELECTION OF TECHNOLOGY.—Any technology selected by the Secretary for recommendation for prototype demonstration shall to the maximum extent possible exhibit the characteristics set forth in section 8103(a).

(d) OPPORTUNITY FOR PUBLIC COMMENT.—In developing the recommendation required under this section, the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Commission and other interested parties.

SEC. 8106. AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this title.

TITLE IX—NUCLEAR REACTOR LICENSING

SEC. 9101. SHORT TITLE.—This title may be cited as the "Nuclear Reactor Licensing Act of 1992".

SEC. 9102. COMBINED LICENSES.—Section 185 of the Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended by—

(1) adding "and Operating Licenses" after "Permits" in the catchline;

(2) adding a subsection designator "a." before "All"; and

(3) adding the following new subsection:

"b. After holding a public hearing under section 189 a. (1)(A) of this Act, the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 189 a. (1)(B).".

SEC. 9103. POST-CONSTRUCTION HEARINGS ON COMBINED LICENSES.—Section 189 a. (1) of the Atomic Energy Act of 1954 is amended by:

(1) adding a subparagraph designator "(A)" before "In" and

(2) adding the following new subparagraph:

"(B)(i) Not less than one hundred and eighty days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 185 b., the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within sixty days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

"(ii) A request for hearing under this subparagraph shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

"(iii) After receiving a request for a hearing under this subparagraph, the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

"(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under this subparagraph, and shall state its reasons therefor.

"(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within one hundred and eighty days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).".

SEC. 9104. RULEMAKING.—The Nuclear Regulatory Commission shall propose regulations implementing this title within one year of the date of enactment of this Act.

SEC. 9105. AMENDMENT OF A COMBINED LICENSE PENDING A HEARING.—Section 189 a. (2) of the Atomic Energy Act of 1954 is amended by inserting "or any amendment to a combined construction and operating license" after "any amendment to an operating license" each time it occurs.

SEC. 9106. JUDICIAL REVIEW.—Section 189 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended by inserting "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

SEC. 9107. CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by amending the item relating to section 185 to read as follows:

"Sec. 185. Construction Permits and Operating Licenses.".

SEC. 9108. EFFECT ON PENDING PROCEEDINGS.—The provisions of this title apply to all proceedings involving a combined license for which an application was filed after May 8, 1991.

TITLE X—URANIUM

Subtitle A—Uranium Enrichment

SEC. 10101. SHORT TITLE—This subtitle may be cited as the "Uranium Enrichment Act of 1992."

SEC. 10102. DELETION OF SECTION 161 V.—Section 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 10103. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

(a) inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

(b) adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides impor-

tant economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilites that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes:

"a. to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"b. to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"c. to market and sell enriched uranium and uranium enrichment and related services to—

"(1) the Department for governmental purposes; and

"(2) qualified domestic and foreign persons;

"d. to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"e. to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long-term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"f. to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"g. to maintain a reliable and economical domestic source of enrichment services;

"h. to conduct its activities in a manner consistent with the health and safety of the public;

"i. to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"j. to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition; *Provided*, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly-owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the Judgment Appropriation (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; Provided, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided in section 1404, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; *Provided*, however, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503 d., except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least thirty days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506 c. and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—

"a. There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility.

"b. (1) The specific responsibilities of the Corporate Board shall be to:

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"c. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

"d. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II

as provided in section 1504 b. The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504 b. during their term of employment, regardless of any recommendation received or not received under this title.

"e. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"f. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"g. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"h. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"i. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"j. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—

"a. Officers and employees of the Corporation shall be officers and employees of the United States.

"b. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: *Provided*, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503 d. and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"c. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (5 U.S.C. chapter 83, subchapter III) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (5 U.S.C. chapter 84). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"d. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"e. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"f. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"g. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further*, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided*, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as "AVLIS", technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States: *Provided*, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING.—

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided*, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING.—

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamina-

tion, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: *Provided, however*, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection a., amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505 a. at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: *Provided*, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.—

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152 or 153 b.(1) of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b.(1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commis-

sioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility under section 183 of title 35, United States Code with respect to secrecy orders imposed under section 181 of such title.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b. (3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.—

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection a. that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection b., the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection a. As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

"a. In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed beginning in fiscal year 1997 to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any State, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"b. Beginning in fiscal year 1997, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however*, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided*, That no payment shall be made to the extent that the tax would apply to a period prior to fiscal year 1997.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I.—

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS.—

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest. Nothing in this Act shall be considered to convey to any person other than the Corporation immunity from civil or criminal liability, or to create a defense to an action, under the antitrust laws.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful re-

straints and monopolies,' approved July 2, 1890 (15 U.S.C. 1-7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12-27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8-9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT.—

"a. Three years after enactment of this title, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection a., the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT.—

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402 j., such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection b.(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.—

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 10104. TREATMENT OF THE CORPORATION AS BEING PRIVATELY OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651-678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this subtitle, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 10105. MISCELLANEOUS PROVISIONS.—(a) AMENDMENT OF GOVERNMENT CORPORATIONS CONTROL ACT.—Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation.".

(b) OWNERSHIP OF ENRICHMENT PLANTS.—In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) TERMINATION OF AUTHORITY OF THE DEPARTMENT OF ENERGY.—In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) EXEMPTION FROM DEFENSE NUCLEAR FACILITIES SAFETY BOARD OVERSIGHT.—The Atomic Energy Act of 1954, as amended, is further amended in section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) EXEMPTION FROM GRAMM-RUDMAN-HOLLINGS ACT.—Subsection 905(g)(1) of Title 2, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) REPEAL OF PROHIBITION ON CONSIDERATION OF PRIVATIZATION.—Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100-202, is repealed.

(g) AVLIS LICENSING.—The last sentence of section 11 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended to read as follows: "Except with respect to the export of a uranium enrichment production facility or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.".

SEC. 10106. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 10107. SEVERABILITY.—If any provision of this subtitle, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this title, or the application of the same shall not be thereby affected.

SEC. 10108. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this subtitle shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this title; *Provided, however*, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501 a. of the Atomic Energy Act of 1954, as amended by this title.

SEC. 10109. PAYMENT OF COST OF TRANSFER.—(a) PAYMENT SUBJECT TO APPROPRIATION.—Notwithstanding section 1401 j. of the Atomic Energy Act of 1954 as amended by section 10103 of this title, any expense incurred by the Secretary or the Corporation in the course of setting up the Corporation or transferring the property or assets of the Department to the Corporation shall be subject to appropriation.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to pay the costs of setting up the Corporation and transferring the property and assets of the Department to the Corporation under this title.

Subtitle B—Uranium

PART 1—SHORT TITLE, FINDINGS AND PURPOSE, DEFINITIONS

SEC. 10211. SHORT TITLE.—This subtitle may be cited as the "Uranium Security and Tailings Reclamation Act of 1992."

SEC. 10212. FINDINGS AND PURPOSE.—(a) FINDINGS.—The Congress finds for purposes of this subtitle that—

(1) the United States uranium industry has long been recognized as vital to United

States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 percent drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing Nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901–7942)—

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners or licensees of active uranium and thorium sites and the Federal Government have each benefitted from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and,

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of parts 2 and 3 of this subtitle to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 10213. DEFINITIONS.—For purposes of this subtitle—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11e.(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of Title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

PART 2—URANIUM REVITALIZATION

SEC. 10221. VOLUNTARY OVERFEED PROGRAM.—(a) ESTABLISHMENT.—The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) FINANCIAL INCENTIVE.—The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) ADDITIONAL PARTICIPATION.—In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) USE OF DOMESTIC URANIUM.—An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this title or domestic uranium actually produced by a domestic uranium producer before the enactment of this title and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) IMPLEMENTATION.—Within ninety days of the date of enactment of this title, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery, reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 10222. NATIONAL STRATEGIC URANIUM RESERVE.—There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this title, use of the Reserve shall be restricted to military purposes and government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this title shall be restricted to military purposes.

SEC. 10223. RESPONSIBILITY FOR THE INDUSTRY.—(a) CONTINUING SECRETARIAL RESPONSIBILITY.—The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium: *Provided, however*, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of

Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b).

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 10224. GOVERNMENT URANIUM PURCHASES.—(a) USE OF DOMESTIC URANIUM.—After the date of enactment of this title, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: *Provided*, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this title.

(b) TVA EXEMPTION.—Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 10225. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.—The Secretary shall issue appropriate regulations to implement the purposes of this subtitle.

PART 3—REMEDIAL ACTION FOR ACTIVE PROCESSING SITES

SEC. 10231. REMEDIAL ACTION PROGRAM.—(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 10232 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this subtitle and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subparagraphs (A), (B) and (C) shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—*Provided however*, That (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 10233, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 10232. REGULATIONS.—The Secretary shall issue regulations governing reimbursement under section 10231. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 10231.

SEC. 10233. AUTHORIZATION.—There is authorized to be appropriated for purposes of this part not more than $300,000,000 increased annually as provided in section 10231 based upon an inflation index as determined by the Secretary.

PART 4—IMPORT OF URANIUM, ENRICHED URANIUM, AND URANIUM ENRICHMENT SERVICES

SEC. 10241. FINDINGS AND PURPOSES.—(a) FINDINGS.—The Congress finds that—

(1) the domestic uranium industry and the economic viability of the Federal uranium enrichment enterprise may be threatened by exports of uranium and enriched uranium from non-market economy countries at prices which represent less than the cost of producing uranium or enriching uranium; and

(2) the national security and defense interests of the United States require that appropriate actions be taken to assure that the nuclear energy industry in the United States does not become unduly dependent on foreign sources of uranium or uranium enrichment services.

(b) PURPOSES.—The purposes of this part are to—

(1) determine whether any uranium or enriched uranium is being exported by nonmarket economy countries at prices which represent less than the cost of producing such commodities; and

(2) provide for appropriate actions to assure the viability of the domestic uranium industry and the Federal uranium enrichment enterprise in order to protect the national security and defense interests of the United States.

SEC. 10242. DEFINITIONS.—For purposes of this part, the term—

(1) "Administrator" means the Administrator of the Energy Information Administration;

(2) "Federal uranium enrichment enterprise" means the uranium enrichment activities of the Department of Energy or the United States Enrichment Corporation; and

(3) "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer, except that for the purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have the same meanings as the terms have under section 3 of the Public Utility Regulatory Policies Act of 1978.

SEC. 10243. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.—(a) REPORT.—(1) Within 120 days of his receipt from the United States International Trade Commission of its report under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) assessing the impact on the domestic uranium enrichment industry of imports into the United States of enriched and non-enriched uranium and uranium enrichment services from the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, the President, or his designee, shall transmit to the Congress a report that includes—

(A) the views of the executive branch on the Commission's report; and

(B) what action, if any, the President plans to take in response to the Commission's report concerning the impact of transactions in enriched and non-enriched uranium and the provision of uranium enrichment services by the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, on the domestic uranium enrichment industry, including but not limited to the status of any negotiations with such countries in regard to such transactions and provision of services.

(2) Should the President determine that no action by the executive branch is necessary in response to the Commission's report, his report to the Congress shall include a detailed statement of the reasons for such determination, including an explanation of why the absence of action by the executive branch will not adversely affect the economic well-being of the domestic uranium enrichment industry.

(b) COOPERATION.—The Secretary, the Administrator, and the Secretary of Commerce shall cooperate fully with the United States International Trade Commission in its investigation under section 332(g).

SEC. 10244. URANIUM PURCHASE REPORTS.—(a) ANNUAL REPORTS.—By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) CONGRESSIONAL ACCESS.—The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) COUNTRY OF ORIGIN.—For the purposes of this section, the term "country of origin" means,

(1) with respect to uranium, that country where the uranium was mined, or

(2) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(3) with respect to enrichment services, that country where the enrichment services were performed.

SEC. 10245. REGULATORY TREATMENT OF URANIUM PURCHASES.—(a) ENCOURAGEMENT.—

The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this part, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium, or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) REPORT.—Within one year of the date of enactment of this part, and annually thereafter, the Secretary shall report to Congress on his progress in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this part.

(c) DEFINITION OF NON-AFFILIATE.—As used in this section, a seller is "non-affiliated" if it does not control, and is not controlled by or under common control with the buyer.

SEC. 10246. UNITED STATES PURCHASE OF ENRICHED URANIUM.—(a) AUTHORIZATION.—Subject to the limitations of subsection (b), the Secretary or the United States Enrichment Corporation is authorized to purchase enriched uranium from other sources of enriched uranium at prices below the production costs of the Department of Energy or the Corporation, respectively, if such purchases are necessary to reduce productions costs and maintain competitive prices.

(b) USE OF URANIUM.—If enriched uranium purchased by the Secretary or the United States Enrichment Corporation is used to supply enrichment customers, any uranium provided by such customers to the Secretary or the United States Enrichment Corporation as feed material may only be used for rebuilding uranium inventory or for overfeeding purposes.

TITLE XI—NATURAL GAS

SEC. 11101. OPTIONAL CERTIFICATE PROCEDURES.—(a) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—Section 7 of the Natural Gas Act, (15 U.S.C. 717f) is amended—

(1) by adding a new subparagraph (c)(1)(G) as follows—

"(G) Upon application the Commission shall issue a certificate of public convenience and necessity for the construction, extension and operation of facilities for the transportation or sale of natural gas without requiring a hearing or further proof that the public convenience and necessity would be served by those facilities: *Provided*, That, subject to the provisions of subsection (k) of this section, the requirements of subsections (i) and (j) of this section are met. Such a certificate shall be non-exclusive and non-prejudicial to any other authorization under the Natural Gas Act or the Natural Gas Policy Act of 1978.";

(2) by adding the following three subsections after subsection (h)—

"(i) For the purposes of subparagraph (c)(1)(G) of this section—

"(1) The Commission shall issue a certificate of public convenience and necessity only if it finds that the construction, extension and operation of facilities shall not impair any certificate holder's ability to render adequate service to its customers, and only if, in addition to any other terms the Commission may attach, the following terms and conditions are attached to such certificate to satisfy the following requirements—

"(A) No costs or expenses incurred in relation to the construction, extension and operation of facilities, or the sale of such facilities, covered by a certificate issued pursuant to subparagraph (c)(1)(G) of this section may be included in the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(B) The holder of a certificate issued pursuant to subparagraph (c)(1)(G) of this section shall not be required to credit any revenues received in relation to providing service under such certificate, or the sale of facilities authorized under such certificate, when determining the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(C) Notwithstanding section 15(a) of this Act, the holder of a certificate issued under subparagraph (c)(1)(G) of this section shall not participate in any proceedings (other than those it may subsequently initiate) for the construction, extension or operation of facilities that would serve the same market served by the facilities authorized by the holder's certificate issued under subparagraph (c)(1)(G) of this section.

"(D) Under such rules and regulations as the Commission may prescribe, the holder of a certificate issued under subparagraph (c)(1)(G) of this section shall file with the Commission within such time and in such form as the Commission may prescribe, and shall keep open in convenient form and place for public inspection, copies of all agreements required to be filed with the Commission pursuant to subsection (j) of this section.

"(E) The holder of a certificate issued under subparagraph (c)(1)(G) of this section shall maintain a separate system of books, accounts and records for the facilities and services authorized under such certificate.

"(2) The Commission shall assure that all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation or sales service utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section are negotiated at arms length.

"(3) The Commission shall provide reasonable public notice of the application for the issuance of a certificate of public convenience and necessity pursuant to subparagraph (c)(1)(G) of this section.

"(j) For purposes of subparagraph (c)(1)(G) of this section—

"(1) Not later than sixty days prior to the commencement of transportation or sales service pursuant to a certificate issued under subparagraph (c)(1)(G) of this section, or at such time as the Commission may find necessary and reasonable, the certificate holder shall file with the Commission copies of all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation or sales service utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section. Subsequent to the commencement of transportation or sales service utilizing facilities operated under a certificate issued under subparagraph (c)(1)(G) of this section, the certificate holder shall file with the Commission not later than ten days prior to the initiation of any new service utilizing facilities authorized under such certificate a copy of any new or amended agreement entered into by the certificate holder and any person, including any affiliate of the certificate holder, contracting for transportation or sales service utilizing facilities authorized under such certificate. The Commission shall keep and make available for public inspection all agreements required to be filed with the Commission pursuant to this paragraph.

"(2) The rates, charges, classifications or practices for the transportation or sale of natural gas contained in the agreements filed with the Commission pursuant to paragraph (j)(1) of this section shall be presumed to be just and reasonable. If, however, the Commission, after a hearing held upon the petition of a person who has made a bona-fide offer to enter into a contract, or who has entered into a contract, for the transportation or sale of natural gas utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section, finds that the failure to provide a requested rate, charge, classification, or practice in connection with the requested transportation or sale of natural gas through facilities constructed, extended or operated under a certificate issued under subparagraph (c)(1)(G) of this section is unjust, unreasonable, unduly discriminatory or preferential, the Commission, considering all relevant factors, shall determine the rates, charges, classification or practices which are not unjust, unreasonable, unduly discriminatory or preferential to be observed and in force with respect to the transportation or sale of natural gas to be provided to the petitioner, and shall fix the same by order; *Provided*, That the Commission may not order the requested service to the extent that it finds that capacity is not available. Unless the Commission issues a final order on a petition filed pursuant to this paragraph within one hundred and twenty days after it is filed, such petition shall be deemed denied.

"(k) In any case where a certificate providing for construction or extension of facilities under subparagraph (c)(1)(G) of this section is opposed by a local distribution company on grounds that such certificate would result in the displacement of a sale or transportation service being provided by such local distribution company, the Commission shall promptly set the matter for a hearing on the record and shall decide by final order on rehearing issued within 90 days of the filing of such opposition whether such construction or extension of facilities pursuant to the certificate would displace a sale or transportation service being provided by such local distribution company. If the Commission finds that such construction or extension of facilities would result in the displacement of a sale or transportation service being provided by such local distribution company, the application for a certificate of public convenience and necessity filed pursuant to subparagraph (c)(1)(G) of this section shall, at the option of the applicant, be deemed filed for consideration pursuant to subparagraph (c)(1)(A) of this section. For purposes of this subsection, the term "local distribution company" shall have the same meaning as in section 2(17) of the Natural Gas Policy Act of 1978, and a holder of a service area determination under section 7(f) of this Act shall be considered a local distribution company."; and

(3) by adding at the end of subsection (b) the following: "This subsection does not apply to any facility or service certificated pursuant to subparagraph (c)(1)(G) of this section.".

(b) NON-APPLICABILITY OF NATURAL GAS ACT SECTION 4 PROCEDURES.—Section 4 of the

Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (e)—

"(f) Subsections (c), (d) and (e) of this section do not apply to the transportation or sale of natural gas through facilities authorized by a certificate of public convenience and necessity issued under section 7(c)(1)(G) of this Act.".

(c) NON-APPLICABILITY OF NATURAL GAS ACT SECTION 5 PROCEDURES.—Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding the following after the period: "This subsection does not apply to any rate, charge, classification or practice by a natural-gas company in connection with the transportation or sale of natural gas through facilities authorized by a certificate issued under section 7(c)(1)(G) of this Act.".

SEC. 11102. TRANSPORTATION OF NATURAL GAS UNDER THE NGPA.—Section 311 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371) is amended by—

(a) striking "AUTHORIZATION OF CERTAIN SALES AND TRANSPORTATION " and inserting in lieu thereof "AUTHORIZATION OF CERTAIN SALES, TRANSPORTATION AND CONSTRUCTION";

(b) striking "Commission Approval of Transportation" and inserting in lieu thereof "Commission Approval of Transportation and Construction";

(c) striking paragraph (a)(1), and inserting in lieu thereof the following:

"(1) INTERSTATE PIPELINES.—

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of—

"(i) any intrastate pipeline,

"(ii) any local distribution company, or

"(iii) any other person including the interstate pipeline itself.

"(B) JUST AND REASONABLE RATES.—The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act).

"(C) NONDISCRIMINATORY TRANSPORTATION.—Any transportation authorized under subparagraph (A) shall not be unjust, unreasonable, unduly discriminatory or preferential (within the meaning of the Natural Gas Act).

"(D) CONSTRUCTION.—Upon sixty days notification to the affected State commission, an interstate pipeline may construct facilities for transportation service provided under this subsection: *Provided*, That construction under this subsection shall not occur in the event such construction would result in the displacement of a sale or transportation service being provided by a local distribution company, unless such local distribution company consents thereto. In any case where such construction is opposed by a local distribution company on grounds that such construction would result in the displacement of a sale or transportation service being provided by such local distribution company, the Commission shall promptly set the matter for hearing on the record and shall decide by a final order on rehearing issued within ninety days of the filing of such opposition whether the construction would displace a sale or transportation service being provided by such local distribution company. If the Commission finds that such construction would result in the displacement of a sale or transportation service being provided by such local distribution company, the interstate pipeline may file an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act for authority to construct or extend such facilities. Activities authorized under this paragraph are not subject to State regulation. For purposes of this subparagraph, a holder of a service area determination under section 7(f) of the Natural Gas Act shall be considered a local distribution company." and by

(d) striking subparagraph (a)(2)(A), and inserting in lieu thereof the following:

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline to transport natural gas on behalf of—

"(i) any interstate pipeline,

"(ii) any local distribution company served by an interstate pipeline, or

"(iii) any other person, including the intrastate pipeline itself, in interstate commerce (within the meaning of the Natural Gas Act).".

SEC. 11103. NEPA COMPLIANCE.—(a) MEMORANDA OF UNDERSTANDING.—The Commission and all relevant Federal agencies are directed to enter into memoranda of understanding which will establish procedures for a consolidated review to the fullest extent possible under the National Environmental Policy Act of 1969 of Federal actions affecting the authorization of natural gas facilities subject to the jurisdiction of the Commission.

(b) ENVIRONMENTAL IMPACT STATEMENTS.—Where environmental documents are prepared in connection with applications for authority to construct, extend or operate facilities under the Natural Gas Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work to prepare such environmental document. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(c) ENVIRONMENTAL ASSESSMENTS.—Where an environmental assessment is prepared in connection with applications for authority to construct, extend or operate facilities under this Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information forseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(d) ENVIRONMENTAL REVIEW.—Any environmental review undertaken by the Commission pursuant to the National Environmental Policy Act of 1969, or by a project sponsor must include those facilities subject to the Natural Gas Act and Natural Gas Policy Act of 1978, but will not include any related nonjurisdictional facilities unless the Commission's control and responsibility over those facilities is sufficient to cause the private action to become a Federal action. To determine whether sufficient control and responsibility by the Commission exists, the following factors must be considered:

(1) whether the regulated activity comprises merely a link in a corridor-type project;

(2) the extent of the nonjurisdictional facilities in the immediate vicinity of the regulated activity;

(3) the extent to which the entire project will be within the jurisdiction of the Commission; and

(4) the extent of cumulative Federal control and responsibility.

(e) As a part of a required NEPA review of proposed facilities, at the beginning, FERC shall meet with the applicant, other affected Federal, State and local agencies, affected Indian Tribes, if any, and other interested persons to identify issues to be analyzed and when serving as the lead agency, FERC may allocate assignments, and establish time frames necessary for the preparation of an Environmental Impact Statement (EIS).

(f) COMMUNICATIONS WITH THE COMMISSION.—The Federal Energy Regulatory Commission, within twelve months of the date of enactment of this Act, shall amend its rules governing ex parte communications to clarify that the prohibitions contained in such rules do not apply to communications between the Commission's environmental advisory staff and other Federal and State agencies that are cooperating agencies for purposes of compliance with title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331-35): *Provided*, That an accurate public record of all such communications shall be kept and made available, and any party to the proceeding with respect to which such communication was made may respond in writing to such communication.

SEC. 11104. RATES AND CHARGES.—(a) NOTICE OF CHANGES.—The first and third sentences of section 4(d) of the Natural Gas Act (17 U.S.C. 717c(d)) are amended by striking "thirty days' notice" and inserting in lieu thereof "sixty days' notice".

(b) JOINT RATES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following subsection after subsection (f), added by this title—

"(g) Under such rules and regulations as the Commission may prescribe to preclude anticompetitive conduct, natural-gas companies may jointly file with the Commission rates for the sequential transportation of natural gas through their facilities.".

(c) REPORTS TO CONGRESS.—

(1) REPORTS BY THE FERC.—Within six months of the date of enactment of this Act, the Federal Energy Regulatory Commission shall report to the Senate Committee on Energy and Natural Resources and the House of Representatives on the following—

(A) NATURAL GAS TRANSPORTATION.—The goals, objectives and results of the Commission's program for open access transportation of natural gas, the schedule for the program's complete implementation, and the Commission's criteria for—

(i) rate design reform;

(ii) comparability of service;

(iii) authorizing pipeline abandonment and defining pipeline service obligation; and

(iv) treatment of gas purchase contract buyout and buydown costs.

(B) PIPELINE MERCHANT FUNCTION.—The Commission's regulation under the Natural Gas Act (15 U.S.C. 717-17v) of interstate pipe-

line sale for resale activities (the merchant function) including—

(i) the implementation of gas inventory charges and the as-billed recovery of producer demand charges; and

(ii) the criteria for finding that market-based rates for interstate pipeline sales for resale can be deemed to be just and reasonable in circumstances where such sales are made in workably competitive markets, and given such a finding, the criteria for finding that profits and losses occasioned by such sales for resale should not be taken into account in setting the seller's rates for other services.

(C) NATURAL GAS RATEMAKING.—The Commission's criteria for establishing just and reasonable rates under section 4 of the Natural Gas Act—

(i) where the Commission finds that workable competition exists and comparable third-party transportation exists, including criteria for the establishment of market-based rates;

(ii) on a basis other than historical cost, including the criteria for incentive rates; and

(iii) to ensure that all throughout, under both long-term and short-term arrangements, is taken into account in the Commission's determination of used and useful plant for purposes of possible inclusion in rate base.

SEC. 11105. UTILIZATION OF RULEMAKING PROCEDURES.—The first sentence of section 403(c) of the Department of Energy Organization Act (42 U.S.C. 7173(c)) is amended to read as follows: "Any function described in section 402 of this Act which relates to the establishment of rates and charges under the Federal Power Act or to the establishment of rates and charges, the issuance of a certificate of public convenience and necessity, or the abandonment of facilities and services under the Natural Gas Act may be conducted by rulemaking procedures.".

SEC. 11106. REVIEW OF COMMISSION ORDERS.—(a) NATURAL GAS ACT AMENDMENTS.—

(1) REHEARING.—Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 19(b) of the Natural Gas Act (15 U.S.C. 717r(b)) is amended by striking the first and second sentences and inserting the following in lieu thereof: "Any party to a proceeding under this act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the circuit court of appeals of the United States for any circuit wherein the natural gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(b) NATURAL GAS POLICY ACT AMENDMENTS.—

(1) REHEARING.—Section 506(a)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(a)(2)) is amended by striking "Unless the Commission acts upon such application for rehearing within thirty days after it is filed, such application shall be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 506(a)(4) of the Natural Gas Policy Act (15 U.S.C. 3416(a)(4)) is amended by striking the first three sentences and inserting the following in lieu thereof: "Any person who is a party to a proceeding under this Act aggrieved by any final order issued by the Commission in such proceeding may obtain review of such order in the United States Court of Appeals for any circuit in which the party to which such order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. Review shall be obtained by filing a written petition, requesting that such order be modified or set aside in whole or in part, in such Court of Appeals within 30 days after the final action of the Commission on the application for rehearing required under paragraph (2). The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(c) FEDERAL POWER ACT AMENDMENTS.—

(1) REHEARING.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 313(b) of the Federal Power Act (16 U.S.C. 825l(b)) is amended by striking the first and second sentences and inserting the following in lieu thereof: "Any party to a proceeding under this Act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the Circuit Court of Appeals of the United States for any circuit wherein the licensee or public utility to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

SEC. 11107. LIMITED ANTITRUST RELIEF FOR INDEPENDENT GAS PRODUCER COOPERATIVES.—(a) DEFINITIONS.—For the purposes of this section, the term—

(1) "antitrust laws" shall mean the Federal laws defined in section 2(37) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(37));

(2) "independent producer" means any person whose natural gas production does not exceed 6 million cubic feet per day: *Provided*, That any person who is an interstate pipeline, intrastate pipeline or local distribution company, as defined in sections 2 (15), (16), and (17) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 (15), (16), (17)), or who is an affiliate of such person, as defined in section 2(27) of the Natural Gas Policy Act of 1978, (15 U.S.C. 3301(27)), may not be considered an independent producer for the purposes of this section; and

(3) "independent producer cooperative" shall mean any group of independent producers formed and operated for the purpose of pooling natural gas to enable the cooperative members to bargain effectively for the sale of the natural gas to any person: *Provided*, That such group is not formed or operated for the purpose of raising prices.

(b) LIMITED ANTITRUST RELIEF.—In any civil action under the antitrust laws, the formation or operation of an independent producer cooperative shall be legal if the procompetitive effects outweigh the anticompetitive effects.

(c) SCOPE.—Nothing in this section shall be construed to make it unlawful for an operator or working interest owner of a well, lease, field, plant or producing unit to market, on behalf of other working interest and royalty owners, the natural gas produced from such well, lease, field, plant or producing unit.

SEC. 11108. VEHICULAR NATURAL GAS JURISDICTION.—(a) NATURAL GAS ACT AMENDMENTS.—

(1) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended to add the following after subsection (c)—

"(d) The provisions of this Act shall not apply to any person by reason of, or with respect to, any sale or transportation of Vehicular Natural Gas if such person is (i) not otherwise a natural-gas company, or (ii) primarily subject to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of Vehicular Natural Gas.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended to add the following after subsection (9)—

"(10) 'Vehicular Natural Gas' means natural gas that is ultimately used as a fuel in a motor vehicle.".

(b) STATE LAWS AND REGULATIONS.—The transportation of natural gas in closed containers, or the sale of natural gas, by any person who is not otherwise a public utility to any person for use by such person as a fuel in a vehicle shall not be deemed to be a transportation or sale of natural gas within

the meaning of any State law, regulation or order in effect prior to January 1, 1989. The provisions of this section shall not apply to any State law, regulation or order that protects the public safety.

(c) NON-APPLICABILITY OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—

(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(4)) ("Act") solely because it owns or operates facilities used for the distribution at retail of vehicular natural gas.

(2) Notwithstanding section 11(b)(1) of the Act (15 U.S.C. 79k(b)(1)), a company registered under such Act solely by reason of direct or indirect ownership of voting securities of one or more gas utility companies, or any subsidiary of such company, may acquire or retain, in any geographic area, any interest in any company that is not a public utility company and which, as a primary business, is involved in the sale of vehicular natural gas or the manufacture, sale, installation, servicing, or financing of equipment related to the sale or consumption of vehicular natural gas.

(3) The sale or transportation of vehicular natural gas by a company, or any subsidiary of such company, shall not be taken into consideration in determining whether under section 3 of the Act (15 U.S.C. 79c) such company is exempt from registration.

(4) "Vehicular natural gas" means natural or manufactured gas that is ultimately used as a fuel in a motor vehicle.

SEC. 11109. STREAMLINED CERTIFICATE PROCEDURES.—(a) UNOPPOSED APPLICATIONS.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by—

(1) redesignating subparagraph (B) as subparagraph (C); and

(2) inserting after subparagraph (A) the following new subparagraph:

"(B) In any case not described in the proviso of subparagraph (A), the Commission shall file notice in the Federal Register of the proposed certificate of public convenience and necessity as soon as the required information in connection therewith has been received by the Commission. If no party has filed a protest or objection in response to such notice within sixty days after publication of such notice, the certificate of public convenience and necessity shall be deemed to be issued: *Provided*, That notwithstanding the filing of a protest or objection a certificate shall be deemed issued if all protests and objections are withdrawn.".

(b) EXPEDITED PROCEDURE FOR PROTESTS.—Within ninety days of the date of enactment of this Act, the Commission shall institute a rulemaking to establish a procedure for dealing expeditiously with protests which do not raise material issues of fact necessitating an evidentiary hearing.

(c) CERTIFICATE NOT REQUIRED FOR REPLACEMENT FACILITIES.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) The term 'facilities' as used in this subsection shall exclude facilities which constitute the replacement or repair of existing facilities which have or will soon become physically deteriorated or obsolete to the extent that replacement is deemed advisable, provided (1) that such replacement or repair does not result in a reduction or abandonment of service by means of such facilities, (2) that such replacement or repair has substantially equivalent designed delivery capacity as the particular facilities being replaced or repaired, and (3) that the cost of such replacement or repair shall not exceed $20,000,000 per project, as adjusted pursuant to the Implicit Price Deflator for GNP. Nothing herein shall preclude a natural-gas company from repairing or replacing facilities as may be necessary to meet the requirements of the Natural Gas Pipeline Safety Act of 1968.".

(d) CONCLUSIVE EVIDENCE OF NEED.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end thereof the following new subparagraph:

"(E) In such hearing under subparagraph (C), proof of binding contractual commitments by bona fide shippers for firm natural gas service to be rendered utilizing the facilities proposed to be constructed or extended shall be conclusive evidence of the need for such proposed service and facilities, and shall be sufficient to dismiss any claim of mutual exclusivity by another applicant.".

(e) PHASED CERTIFICATE PROCEDURES.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end thereof the following new subparagraph:

"(F) In such hearing under subparagraph (C), the Commission, where appropriate, may phase its consideration of issues raised in connection with the application and may issue an initial order containing preliminary findings with respect to such issues. Notwithstanding the preliminary findings in such initial order, the issuance of a certificate of public convenience and necessity will be subject to a final order based upon the complete record of the hearing under subparagraph (C).".

SEC. 11110. GAS DELIVERY INTERCONNECTION.—Section 7(a) of the Natural Gas Act (15 U.S.C. 717f(a)) is amended by—

(a) redesignating subsection (a) as paragraph (a)(1); and

(b) inserting at the end the following new paragraph—

"(2) Upon the petition of any person, the Commission by order may direct an interstate pipeline as defined in section (2)(15) of the Natural Gas Policy Act of 1978, for the sole purpose of receiving natural gas from the petitioner, to establish, at petitioner's expense, and upon such reasonable terms as the Commission may prescribe, physical connection of the interstate pipeline's transportation facilities with the petitioner's production or gathering facilities, the petitioner's intrastate pipeline as defined in section 2(16) of the Natural Gas Policy Act of 1978 (limited to the production area as defined by the Commission), or the petitioner's pipeline certificated pursuant to subparagraph (c)(1)(G) of this section (limited to the production area as defined by the Commission): *Provided*, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel an interstate pipeline to establish physical connection when to do so would impair its ability to render adequate service to its customers.".

SEC. 11111. DEREGULATION OF PIPELINE SALES OF NATURAL GAS.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (g), as added by this title—

"(h) After a hearing held upon the application of a natural-gas company, if the Commission finds that the natural-gas company provides transportation for natural gas owned by any other person comparable to the transportation provided by the natural-gas company for natural gas that it sells for resale and finds that the market that the natural-gas company is authorized to serve is competitive, the Commission may issue an order finding that the natural gas cost component of rates and charges made, demanded, or received by the natural-gas company for the sale for resale of natural gas are exempt from the jurisdiction of the Commission under this Act.".

SEC. 11112. FUEL USE ACT AMENDMENT.—Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 as amended (42 U.S.C. 8373) is amended by striking subsection (c) in its entirety.

TITLE XII—OUTER CONTINENTAL SHELF

Subtitle A—Coastal Communities Impact Assistance

SEC. 12101. DEFINITIONS.—For purposes of this subtitle only, the term—

(1) "coastline" has the same meaning that it has in the Submerged Lands Act (43 U.S.C. 1301 et seq.);

(2) "county" means a unit of general government constituting the local jurisdiction immediately below the level of State government. This term includes, but is not limited to, counties, parishes, villages and tribal governments which function in lieu of and are not within a county, and in Alaska, borough governments. If State law recognizes an entity of general government that functions in lieu of and is not within a county, the Secretary may recognize such other entities of general government as counties;

(3) "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea or the Gulf of Mexico;

(4) "distance" means minimum great circle distance, measured in statute miles;

(5) "leased tract" means a tract, leased under the Outer Continental Shelf Lands Act for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram;

(6) "new revenues" means monies received by the United States as royalties (including payments for royalty taken in kind and sold pursuant to section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353)), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act, but only from leased tracts from which such revenues are first received by the United States after the date of enactment of this Act;

(7) "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of "lands beneath navigable waters" as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)), and of which the subsoil and seabed are subject to the jurisdiction and control of the United States; and

(8) "Secretary" means the Secretary of the Interior or the Secretary's designee.

SEC. 12102. IMPACT ASSISTANCE FORMULA AND PAYMENTS.—(a) There is established a fund in the Treasury of the United States, which shall be known as the "Coastal Communities Impact Assistance Fund" (hereinafter referred to in this section as "the fund").

(b) The Secretary of the Treasury shall invest excess monies in the fund, at the request of the Secretary, in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into

consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(c) Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), amounts in the fund, together with interest earned from investment thereof, shall be paid at the direction of the Secretary as follows:

(1) The fund shall consist of amounts deposited in the fund from new revenues received beginning with October 1, 1992, representing the amounts determined to be allocable to eligible coastal States and eligible counties pursuant to the formula contained in this section.

(2) The Secretary shall determine the new revenues from any leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)), the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State (hereinafter referred to as an "eligible coastal State").

(3) The Secretary shall determine the allocable share of new revenues determined under paragraph (2) by multiplying such revenues by 12.5 percent.

(4) The Secretary shall determine the portion of the allocable share of new revenues attributable to each eligible coastal State (hereinafter referred to as the "eligible coastal State's attributable share") based on a fraction which is inversely proportional to the distance between the nearest point on the coastline of the eligible coastal State and the geographic center of the leased tract or portion of the leased tract (to the nearest whole mile). Further, the ratio of an eligible State's attirbutable share to any other eligible State's attributable share shall be equal to the inverse of the ratio of the distances between the geographic center of the leased tract or portion of the leased tract and the coastlines of the respective eligible coastal States. The sum of the eligible coastal States' attributable shares shall be equal to the allocable share of new revenues determined under paragraph (3).

(5) Subject to appropriation, the Secretary shall pay from the fund 50 percent of the eligible coastal States' attributable share, together with the portion of interest earned from investment of the fund which corresponds to that amount, to that State.

(6) Within 60 days of enactment of this Act, the governor of each eligible coastal State shall provide the Secretary with a list of all counties, as defined herein, that are to be considered for eligibility to receive impact assistance payments. This list must include all counties with borders along the State's coastline and may also include counties which are at the closest point no more than 60 miles from the State's coastline and which are certified by the Governor to have significant impacts from Outer Continental Shelf-related activities. For any such county that does not have a border along the coastline, the Governor shall designate a point on the coastline of the nearest county that does have a border along the coastline to serve as the former county's coastline for the purposes of this section. The governor of any eligible coastal State may modify this list whenever significant changes in Outer Continental Shelf activities require a change, but no more frequently than once each year.

(7) The Secretary shall determine, for each county within the eligible coastal State identified by the Governor according to paragraph (6) for which any part of the county's coastline lies within a distance of 200 miles of the geographic center of the leased tract or portion of the leased tract (hereinafter referred to as an "eligible county") 50 percent of the eligible coastal State's attributable share which is attributable to such county (hereinafter referred to as the "eligible county's attributable share") based on a fraction which is inversely proportional to the distance between the nearest point on the coastline of the eligible county and the geographic center of the leased tract or portion of the leased tract (to the nearest whole mile). Further, the ratio of any eligible county's attributable share to any other eligible county's attributable share shall be equal to the inverse of the ratio of the distances between the geographic center of the leased tract or portion of the leased tract and the coastlines of the respective eligible counties. The sum of the eligible counties' attributable shares for all eligible counties within each State shall be equal to 50 percent of the eligible coastal State's attributable share determined under paragraph (4).

(8) Subject to appropriation, the Secretary shall pay from the fund the eligible county's attributable share, together with the portion of interest earned from investment of the fund which corresponds to that amount, to that county.

(9) Payments to eligible coastal States and eligible counties under this section shall be made not later than December 31 of each year from new revenues received and interest earned thereon during the immediately preceding fiscal year, but not earlier than one year following the date of enactment of this Act.

(10) The remainder of new revenues and interest earned in the fund not paid to an eligible State or an eligible county under this section shall be disposed of according to the law otherwise applicable to receipts from leases on the Outer Continental Shelf.

(11) The total amount in the fund shall not exceed $300,000,000 during any fiscal year: *Provided*, That in the event that the total amount of revenues which would otherwise be deposited in the Fund exceed $300,000,000, the Secretary shall provide each eligible State and eligible county the same percentage of $300,000,000 as such State or county would have received had there not been a cap.

SEC. 12103. USES OF FUNDS.—Funds received pursuant to this subtitle shall be used by the eligible coastal States and eligible counties for—

(a) projects and activities that protect or enhance air quality, water quality, fish and wildlife, wetlands, or other coastal resources;

(b) other activities of such State or county, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(c) administrative costs of complying with the provisions of this subtitle, including the costs associated with the audit required by section 12105.

SEC. 12104. OBLIGATIONS OF ELIGIBLE COUNTIES AND STATES.—(a) PROJECT SUBMISSION.—Prior to the receipt of funds pursuant to this subtitle for any fiscal year, an eligible county must submit to the Governor of the State in which it is located a plan setting forth the projects and activities for which the eligible county proposes to expend such funds. Such plan shall state the amounts proposed to be expended for each project or activity during the upcoming fiscal year.

(b) PROJECT APPROVAL.—Prior to the payment of funds pursuant to this subtitle to any eligible county for any fiscal year, the Governor must approve the plan submitted by the eligible county pursuant to subsection (a) and notify the Secretary of such approval. State approval of any such plan shall be consistent with any State wetlands plan, habitat plan, or environmental restoration plan in effect in such State and with all applicable State and Federal law. In the event that the Governor disapproves any such plan, the funds that would otherwise be paid to the eligible county shall be placed in escrow by the Secretary pending modification and approval of such plan, notwithstanding the provisions of section 12102(c)(10), at which time such funds together with interest thereon shall be paid to the eligible county.

(c) CERTIFICATION.—No later than 60 days after the end of the fiscal year, any eligible county receiving funds under this subtitle must certify to the Governor: (1) the amount of such funds expended by the county during the previous fiscal year; (2) the amounts expended on each project or activity; and (3) the status of each project or activity.

SEC. 12105. AUDIT.—(a) REQUIREMENT FOR AUDIT.—Under regulations promulgated by the Secretary, any coastal State that receives payments under section 12102 shall, for each fiscal year that it receives payments, provide that amounts received thereunder, including amounts paid to eligible counties of such State under section 12102, be subject to audit in accordance with chapter 75 of title 31, United States Code. The audit shall be submitted to the Secretary.

(b) CONTENTS OF AUDIT.—Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all amounts paid under section 12102 to such State for the fiscal year;

(2) include a statement of all amounts paid to eligible counties of such State pursuant to section 12102.

(c) PRELIMINARY DETERMINATION BY SECRETARY.—(1) After receiving a State's report under this section, the Secretary shall make a preliminary evaluation of each audit submitted pursuant to this section, and determine whether any portion of the amounts received has not been used as required by this subtitle. The Secretary shall publish notice of such determination in the Federal Register.

(2) If the Secretary determines under paragraph (1) that any portion of the amounts received under section 12102 has been misused, the Secretary may suspend, and place in escrow, an amount from any future payment due to the coastal State or eligible county charged with misusing the amounts under section 12102 which is equivalent to the amount misused, pending a final determination pursuant to subsection (d).

(d) FINAL DETERMINATION BY SECRETARY.—If the Secretary, after providing a State or eligible county with an opportunity for a hearing, makes a final determination that any portion of the amounts paid to such State or eligible county under section 12102 was not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State or eligible county that misused the funds the reasons for the determination and the exact amount that was misused; and

(2) take appropriate action to recover an amount from the State or eligible county that misused the funds equal to that determined to have been misused, including the

withholding of such amount from that State or eligible county's future payment under section 12102 or of the amount which may have been suspended under subsection (c)(2). In no event shall funds be withheld from a State due to misuse of funds by an eligible county within such State, or from an eligible county in an instance where the State in which it is located has misused funds.

(e) DISPOSITION OF AMOUNTS WITHHELD.—(1) If no appeal of a final determination under subsection (d) is filed within 60 days following the notification described in subsection (d)(1), any amounts withheld or otherwise recovered by the Secretary under subsection (d)(2) shall be returned to the Coastal Communities Impact Assistance Fund.

(2) If an appeal of the final determination is filed within the 60-day period specified in paragraph (1), any amounts withheld by the Secretary shall be held in excrow until such time as a final determination is made of the appeal.

(3) In the event that amounts withheld under this section are subsequently paid to the State or eligible county from which they were withheld, such State or county shall also receive interest on such amounts.

SEC. 12106. REGULATIONS.—The Secretary may promulgate any necessary or appropriate regulations to implement this subtitle.

Subtitle B—Coastal Resources Enhancement Fund

SEC. 12201. DEFINITIONS.—For the purposes of this subtitle only, the following definitions apply:

(1) "Block Grant" means a Coastal Resources Enhancement Block Grant described in section 12203(a);

(2) "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea or the Gulf of Mexico, if such State has a coastal zone management program approved by the Secretary;

(3) "coastal zone management program approved by the Secretary"; means—

(A) a coastal zone management program that is approved by the Secretary under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); or

(B) a coastal zone management program that is being developed by a coastal State, with respect to which the Secretary determines (in no more than 2 fiscal years for which a Block Grant is awarded) that such State is making satisfactory progress toward the development of a program approvable by the Secretary under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

(4) "energy facilities" has the meaning given that term under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(5) "Enhancement Fund" means the Coastal Resources Enhancement Fund established pursuant to this subtitle;

(6) "leased tract" means a tract, leased under the Outer Continental Shelf Lands Act for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram;

(7) "local government" has the meaning given that term in section 304(11) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)) and, with respect to the State of Alaska, the term includes unincorporated communities, including Alaska Native Villages;

(8) "new revenues" means monies from any leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)), the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State and received by the United States as royalties (including payments for royalty taken in kind and sold pursuant to 43 U.S.C. 1353), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act, but only from leased tracts from which such revenues are first received by the United States after the date of enactment of this Act;

(9) "proportionately" means in the same ratio as Block Grants would be apportioned among the coastal States if only on the basis of the formula established under section 12203(d) of this subtitle; and

(10) "Secretary" means the Secretary of Commerce or the Secretary's designee.

SEC. 12202. ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a Fund to be known as the Coastal Resources Enhancement Fund composed of 4 percent of new revenues. The Enhancement Fund shall not exceed $100,000,000 during any fiscal year.

SEC. 12203. BLOCK GRANTS.—(a) BLOCK GRANTS TO STATES.—Subject to the provisions of this section, for fiscal year 1992 and for each subsequent fiscal year, the Secretary shall award to each coastal State a Coastal Resources Enhancement Block Grant from the monies paid into the Enhancement Fund. The Block Grant shall include the amounts separately paid by the Secretary to the local governments of such State under section 12205.

(b) ALLOCATION REPORT.—(1) No coastal State may receive a Block Grant for a fiscal year unless such State has submitted to the Secretary a report for such fiscal year that—

(A) specifies the proposed allocation by such State of the Block Grant among the activities specified in paragraphs (1) through (4) of section 12204;

(B) prescribes the allocation of the local government portion of the Block Grant to specified local governments, for separate payment by the Secretary as provided in section 12205; and

(C) describes each proposed activity receiving funds provided by the Block Grant and the amounts proposed to be expended for each activity.

(2) In order to be eligible for a Block Grant and before submitting the report required under paragraph (1), each coastal State shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report at a site in the State convenient for encouraging maximum public participation.

(c) STATE TRUST FUND.—No amount of a Block Grant shall be paid from the Enhancement Fund to a coastal State until the State has established a trust fund for the receipt of the portion of such Grant that is paid directly to the State.

(d) FORMULA.—The amount of each Block Grant awarded under subsection (a) shall be determined by the Secretary under a formula established by the Secretary which gives the following weighted consideration to each of the following criteria:

(1) A weight of 50 percent shall be given to the number, location, and impact of the energy facilities located within the coastal zone of each State during the fiscal year immediately preceding the fiscal year for which the grant is to be awarded;

(2) A weight of 25 percent shall be given on the basis of shoreline mileage; and

(3) A weight of 25 percent shall be given on the basis of coastal population.

(e) MINIMUM GRANT LEVELS.—(1) A coastal State shall receive not less than 1.62 percent of the total amount available for Block Grants under this section during any fiscal year.

(2) If, after the calculations required under subsection (d), any coastal State is to receive a Block Grant that is less than the minimum grant level established under paragraph (1), the Secretary shall increase such State's Block Grant to the minimum level. Amounts necessary to make such increases shall be derived by reducing proportionately the Block Grant of each State which, as determined under subsection (d), exceeds the minimum level under paragraph (1).

(f) MAXIMUM GRANT LEVELS.—If, after the calculations required under subsections (d) and (e), any coastal State would receive a Block Grant which is greater than 8 percent of the funds appropriated under this section, the Secretary shall reduce such State's Block Grant to 8 percent. The amounts resulting from such reduction shall be reallocated proportionately among States receiving less than 8 percent so such funds are more than the minimum grant levels under subsection (e).

(g) USE OF FUNDS.—As provided in advance by appropriation Acts, the Secretary shall use the total amount of any amounts deposited in the Enhancement Fund during each fiscal year to carry out the purposes of, and in accordance with, this section.

SEC. 12204. REQUIREMENTS ON THE USE OF BLOCK GRANTS.—(a) Block Grants awarded to a State under section 12203(a), including the portion separately distributed to such State's local governments under section 12205, shall be used only for one or more of the following activities:

(1) Amelioration of any adverse environmental impacts that result from the siting, construction, expansion, or operation of energy facilities;

(2) Administrative costs such State or a local government of such State incurs in the energy leasing and energy permitting process under any applicable law, including but not limited to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) and the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(3) Other activities of such State, or a local government of such State, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(4) Projects and activities that protect or enhance air quality, water quality, fish and wildlife, wetlands, or other coastal resources.

Sec. 12205. LOCAL GOVERNMENTS.—(a) ALLOCATION.—The report submitted by each coastal State under section 12203(b) shall prescribe an allocation among its local governments of not less than one-third of each Block Grant proposed to be awarded to such State.

(b) SEPARATE DISTRIBUTION.—The portion of a State's Block Grant that the State prescribes for allocation to specific local governments shall be paid by the Secretary directly to each such local government.

SEC. 12206. AUDIT.—(a) REQUIREMENT FOR AUDIT.—Under regulations promulgated by the Secretary, any State awarded a Block Grant under section 12203(a) shall, for each

fiscal year that it is awarded such Grant, provide that amounts received under such Grant, including amounts separately distributed to local governments of such State under section 12205, be subject to audit in accordance with chapter 75 of title 31, United States Code. The audit shall be submitted to the Secretary. The income derived for each fiscal year from such State's trust fund, as established under section 12203(c), shall be included in the audit required by this section.

(b) CONTENTS OF AUDIT.—Each audit submitted by a State under subsection (a) shall—

(1) contain a statement of all funds provided under the Block Grant received by such State for the fiscal year; and

(2) include a statement of all funds paid to the local governments of such State pursuant to section 12205.

(c) PRELIMINARY DETERMINATION BY SECRETARY.—(1) After receiving a State's audit under this section, the Secretary shall make a preliminary evaluation of each audit submitted pursuant to this section, and determine whether all or any part of the Block Grant has not been used as required by this subtitle. The Secretary shall publish notice of such determination in the Federal Register.

(2) If the Secretary determines under paragraph (1) that any portion of the Block Grant has been misused, the Secretary may suspend, and place in escrow, an amount from any future Block Grant which is equivalent to the amount misused, pending a final determination pursuant to subsection (d).

(d) FINAL DETERMINATION BY SECRETARY.—If the Secretary, after providing a State with an opportunity for a hearing, makes a final determination that all or any part of the Block Grant funds paid to such State or its local governments were not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the State the reasons for the determination and the amount of funds misused; and

(2) take appropriate action to recover an amount equal to that determined to have been misused, including the withholding of such amount from a State's future Block Grant or the amount which may have been suspended under subsection (c)(2).

(e) DISPOSITION OF WITHHELD FUNDS.—(1) If no appeal of a final determination under subsection (d) is filed within 60 days following the notification described in subsection (d)(1), any amounts withheld or otherwise recovered by the Secretary under subsection (d)(2) shall be returned to the Enhancement Fund.

(2) If an appeal of the final determination is filed within the 60-day period specified in paragraph (1), any funds withheld by the Secretary shall be held in escrow until such time as a final determination is made of the appeal.

(3) In the event that any amounts withheld under this section are subsequently paid to the State from whose Block Grant they were withheld, such State shall also receive interest on such amount.

SEC. 12207. RULES AND REGULATIONS.—Within 180 days after the date of enactment of this Act, the Secretary shall promulgate, after notice and opportunity for comment, such rules and regulations as may be necessary to carry out the provisions of this subtitle.

Subtitle C—Relationship To Other Law

SEC. 12301. RELATIONSHIP TO OTHER LAW.—The payment of funds pursuant to subtitles A and B of this title shall be in addition to any payments made to a State under any other provision of this Act or any other provision of law.

SEC. 12302. RELATIONSHIP TO OTHER FUNDS.—Nothing in subtitles A and B of this title shall reduce any amounts required to be credited to the Land and Water Conservation Fund, pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 to 4601-11), or to the Historic Preservation Fund, pursuant to the Historic Preservation Act (16 U.S.C. 470h), from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. To the extent that the crediting of such amounts into the Land and Water Conservation Fund or the Historic Preservation Fund makes monies otherwise payable under subtitles A and B of this title unavailable, payments to the States and local governments pursuant to such subtitles shall be reduced on a pro rata basis.

Subtitle D—Prohibition of Leasing and Preleasing Activity

SEC. 12401. LEASING MORATORIA.—The Secretary of the Interior shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) until after January 1, 2000, in the following areas placed under restriction in the President's moratorium statement of June 26, 1990: The North Atlantic Planning Area and the Washington and Oregon Planning Area.

SEC. 12402. PROHIBITION OF LEASING AND PRELEASING ACTIVITY.—The Secretary shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), with respect to the area seaward from the State of California and the State of New Jersey until after January 1, 2000.

SEC. 12403. FLORIDA MORATORIUM.—The Secretary of the Interior shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) until after January 1, 2000, with respect to that area offshore Florida south of 26 degrees north latitude and east of 86 degrees west longitude placed under restriction in the President's moratorium statement of June 26, 1990.

SEC. 12404. BUYBACK OF CERTAIN LEASES.—Notwithstanding the provisions of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary of the Interior is authorized and directed, subject to the availability of funds appropriated for that purpose, to cancel and buyback leases issued under the Outer Continental Shelf Lands Act offshore Florida south of 26 degrees north latitude and east of 86 degrees west longitude, consistent with the provisions of this subsection. Any lease canceled pursuant to this provision shall require full compensation. Such compensation shall include all expenses incurred on the lease, with interest, including expenditures made prior to lease issuance unless the lessee proves that it is entitled to greater damages, including but not limited to, lost profits, or the Secretary proves that the lessee is entitled to lesser damages. Any other leases canceled pursuant to the Outer Continental Shelf Lands Act shall require compensation in accordance with that Act. The authorization contained in this subsection shall expire on December 31, 1993.

SEC. 12405. REPORT.—With respect to all leases issued under the Outer Continental Shelf Lands Act offshore Florida east of 86 degrees west longitude and south of 26 degrees north latitude, the Secretary of the Interior shall prepare a report analyzing the alternatives for exchanging such leases for any other land or interest in land, including submerged lands, owned by the United States as a means of providing compensation for the cancellation of such leases. Such report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the United States House of Representatives within one year after the date of enactment of this provision.

TITLE XIII—RESEARCH, DEVELOPMENT, DEMONSTRATION AND COMMERCIALIZATION ACTIVITIES

SEC. 13101. ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIALIZATION PRIORITIES.—The Secretary shall establish priorities for research, development, demonstration, and commercialization activities. These priorities shall include consideration of the following criteria—

(1) the potential to increase the Nation's energy independence and thus reduce reliance on imported oil;

(2) the projected cost-effectiveness of the energy or energy efficiency resource to be produced or saved, including an evaluation of the likelihood of the activities contributing to the achievement of commercialization of new energy technologies;

(3) the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(4) the national security impact of the energy produced or saved, including its projected contribution to the reduction of oil imports and to the diversity of the domestic energy resource mix;

(5) the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or maintaining technological leadership in the area of energy and energy efficiency resource technologies, including, but not limited to, solar, fuel cells, fusion, superconductivity, nuclear fission, electric power, clean coal technologies, oil shale, oil and natural gas recovery and utilization, and hydrogen;

(6) the contribution of a given activity to fundamental scientific knowledge;

(7) the anticipated impact of the results of activities on targeted industries and industrial and manufacturing processes; and

(8) the contribution to United States competitiveness.

SEC. 13102. MANAGEMENT PLAN.—(a) PLAN PREPARATION.—The Secretary, in consultation with the Energy Advisory Board to the Secretary, shall prepare a management plan for the conduct of research, development, demonstration, and commercialization of energy technologies that is consistent with the purposes of this Act and guided by the priorities set forth in section 13101.

(b) PROPOSALS.—The management plan under subsection (a) shall contain proposals for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to national energy security;

(2) development of contingency energy and energy efficiency resource technologies that have the potential to reduce energy supply vulnerability, and to minimize adverse impacts on the environment, the global climate, and the economy; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can enhance the Nation's competitiveness;

(c) PLAN SUBMISSION.—Within one year after the date of enactment of this section,

the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially at the time of submittal of the President's annual budget submission to the Congress.

SEC. 13103. NATURAL GAS END-USE TECHNOLOGIES.—(a) PROGRAM.—The Secretary shall carry out a program to promote the development and commercialization of new and advanced natural gas utilization technologies including, but not limited to, the following areas—

(1) stationary source emissions control and efficiency improvements including combustion systems, industrial processes, natural gas heating and cooling, cogeneration, and cofiring natural gas with coal and waste fuels;

(2) natural gas storage including increased deliverability from existing gas storage facilities and new capabilities for storage near demand centers and on-site storage at major energy consuming facilities;

(3) transportation fuel alternatives and emissions controls including natural gas vehicle commercialization and infrastructure development (including home and commercial compressors for natural gas vehicles) and advanced engines and propulsion concepts; and

(4) electrochemical energy conversion including the commercialization of molten carbonate fuel cells and phosphoric acid fuel cells and the development of advanced natural gas-fired fuel cell technologies.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13104. NATURAL GAS SUPPLY ENHANCEMENT.—(a) PROGRAM.—The Secretary shall carry out a program of research, development and demonstration to increase the recoverable natural gas resource base including, but not limited to, the following areas—

(1) more intensive recovery of natural gas from discovered conventional resources;

(2) economic recovery of unconventional natural gas resources, including gas from tight sands, eastern shales, and gas from less permeable formations, coal-bed methane and geopressurized reservoirs;

(3) surface gasification of coal; and

(4) recovery of methane from biofuels including municipal solid waste.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13105. HIGH EFFICIENCY HEAT ENGINES.—(a) PROGRAM.—The Secretary shall carry out a program of research, development, demonstration, and commercialization on high efficiency heat engines, emphasizing advanced gas turbine cycles, and the incorporation of energy efficient materials in advanced gas turbine cycles for high efficiency electric and automotive power generation, such as—

(1) advanced combined cycle turbines;

(2) steam-injected gas turbines; and

(3) intercooled steam-injected gas turbines.

(b) JOINT VENTURES.—The Secretary may enter into joint ventures with appropriate parties to construct and demonstrate high efficiency heat engines.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13106. OIL SHALE RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—(1) The Secretary shall carry out a research and development program on oil shale that includes applied research on eastern oil shale, in cooperation with universities and the private sector, that may have the potential to decrease United States dependence on energy imports.

(2) As part of the program authorized in this section, the Secretary shall consider the potential benefits of including in that program applied research carried out in cooperation with universities and other private sector entities that are now engaged in research on eastern oil shale retorting and associated processes.

(b) COST-SHARING.—The program carried out under this section shall be cost-shared with universities and the private sector to the maximum extent possible.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13107. WESTERN OIL SHALE RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—The Secretary shall carry out a program of research on extracting oil from western oil shales that includes, if appropriate, establishment and utilization of at least one field testing center for the purpose of testing, evaluating, and developing improvements in oil shale technology at the field test level. In establishing such a center, the Secretary shall consider sites with existing oil shale mining and processing infrastructure and facilities.

(b) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13108. HIGH-TEMPERATURE SUPERCONDUCTING ELECTRIC POWER SYSTEM.—(a) PROGRAM.—The Secretary shall carry out a program of research, development, and demonstration of a high-temperature superconducting electric power system. Elements of the program shall include, but are not limited to, the following—

(1) the development of prototypes, where appropriate, of the major elements of a superconducting electric power system, such as motors, generators, transmission lines, transformers, and magnetic energy storage systems;

(2) development of prototypes based on high-temperature superconducting wire and refrigeration systems using cryocoolers or liquid cryogens such as nitrogen, with such prototype wires operating at temperatures between 20 degrees Kelvin and 77 degrees Kelvin (−423 degrees Fahrenheit and −320 degrees Fahrenheit), or higher if material developments permit; and

(3) development of prototypes that are of sufficient operational capabilities to demonstrate the technology application and facilitate dual-use application in both the civilian commercial sector and the defense sector.

(b) COOPERATIVE AGREEMENTS.—In order to carry out the programs under this section, the Secretary shall solicit proposals and may enter into cooperative agreements under this section. The Secretary is also encouraged to expedite government, industry, and university collaborative agreements under existing mechanisms at the Department of Energy, in coordination with other Federal agencies.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13109. RENEWABLE ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.—Section 4(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (Public Law 101-218) is amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) such sums as may be necessary for fiscal year 1992;

"(2) such sums as may be necessary for fiscal year 1993; and

"(3) such sums as may be necessary for fiscal year 1994.

"Each of the President's annual budget requests submitted to Congress after the date

of enactment of this Act shall include as separate line items each of the categories of renewable energy programs described in this subsection.".

SEC. 13110. ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT PROGRAMS.—Section 5 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (Public Law 101-218) is amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) such sums as may be necessary for fiscal year 1992;

"(2) such sums as may be necessary for fiscal year 1993; and

"(3) such sums as may be necessary for fiscal year 1994.".

SEC. 13111. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.—(a) PROGRAM.—(1) The Secretary shall expand the program of research, development, and demonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall increase research on thermally-activated heat pumps including absorption heat pumps and engine-driven heat pumps.

(3) The electric heating and cooling program shall increase research on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electrically driven HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons.

(b) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

SEC. 13112. FUSION.—(a) PROGRAM.—The Secretary shall carry out a research, development, and demonstration program on fusion energy that is structured in a way that will lead to commercial demonstration of the technological feasibility of fusion energy for the production of electricity after the year 2010.

(b) COMPREHENSIVE MANAGEMENT PLAN.—(1) Within 180 days after the date of enactment of this section, the Secretary shall prepare a comprehensive management plan for research, development, and demonstration of fusion energy, including milestones and schedules for technology development and estimates of budget and program management resource requirements.

(2) As part of the plan required under paragraph (1), the Secretary shall evaluate the status of international fusion programs and evaluate whether the Federal Government should make efforts to strengthen existing international cooperative agreements in fusion energy or enter into new cooperative agreements to accomplish the purposes of this section.

(3) The plan shall also evaluate to what extent university or private sector participation is appropriate or necessary in order to carry out the purposes of this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13113. ELECTRIC VEHICLE, ELECTRIC-HYBRID VEHICLE, AND ASSOCIATED EQUIPMENT RESEARCH AND DEVELOPMENT.—(a) GENERAL.—The Secretary shall conduct, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901-5920), a research and development program on electric vehicles, electric-hybrid vehicles, and associated equipment. Such program shall be conducted in cooperation with the electric utility industry, the automobile industry, battery manufacturers, and such other persons as the Secretary considers appropriate.

(b) COOPERATIVE AGREEMENTS.—The Secretary, consistent with the comprehensive plan under subsection (c), may enter into cooperative agreements to conduct research and development projects with industry in such areas of technology development as—

(1) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for electric vehicle range improvement and light-weight body structures for electric vehicle weight reduction; and

(2) advanced batteries with high energy density and power density, and improved range or recharging cycles for a given unit weight for electric vehicle application.

(3) Hybrid power trains incorporating an electric motor and recyclable battery technology charged by an onboard liquid fuel engine, designed to significantly improve fuel economies while maintaining comparable acceleration characteristics.

(c) COMPREHENSIVE PLAN.—(1) The Secretary shall prepare a comprehensive five-year program plan for carrying out the purposes of this section. Such program plan shall be updated annually for a period of not less than ten years after the date of enactment of this Act.

(2) The program plan under paragraph (1) shall be prepared in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Secretary of Commerce, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric vehicle and electric-hybrid vehicle manufacturers, the United States automobile industry, and such other persons as the Secretary deems appropriate.

(3) The comprehensive plan shall include—

(A) a prioritization of research areas critical to the commercialization of electric vehicles and electric-hybrid vehicles, including advanced battery technology and optimization of near-term technology;

(B) the program elements, management structure, and activities, including program responsibilities of individual agencies and departments;

(C) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year of the comprehensive plan for all major activities and projects;

(D) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the plan for each of the participating agencies or departments;

(E) a description of the methods of technology transfer;

(F) the proposed participation by non-Federal entities in the planning and implementation of the plan; and

(G) such other information as the Secretary deems appropriate.

(4) Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary shall transmit the comprehensive program plan to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such plan shall be updated annually as specified in subsection (c)(1).

(d) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for cooperative agreements for research and development under subsection (b).

(2) Thereafter, the Secretary may solicit additional proposals for cooperative agreements under subsection (b) if, in the judgment of the Secretary, such cooperative agreements could contribute to the development of electric vehicles or electric-hybrid vehicles and associated equipment.

(e) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any cooperative agreement under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(f) DEPLOYMENT.—(1) The Secretary shall conduct a program designed to accelerate deployment of advanced energy storage systems, including advanced battery technologies, for use with electric vehicles and electric-hybrid vehicles.

(2) In carrying out the program authorized by this subsection, the Secretary shall—

(A) undertake an inventory and assessment of advanced energy storage systems, including advanced battery technologies, electric vehicle technologies and electric-hybrid technologies and their commercial capability; and

(B) develop a Federal industry information exchange program to improve the deployment or use of such technologies. The information exchange program may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

(g) DOMESTIC PARTS MANUFACTURERS.—In carrying out this section, the Secretary, in consultation with the Secretary of Commerce, shall issue regulations to ensure that the procurement practices of participating vehicle and associated equipment manufacturers do not discriminate against United States manufacturers of vehicle parts.

(h) COMPLIANCE WITH EXISTING LAW.—Nothing in this section shall be deemed to convey

to any person, partnership, corporation, or other entity immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this section, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

(i) DEFINITIONS.—For purposes of this section, the term—

(1) "advanced battery" means an electrochemical storage device, including fuel cells, and associated technology necessary to charge, discharge, recharge or regenerate such electro-chemical storage device, for use as a source of power for an electric vehicle, an electric-hybrid vehicle, and any other associated equipment of an electric vehicle;

(2) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electric energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, that equipment necessary for the application or use of the nonelectric source of power in such vehicles;

(3) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current; and

(4) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a nonelectrical source of power.

(j) AUTHORIZATION.—There is authorized to be appropriated to the Secretary (in addition to any amounts made available pursuant to other law) for each of the fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

SEC. 13114. ADVANCED OIL RECOVERY RESEARCH, DEVELOPMENT AND DEMONSTRATION.—(a) PROGRAM.—The Secretary shall carry out a national program of research, development and demonstration to increase the economic recoverability of domestic oil resources. Such program shall address both advanced secondary oil recovery and tertiary oil recovery and shall include but not be limited to the following areas—

(1) transfer of proven recovery technologies to producers and operators of wells that would otherwise be likely to be abandoned in the near term due to declining production;

(2) development, field testing, and transfer of recovery technologies to operators of wells in high priority reservoirs ranked primarily on the basis of oil recovery potential and risk of abandonment; and

(3) the identification and development of new recovery techniques.

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with producers, service companies, and technical support organizations for field demonstration projects to be undertaken on a cost-shared basis under this section.

(c) COST-SHARING—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13115. TAR SANDS.—(a) POLICY.—It is the policy of the United States to promote the development and production, by all means consistent with sound engineering and environmental practices, of deposits of tar sands.

(b) DEFINITION.—The term "tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise; or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(c) STUDY.—The Secretary, in consultation with the Secretary of the Interior, shall submit a study to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within one year from the date of enactment of this Act. Such study shall identify and evaluate the development potential of sources of tar sands in the United States. The study shall also identify and evaluate processes for extracting oil from the identified tar sands sources, including existing tar sands waste tailings, and evaluate the environmental benefits of, and the potential for co-production of minerals and metals from, such processes.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the purposes of this section.

SEC. 13116. TELECOMMUTING STUDY.—(a) STUDY.—The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of the potential costs and benefits to the energy and transportation sectors of telecommuting. The study shall include—

(1) an estimation of the amount and type of reduction of commuting by form of transportation type and numbers of commuters;

(2) an estimation of the potential number of lives saved;

(3) an estimation of the reduction in environmental pollution, in consultation with the Environmental Protection Agency;

(4) an estimation of the amount and type of reduction of energy use and savings by form of transportation type; and

(5) an estimation of the social impact of widespread use of telecommuting.

(b) This study shall be completed no more than one hundred and eighty days after the date of enactment of this Act. A report, summarizing the results of the study, shall be transmitted to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no more than sixty days after completion of this study.

SEC. 13117. STUDY OF MINIMIZATION OF NUCLEAR WASTE.—(a) STUDY.—The Secretary shall conduct a study of the potential for minimizing the volume and toxic lifetime of nuclear waste, including an analysis of viability of existing technologies for this purpose and an assessment of the extent of research and development required for new technologies.

(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13118.—NUCLEAR WASTE MANAGEMENT PLAN.—(a) PREPARATION AND SUBMISSION OF REPORT.—The Secretary, in consultation with the Nuclear Regulatory Commission and the Environmental Protection Agency, shall prepare and submit to Congress a report on whether current programs and plans for management of nuclear waste as mandated by the Nuclear Waste Policy Act of 1982 (Public Law 97-425; 42 U.S.C.10101 et seq.) are adequate for management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of enactment of this Act. The Secretary shall prepare this report for submission to the President and the Congress within a year after the date of enactment of this Act. The report shall examine any new relevant issues related to management of spent fuel and high-level nuclear waste that might be raised by the addition of new nuclear-generated electric capacity, including anticipated increased volumes of spent fuel or high-level waste, any need for additional interim storage capacity prior to final disposal, transportation of additional volumes of waste, and any need for additional repositories for deep geologic disposal.

(b) OPPORTUNITY FOR PUBLIC COMMENT.—In preparation of the report required under subsection (a), the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Nuclear Regulatory Commission, the Environmental Protection Agency, and other interested parties.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13119. MATH AND SCIENCE EDUCATION PROGRAM.—(a) PROGRAM.—The Secretary shall enter into contracts with existing qualified entities to conduct science and mathematics education programs that supplement the Special Programs for Students from Disadvantaged Backgrounds carried out by the Secretary of Education under sections 417A through 417F of Public Law 89-329, as amended (20 U.S.C. 1070d through 1070d-1d).

(b) PURPOSE.—(1) The purpose of the programs shall be to provide support to Federal, State, and private programs designed to promote the participation of low-income and first generation college students as defined in section 417A of Public Law 89-329, as amended (20 U.S.C. 1070d-d), in post-secondary science and mathematics education.

(2) Support activities may include—

(A) the development of educational materials;

(B) the training of teachers and counselors;

(C) the establishment of student internships;

(D) the development of seminars on mathematics and science;

(E) tutoring in mathematics and science;

(F) academic counseling;

(G) the development of opportunities for research; and

(H) such other activities that may promote the participation of low-income and first generation college students in post-secondary science and mathematics education.

(c) SUPPORT.—(1) In carrying out the purpose of this section, the entities may provide support under subsection (b)(2) to—

(A) low-income and first generation college students; and

(B) institutions of higher education, public and private agencies and organizations, and secondary and middle schools that principally benefit low-income students.

(2) The qualified entities shall, to the extent practicable, coordinate support activi-

ties under this section with the Secretary of Education and the Secretary.

(d) COOPERATION WITH QUALIFIED ENTITIES.—The Secretary shall cooperate with qualified entities and, to the extent practicable, make available to the entities such personnel, facilities, and other resources of the Department of Energy as may be necessary to carry out the duties of the entities.

(e) REPORT.—Not later than October 1 of each year, the entities shall report to the Secretary, the Secretary of Education, and the Congress on—

(1) progress made to promote the participation of low-income and first generation college students in post-secondary science and mathematics education by—

(A) the qualified entities;

(B) other mathematics and science education programs of the Department of Energy; and

(C) the Special Programs for Students from Disadvantaged Backgrounds of the Department of Education; and

(2) recommendations for such additional actions as may be needed to promote the participation of low-income students in post-secondary science and mathematics education.

(f) EFFECT ON EXISTING PROGRAMS.—The programs in this section shall supplement and be developed in cooperation with the current mathematics and science education programs of the Department of Energy and the Department of Education but shall not supplant them.

(g) DEFINITION.—For purposes of this section, the term "qualified entity" means a nonprofit corporation, association, or institution that has demonstrated special knowledge of, and experience with, the education of low-income and first generation college students and whose primary mission is the operation of national programs that focus on low-income students and provide training and other services to educators.

(h) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13120. STATE, DEFINITION OF—Section 401 of the Nuclear Waste Policy Act of 1982 (Public Law 97-425) is amended by inserting "and" after "States,", inserting a period after "District of Columbia", and striking the remainder of the sentence.

SEC. 13121. NUCLEAR WASTE NEGOTIATOR.—Section 410 of the Nuclear Waste Policy Act of 1982 (Public Law 97-425) is amended by striking "5 years" and inserting "6 years".

SEC. 13122. ENERGY SUBSIDY STUDY.—(a) IN GENERAL.—The Secretary shall contract with the National Academy of Sciences to conduct a study of energy subsidies that—

(1) are in effect on the date of enactment of this Act; or

(2) have been in effect prior to the date of enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress, the results of such study to be accompanied by recommendations for legislation, if any.

(c) CONTENTS.—

(1) IN GENERAL.—The study shall identify and quantify the direct and indirect subsidies and other legal and institutional factors that influence decisions in the marketplace concerning fuels and energy technologies.

(2) TOPICS FOR EXAMINATION.—The study shall examine—

(A) fuel and technology choices that are—

(i) available on the date of enactment of this Act; or

(ii) reasonably foreseeable on the date of enactment of this Act;

(B) production subsidies for the extraction of raw materials;

(C) subsidies encouraging investment in large capital projects;

(D) indemnification;

(E) fuel cycle subsidies, including waste disposal;

(F) government research and development support; and

(G) other relevant incentives and disincentives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1993 and 1994.

SEC. 13123. MIDCONTINENT ENERGY RESEARCH CENTER.—(a) FINDING.—Congress finds that petroleum resources in the midcontinent region of the United States are very large but are being prematurely abandoned.

(b) PURPOSES.—The purposes of this section are to—

(1) improve the efficiency of petroleum recovery;

(2) increase ultimate petroleum recovery; and

(3) delay the abandonment of resources.

(c) ESTABLISHMENT.—The Secretary shall establish the Midcontinent Energy Research Center at the University of Kansas in Lawrence, Kansas, (referred to in this section as the "Center") to—

(1) conduct research in petroleum geology and engineering focused on improving the recovery of petroleum from existing fields and established plays in the upper midcontinent region of the United States; and

(2) ensure that the results of the research described in paragraph (1) are transferred to users.

(d) RESEARCH.—

(1) IN GENERAL.—In conducting research under this section, the Center shall, to the extent practicable, cooperate with agencies of the Federal Government, the States in the midcontinent region of the United States, and the affected industry.

(2) PROGRAMS.—Research programs conducted by the Center may include—

(A) data base development and transfer of technology;

(B) reservoir management;

(C) reservoir characterization;

(D) advanced recovery methods; and

(E) development of new technology.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 13124.—DOMESTIC OIL SUPPLY ENHANCEMENT.—(a) PROGRAM.—The Secretary shall carry out programs of research, development and demonstration to increase the recoverable crude oil resource base including, but not limited to, programs in the following areas—

(1) maintenance of the production of crude oil from stripper well property;

(2) enhanced recovery of crude oil from conventional resources; and

(3) economic recovery of unconventional domestic oil resources.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under subsections (a) (2) and (3), including cash, personal services, equipment, and other resources, to be provided from non-Federal sources.

(d) REDUCTION OF COSTS.—The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(f) DEFINITION.—For the purpose of this section, the term "stripper well property" means any well located in the United States which produces an average of 15 or less barrels of crude oil per production day.

TITLE XIV—COAL, COAL TECHNOLOGY AND ELECTRICITY

Subtitle A—Coal and Coal Technology

SEC. 14101. COAL RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) ESTABLISHMENT.—(1) The secretary, in consultation with the National Coal Council and other representatives of the public as the Secretary deems necessary, shall, in accordance with the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5920), conduct a research, development, and demonstration program within the Department of Energy for advanced coal-based technologies with the goals and objectives of—

(A) achieving the control of sulfur oxides, oxides of nitrogen, or air toxics at levels of proficiency greater than currently available commercial technology;

(B) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(C) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels; and

(D) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost-sharing participation.

(2) The coal technology development program shall also be designed to assure the timely development of cost-effective technologies or energy production processes or systems utilizing coal which achieve greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal and the control of emissions from the combustion of coal. Such program shall be designed to assure the availability for commercial use of such technologies by the year 2010. As part of such program, the Secretary shall consider the potential benefits of conducting additional solicitations pursuant to the Clean Coal Program established by Public Law 98-473 and is authorized to carry out such additional solicitations.

(b) REPORT.—Within two hundred and forty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of ongoing research and development activities regarding advanced coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or

agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the program established by this section;

(3) recommendations, if any, regarding the manner in which the cost-sharing demonstrations conducted pursuant to the Clean Coal Program established by Public Law 98-473 might be modified and extended in order to assure the timely demonstrations of advanced coal-based technologies by the year 2010 and assure that the goals established by this section are achieved; and

(4) a detailed plan for conducting the research, development and demonstration program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan.

(c) ANNUAL REPORT.—Within twelve months after submittal of the report described in subsection (b) of this section, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research, development, and demonstration activities undertaken to carry out the program required by this section.

(d) DEFINITION.—As used in this section, the term "advanced coal-based technologies" means, but is not limited to, the following—

(1) advanced integrated gasification combined cycle;

(2) pressurized fluidized bed combustion technology capable of achieving higher thermal conversion efficiency than can be achieved through ongoing demonstration projects;

(3) direct and indirect coal-fired turbines;

(4) coal refining processes, including coke production, capable of (A) efficiently producing or utilizing the energy contained in coal and coal byproducts, (B) upgrading gaseous, liquid and solid coal byproducts into products with higher economic value, and (C) utilizing the products and byproducts of such processes;

(5) magnetohydrodynamics;

(6) molten carbonate and solid oxide fuel cells;

(7) cofiring coal with non-coal fuels including natural gas;

(8) coal liquefaction processes; and

(9) other coal-based technologies or processes or systems that are capable of achieving thermal conversion efficiencies equal to or greater than fifty percent.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14102. NON-FUEL USE OF COAL.—(a) PLAN.—Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress a plan for research, development, and demonstration with respect to technologies for nonfuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) JOINT VENTURES.—As part of the plan under subsection (a), the Secretary may propose specific joint ventures to accelerate the development and commercialization of technologies for nonfuel uses of coal.

(c) PLAN CONTENTS.—The plan under subsection (a) shall address and evaluate—

(1) the known and potential products and processes for the use of coal for products in the chemical, utility, fuel, steel, and carbon-based materials industries;

(2) the costs, benefits and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of the refining of coal and coal byproducts to produce nonfuel products;

(4) the economics of co-production of products from coal in conjunction with production of electric power, thermal energy, and fuel;

(5) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(6) the steps that can be taken by the public and private sectors to bring about commercialization of research results produced by the research program recommended; and

(7) the past development, current status, and future potential of coal products and processes associated with nonfuel use of coal.

(d) RESEARCH AND DEVELOPMENT.—The Secretary shall conduct a program of research and development under the plan under subsection (a).

(e) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance for a research project under this section to the extent the Secretary finds that such project—

(1) furthers achievement of the goals and purposes of this Act;

(2) offers promise for commercial application; and

(3) has a reasonable prospect of support in at least 50 percent of its direct costs from non-Federal funds.

(f) CONSULTATION.—In preparing the plan and carrying out research under this section, including evaluating the technical progress, feasibility, and most effective means for utilizing the results of research, the Secretary shall consult with the private sector.

(g) AUTHORIZATION.—There is authorized to be appropriated a total of $20,000,000 for fiscal years 1992 through 1994 to carry out the purposes of this section.

SEC. 14103. COAL REFINING PROGRAM.—(a) PROGRAM.—The Secretary, in consultation with the National Coal Council, shall, in accordance with the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5920), conduct a research, development, demonstration, and commercialization program for coal refining technologies, including technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals and lignites to produce clean-burning transportation fuels, or compliance boiler fuels, or both, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products, either alone or along with electricity, more economically and efficiently than can be produced utilizing currently available commercial technology. The goals of the coal refining technology development program shall be designed to assure—

(1) the timely development of technologies, including direct and indirect liquefaction processes and other energy production processes or systems to produce coal-derived fuels and coproducts;

(2) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(3) reduction in the cost of producing such coal-derived fuels and coproducts;

(4) the control of emissions from the combustion of coal-derived fuels, and;

(5) the availability for commercial use of such technologies by the year 2000.

(b) REPORT AND PLAN.—Within one hundred and twenty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of ongoing research and development activities regarding coal refining technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a detailed plan for conducting the research, development, demonstration, and commercialization program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the coal refining technologies included in the plan;

(c) DEMONSTRATION PROJECTS.—Within twelve months after the submittal of the report described in subsection (b) of this section, the Secretary shall solicit proposals from appropriate parties and may thereafter enter into agreements with such parties to undertake commercial scale demonstration projects of coal refining processes. In designing the solicitation under this subsection, and taking into consideration the goals of subsection (a) of this section, the Secretary shall—

(1) establish technology classes for the various coal refining processes;

(2) enter into agreements for the construction of not more than one project per technology class, but in no event less than two commercial scale projects for the program in total;

(3) require that each project has a reasonable prospect of commencing operation by January 1, 2000.

(d) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-

Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(e) ANNUAL REPORT.—Within twelve months after the date of enactment of this Act, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of coal refining technologies and the research, development, demonstration, and commercialization activities undertaken to carry out the program required by this section.

(f) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14104. UNDERGROUND COAL GASIFICATION.—(a) PROGRAM.—The Secretary shall conduct a research, development, and demonstration program for underground coal gasification technology for in-situ conversion of coal to a cleaner burning, easily transportable gaseous fuel. The goal and objective of this program shall be to accelerate the development and commercialization of underground coal gasification. In carrying out this program, the Secretary shall give equal consideration to all ranks of coal.

(b) DEMONSTRATION PROJECTS.—As part of the program authorized in subsection (a), the Secretary shall solicit proposals for at least one demonstration project of underground coal gasification technology and may provide financial assistance for any project that has a reasonable expectation to fulfill the goal and objective of subsection (a).

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14105. LOW-RANK COAL RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—The Secretary shall pursue a program of research and development with respect to the technologies needed to expand the use of low-rank coals which take into account the unique properties of lignites and sub-bituminous coals, including, but not limited to the following areas—

(1) high value-added carbon products;

(2) fuel cell applications;

(3) emissions control and combustion efficiencies;

(4) coal water fuels and underground coal gasification;

(5) distillates; and

(6) any other technologies which will assist in the development of niche markets for lignites and sub-bituminous coals.

(b) IMPLEMENTATION.—In carrying out this program, the Secretary shall enter into contracts, cooperative agreements and jointly sponsored research programs with, and provide grants to, qualified persons and use any other means deemed appropriate by the Secretary.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14106. MAGNETOHYDRODYNAMICS.—(a) PROGRAM.—The Secretary shall carry out a proof-of-concept program in magnetohydrodynamics. The purpose of this program shall be to prove the adequacy of the engineering and design information required to successfully design, construct, and operate an MHD retrofit plant based upon conceptual designs of a "MHD Retrofit System to a Coal Fired Generating Plant," which have been completed under Department of Energy contracts.

(b) SOLICITATION OF PROPOSALS.—In order to carry out the program authorized in subsection (a), the Secretary shall solicit proposals from the private sector and seek to enter into an agreement with appropriate parties.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 per centum of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) EXTENSION OF PROGRAM.—The Secretary may extend if necessary the completion date for the proof-of-concept program to September 30, 1995.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14107. COAL FIRED LOCOMOTIVES.—(a) The Secretary shall conduct a research, development, and demonstration program for utilizing "ultra-clean coal-water slurry" in diesel locomotive engines. The program shall address, but not be limited to, the following—

(1) required engine retrofit technology;

(2) coal-fuel production technology;

(3) emission control requirements;

(4) the testing of low-Btu highly reactive fuels;

(5) fuel delivery and storage systems requirements; and

(6) other infrastructure required to support commercial deployment.

(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14108. COAL EXPORTS.—(a) PLAN.—Within one hundred and eighty days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the United States Trade Representative, shall submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a plan for expanding the export of United States coal.

(b) PLAN CONTENTS.—Such plan shall include—

(1) identification of the location, size and projected growth in potential foreign markets for coal produced in the United States;

(2) identification by country of the existence of barriers to United States coal exports, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other nontariff barriers;

(3) recommendations and an action plan for addressing any such barriers;

(4) an evaluation of existing United States infrastructure, and any new infrastructure requirements within the United States to support an expansion of United States coal exports, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) identification of opportunities for blending United States coal exports with coal indigenous to the importing country to enhance energy efficiency and environmental performance.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14109. CLEAN COAL TECHNOLOGY EXPORT COORDINATING COUNCIL.—(a) ESTABLISHMENT.—There shall be established a Clean Coal Technology Export Coordinating Council (hereinafter "Council") which shall seek to facilitate and expand the export and use of clean coal technologies. The Council shall place a priority on the export and use of clean coal technologies in lesser-developed countries.

(b) MEMBERSHIP.—The Council shall consist of the Secretary, who shall serve as its chairperson, the Secretary of Commerce, the Secretary of State (including a designee from each of the Agency for International Development and the Trade and Development Program), the Administrator of the Environmental Protection Agency, the Secretary of the Treasury, the President and Chairman of the Export-Import Bank and the President and Chief Executive Officer of the Overseas Private Investment Corporation.

(c) CONSULTATION.—In undertaking its responsibilities, the Council shall consult with representatives from the United States coal industry, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies, and other appropriate interested members of the public.

(d) DUTIES.—In furthering the purposes of this section, the Council shall, through the Department and other member agencies, exercise such authorities as may be available to it to—

(1) facilitate the establishment of technical training for the consideration, planning, construction and operation of clean coal technologies by local users and international development personnel;

(2) cause to be established within existing departments and agencies financial assistance programs, including grants, loan guarantees, and no interest and low-interest loans, to support pre-feasibility and feasibility studies for projects that will utilize clean coal technologies and loan guarantee programs, grants, and no interest and low-interest loans, designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and execute programs, including the establishment of financial incen-

tives, to encourage and support private sector efforts to export clean coal technologies that are developed, manufactured or controlled by United States firms;

(4) encourage the training and understanding of clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops and other educational programs sponsored by United States firms;

(5) educate loan officers of the World Bank and other international lending institutions, commercial and energy attachés at embassies of the United States, and such other personnel as the Council deems appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technologies;

(6) augment budgets for trade and development programs supported by member agencies of the Council for the purpose of supporting financially pre-feasibility or feasibility studies for projects that will utilize clean coal technologies;

(7) review ongoing clean coal technology projects and review and approve planned clean coal technology projects, which are sponsored abroad by any Federal Government agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(8) coordinate the activities of the member agencies of the Council in order to assure that policies of the Council are implemented in a timely fashion; and

(9) undertake such other actions or activities, consistent with existing law and regulations, as may, in the judgment of the Secretary, be necessary to achieve the purposes of this section.

(e) DATA AND INFORMATION.—The Council shall be responsible for the development of a comprehensive data base and information dissemination system relating to the availability of clean coal technologies and an ongoing assessment of the potential need for such technologies particularly in lesser developed countries. The Council shall provide a country-by-country assessment of the potential for the use of clean coal technology. Such assessment shall include an analysis of the financing requirements to install such clean coal technology and whether such clean coal project is dependent upon foreign financial assistance, the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology, the priority of environmental considerations in the selection of the electric generating technology and the technical competence of those entities likely to be involved in the planning and operation of the electric generating facility. The Council shall make such information available to industry, Federal and international financing organizations, nongovernmental organizations, officials in countries where such clean coal technologies might be utilized and such others as the Council deems necessary. In developing this data base and ongoing assessment, the Council shall consult with the Committee on Renewable Energy Commerce and Trade.

(f) PLAN.—Within one hundred and eighty days after the Secretary submits the report to the Congress as required by section 409 of Public Law 101-549, the Council, in consultation with those persons referenced in subsection (c) of this section, shall provide to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Public Law 101-549. As a part of the plan required by this subsection, the Secretary shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of pre-feasibility and feasibility studies and projects that would utilize a clean coal technology in lesser developed countries.

(g) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14110. COAL FUEL MIXTURES.—Within one year following the date of enactment of this Act, the Secretary shall submit a report to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the status of technologies for combining coal with other materials, such as oil or water fuel mixtures. The report shall include—

(1) a technical and economic feasibility assessment of such technologies;

(2) projected developments in such technologies;

(3) an assessment of the market potential of such technologies, including the potential to displace imported crude oil and refined petroleum products;

(4) identification of barriers to commercialization of such technologies; and

(5) recommendations for addressing barriers to commercialization.

SEC. 14111. NATIONAL CLEARING HOUSE.—(a) ESTABLISHMENT OF CLEARING HOUSE.—(1) The Secretary shall establish a national clearing house for the exchange and dissemination of technical information on technology relating to coal and coal-derived fuels.

(2) In establishing a clearing house pursuant this section, the Secretary shall, among other things;

(A) collect information and data on technology relating to coal, and coal-derived fuels, which can be utilized to improve environmental quality and increase energy independence;

(B) disseminate to appropriate individuals, governmental departments, agencies, and instrumentalities, institutions of higher education, and other entities, information and data collected pursuant to this provision;

(C) maintain a complete library of technology publications and treatises relating to technology information and data collected pursuant to this provision;

(D) organize and conduct seminars for government officials, utilities, coal companies, and other entities or institutions relating to technology using coal and coal-derived fuels that will improve environmental quality and increase energy independence;

(E) gather information on research grants made for the purpose of improving or enhancing technology relating to the use of coal, and coal-derived fuels, which will improve environmental quality and increase energy independence;

(F) translate into English foreign research papers, articles, seminar proceedings, test results that affect, or could affect, clean coal use technology, and other documents;

(G) encourage, during the testing of technologies, the use of coal from a variety of domestic sources, and collect or develop, or both, complete listings of test results using coals from all sources;

(H) establish and maintain an index or compilation of research projects relating to clean coal technology carried out throughout the world; and

(I) conduct economic modeling for feasibility of projects.

(3) INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may select two institutions of higher education to manage and coordinate the clearing house activities. In selecting such institutions, one shall be located in a western coal producing State and one shall be located in an eastern coal producing State.

(b) GRANTS.—In carrying out the provisions of this section, the Secretary may enter into agreements with, and make grants to, the two institutions of higher education selected pursuant to paragraph (3) of subsection (a). Any such grant may be made at such time or times, in such amount, and subject to such terms and conditions as the Secretary may prescribe.

(c) COORDINATION WITH OTHER FEDERAL ENTITIES.—In carrying out the provisions of this section, the Secretary shall, from time to time, consult and coordinate his activities with other appropriate Federal departments, agencies and instrumentalities. All Federal departments, agencies, and instrumentalities shall cooperate to the fullest extent possible with the Secretary to enable him to carry out the provisions of this section.

(d) FUNDING FROM NON-FEDERAL SOURCES.—The Secretary may solicit and accept donations from non-Federal sources to assist in defraying expenses incurred in carrying out the provisions of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14112. STUDY OF UTILIZATION OF COAL COMBUSTION BYPRODUCTS.—(a) DEFINITIONS.—As used in this section, the term "coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials. When utilized as a product, as an ingredient thereof, or as a raw material, or when handled, transported or stockpiled for such utilization, these byproducts are considered product materials.

(b) FINDINGS.—With respect to utilization of coal combustion byproducts, the Congress makes the following findings:

(1) Coal combustion byproducts have commercial applications, including construction of bridges, highways, airports, dams, tunnels, buildings, reclamation projects, and numerous other technically proven commercial applications.

(2) The Environmental Protection Agency has reported to Congress that utilization of coal combustion byproducts has been done in an environmentally safe manner.

(3) The use of coal combustion byproducts in an environmentally safe manner is beneficial to society in the following respects—

(A) it conserves energy since these materials are byproducts of the combustion process, require no additional energy to produce, and thus conserve the energy necessary to extract and produce virgin materials;

(B) it conserves natural resources by substituting for virgin materials such as sand, gravel and soil;

(C) it lowers electricity costs to ratepayers by producing revenues from the sale of the byproducts and by avoiding disposal costs;

(D) it conserves land resources by avoiding the need for disposal facilities; and

(E) it provides superior quality construction materials at lower cost.

(4) The Federal and State governments are in a position to encourage the utilization of coal combustion byproducts.

(c) STUDY AND REPORT TO CONGRESS.—(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State, or local level, that may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

(2) Not later than twelve months after the date of enactment of this Act, the Secretary shall submit a report to Congress containing the results of the study required by paragraph (1) and the Secretary's recommendations for actions to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in (A) bridge and highway construction, (B) stabilizing wastes, and (C) procurement by departments and agencies of the Federal Government, by State and local governments, and in federally funded or federally subsidized procurement by the private sector.

SEC. 14113. ESTABLISHMENT OF DATA BASE AND STUDY OF COAL TRANSPORTATION RATES.—(a) ESTABLISHMENT OF DATA BASE.—The Secretary shall establish a data base containing, to the maximum extent practicable, all transportation rates for rail, pipeline, truck, conveyor belt, barge and other modes of transporting domestic coal during the period January 1, 1988 through December 31, 1997. The confidentiality of contract rates shall be preserved and public access to the data base shall be provided under appropriate terms and conditions that protect the confidentiality of specific contract rates.

(b) STUDY OF COAL TRANSPORTATION RATES.—The Secretary shall study the rates and distribution patterns of domestic coal to determine the impact of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (Public Law 101-549) and other Federal policies on such rates and distribution patterns. The study shall consider, among other factors—

(1) the extent to which coal transportation rate increases occur as a result of the enactment of the Clean Air Act and other Federal policies;

(2) any increases or decreases in the revenue to variable cost ratios of railroad coal transportation rates during the period of the study and the percentage of the delivered price of coal to electric generating facilities that is attributable to coal transportation rates, during this period;

(3) any changes in the distribution patterns of coal among the various regions of the Nation during the study period; and

(4) any electricity rate increases or decreases in the various regions of the Nation during the period of study that are attributable to coal transportation costs.

(c) REPORTS TO CONGRESS.—The Secretary shall submit an interim report to Congress on January 1, 1993, and a final report to Congress, together with any recommendations, on January 1, 1995. The Secretary shall submit an additional report to Congress, with recommendations, on January 1, 1998. The Administrator of the Energy Information Administration and the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission shall cooperate fully with the Secretary in the development of the data base and studies authorized by this section.

SEC. 14114. ASSISTANCE TO SMALL COAL OPERATORS.—(a) Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended to read as follows:

"(c)(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

"(B) The development of cross-section maps and plans required by subsection (b)(14).

"(C) The geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

"(D) The collection of archaeological information required by subsection (b)(13) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"(E) Pre-blast surveys required by section 515(b)(15)(E).

"(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

"(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.".

(b) REIMBURSEMENT OF COSTS.—Section 507 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257) is amended by adding at the end thereof the following new subsection:

"(h) A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.".

Subtitle B—Electricity

SEC. 14202. EXCESS CAPACITY STUDY.—The Secretary shall study and report to Congress by June 30, 1992, on any physical impediments to the transfer of excess electrical energy from regions of the country having surpluses to regions of the country having shortages and the reasons therefor.

SEC. 14203. CALCULATION OF AVOIDED COST.—Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) requires a State regulatory authority or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Public Law 98-473 as an incremental cost of alternative electric energy.

SEC. 14204. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES.—(a) DEFINITION.—For purposes of this section, the term "clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

(b) FEDERAL RATE INCENTIVES.—(1) Within twenty-four months after enactment of this section, the Federal Energy Regulatory Commission shall complete a rulemaking to establish a demonstration program for regulatory incentives to promote the development of clean coal technologies and other innovative control technologies that limit power plant emissions. The regulatory incentives shall include—

(A) establishment of an incentive rate of return for clean coal or other innovative emission control technologies that recognizes their inherent risk; and

(B) allowance of a ten- to twenty-year amortization period to recover the capital costs of a clean coal or other innovative emission control technology.

(2) The Federal Energy Regulatory Commission demonstration program is subject to the following—

(A) the program initially will have a five-year life;

(B) the program will cover no more than four units in each technology class; and

(C) the technology classes eligible for the program should be reasonably likely to realize significant cost reductions when employed.

(3) At the end of the five-year demonstration program, the Federal Energy Regulatory Commission shall review the merits of the program and determine whether it should be extended or made permanent.

(c) FERC PREAPPROVAL OF PRUDENCE FOR CLEAN COAL TECHNOLOGY COSTS.—The Federal Energy Regulatory Commission shall establish a process for negotiating with potential developers of clean coal technology or other innovative control technology projects to agree upon cost caps for future projects and preapproval of the prudency of expenses for those projects if the expenses fall within the agreed-upon cap.

(d) PRIORITY FOR UNITS LOCATED IN STATES WITH INCENTIVE PROGRAMS.—To the extent practicable, the Federal Energy Regulatory Commission shall, in the selection of units which will be provided incentive rate treatment under subsections (b) or (c), give priority to units located in states where—

(1) the State regulatory commission with jurisdiction over the retail rates of the utility seeking such incentive rate treatment has approved comparable incentives for inclusion in the utility's retail rates, or, if the utility makes no retail sales, where comparable retail rate treatment has been approved for other utilities which make retail sales in the State or States in which the wholesale customers of the utility seeking

such incentive rate treatment are located; and

(2) the State regulatory commission accords, to the extent relevant and within its jurisdiction, similar incentives to noninvestor-owned utilities on a basis no less favorable than that accorded to investor-owned utilities within its jurisdiction.

(e) ENCOURAGEMENT OF STATE INCENTIVE PROGRAMS.—(1) Because the use of clean coal technologies is in the Nation's interest, States, including their agencies and political subdivisions which regulate public utility rates and charges, are encouraged to provide additional incentives for their implementation. Those incentives may include, but are not limited to—

(A) preapproval of recovery of capital costs and other expenses, within reasonable bounds agreed upon before project construction;

(B) elimination of retroactive 'used and useful' reviews for clean coal technologies;

(C) rapid amortization of clean coal technology expenditures; and

(D) immediate recovery of a portion of clean coal technology expenses through a fuel adjustment clause or by some other method.

(2) REPORT OF THE SECRETARY.—(A) Within one year after the date of enactment of this Act, the Secretary shall report to Congress on his progress in encouraging State regulatory authorities to provide regulatory incentives to utilities to invest in clean coal technologies. Such report shall include detailed information on programs initiated by the Department of Energy to encourage such State action and shall describe any regulatory incentives that have been adopted by States as a result of actions taken by the Secretary.

(B) The report required under subparagraph (A) shall also include recommendations, if any, on further action that could be taken by the Department of Energy, other Federal agencies, or the Congress in order to encourage State regulatory authorities to provide regulatory incentives.

Subtitle C—Innovative Technology Transfer

SEC. 14301. INNOVATIVE CLEAN COAL AND RENEWABLE ENERGY TECHNOLOGY TRANSFER PROGRAM.—(a) IN GENERAL.—The Secretary shall, in consultation with the Clean Coal Technology Export Coordinating Council and the Committee on Renewable Energy Commerce and Trade, undertake a clean coal and renewable energy technology transfer program designed to encourage the utilization of United States technologies in commercial demonstration energy technology projects to be proposed by United States firms in host nations.

(b) PURPOSE.—The purpose of the energy technology transfer program under this section is to—

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain jobs in the United States through the manufacturing of capital goods associated with new energy technology projects located in other nations;

(3) encourage the foreign commerce in, and use of, commercially available United States technologies in those nations that have determined a need to construct facilities to provide useful energy derived from coal or renewable energy resources;

(4) develop markets for United States technologies and, where appropriate, United States coal resources, to be utilized in meeting the energy and environmental requirements of other nations;

(5) better ensure that United States participation in energy-related projects in other nations includes—

(A) participation by United States firms; and

(B) utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs; and

(6) provide for the accelerated demonstration of United States technologies that will serve to introduce into other nations United States technologies that—

(A) use coal or renewable energy resources in a cost-effective and environmentally acceptable manner; and

(B) serve to ensure the introduction of United States firms and expertise in those nations.

(c) IDENTIFICATION.—(1) The Secretary shall—

(A) after consultation with the Clean Coal Technology Export Coordinating Council and the Committee on Renewable Energy Commerce and Trade regarding the data and information obtained by the Council pursuant to section 14109(e) of this title, identify energy technology projects that may be developed in host nations that would be candidates for the application of a clean coal technology or a renewable energy technology;

(B) consult with appropriate government officials of a host nation, and, as appropriate, with representatives of non-United States electric utilities or other non-United States entities, to determine the interest in and support for an energy technology project that is identified under subparagraph (A).

(2) Within 240 days after the date of enactment of this Act, and subsequently as appropriate, the Secretary shall publish in the Federal Register and the Commerce Business Daily a list specifying those clean coal technology or renewable energy technology projects identified under paragraph (A) which, in the judgment of the Secretary, there is a reasonable likelihood will be proposed under the authorities provided by this section.

(d) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Within 120 days after issuance of the list in subsection (c)(2), and subsequently as appropriate thereafter, the Secretary shall issue a request for proposals from United States firms for the design, construction, testing, and operation of the energy technology project or projects specified on such list which propose to utilize a United States technology. Such request for proposals shall enable the Secretary to accept proposals on a continuous basis after the initial publication of the request for proposals.

(2) Requests for proposals shall include the following requirements:

(A) Unless otherwise herein specified, the request for proposals shall be governed by the requirements and procedure set forth in RFP No. DE-PS01-90FE62271 Clean Coal Technology IV as administered by the Department of Energy.

(B) The host nation in which the project is to be located shall be a participant in the proposed project and shall agree to provide, in combination with any non-United States entity participant, directly or indirectly, at least 50 percent of the cost of the project or such greater amount as may be warranted by the financial circumstances of the host nation and any non-United States entity participant, as determined by the Secretary.

(C) The project shall utilize a United States energy technology and, where appropriate, United States coal resources, in meeting the applicable energy and environmental requirements of the host nation.

(D) The project shall be proposed by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(E) At least 50 percent of the cost of any equipment furnished in connection with an energy technology project authorized under this section shall be attributable to the components of such equipment manufactured in the United States. In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host nation shall not be considered a part of the cost of such United States component.

(e) SELECTION OF PROJECTS.—(1) The Secretary, in consultation with the Clean Coal Technology Export Coordinating Council or the Committee on Renewable Energy Commerce and Trade, may, not later than 120 days after receipt of proposals in response to the initial solicitation under subsection (d), select at least two proposals for negotiation of cooperative agreements under this section.

(2) In selecting a proposal and in negotiating a cooperative agreement under this section, the Secretary shall consider—

(A) the ability of the United States firm, in cooperation with the host nation, to undertake and complete the proposed commercial demonstration project;

(B) the degree to which the furnished equipment to be included in the energy technology project is manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host nation and in other nations;

(D) the extent of technical and financial involvement of the host nation in the commercial demonstration project;

(E) the extent to which the proposed energy technology project meets the objectives stated in subsection (b) of this section; and

(F) such other criteria as the Secretary deems appropriate.

(3) The Secretary, in consultation with appropriate Federal officials, may establish eligibility criteria for host nations.

(f) COST-SHARING.—(1) The Secretary may provide financial assistance to any energy technology project for which a cooperative agreement is entered into pursuant to this section. Such financial assistance may be in the form of grants, or no interest or low interest loans.

(2)(A) Any financial assistance under this subsection may not be greater than 50 percent of the total costs directly and specifically related to any energy technology project which is the subject of a cooperative agreement under this section.

(B) Any financial assistance provided under this section shall be repayable to the United States if, in the judgment of the Secretary, such repayment will not jeopardize the competitive position of the United States firm with respect to the energy technology utilized and technological expertise associated with the selected project.

(g) REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the progress being made, through the coopera-

tive agreements under this section, to introduce clean coal technologies and renewable energy technologies into other nations.

(h) DEFINITIONS.—For purposes of this section, the term—

(1) "host nation" means that foreign country which is—

(A) the participant in or the site of the proposed clean coal technology or renewable energy technology project and

(B) classified as either—

(i) a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a category II or category III country as classified under the guidelines of the export credit arrangement of the Organization for Economic Cooperation and Development followed by the Export-Import Bank of the United States.

(2) "United States firm" means—

(A) an individual possessing United States citizenship;

(B) a corporation incorporated under the laws of the United States; or

(C) a joint venture or partnership organized under the laws of the United States, each participant of which is an individual or corporation described in subparagraph (A) or (B).

(3) "United States energy technology" means—

(A) a clean coal technology or a renewable energy technology that is determined by the Secretary to be available for commercial use but not widely demonstrated in other than the United States;

(B) a technology which is either owned (50 percent or more) by a United States firm, licensed to a United States firm and owned by another United States firm, or in the public domain; and

(C) the intellectual property embodied in the process and in the furnished equipment being demonstrated.

SEC. 14302. CONVENTIONAL COAL TECHNOLOGY TRANSFER.—(a) If the Clean Coal Technology Export Coordinating Council determines that a United States conventional coal technology would constitute a substantial improvement in efficiency, costs, and environmental performance relative to the energy technology being used in a less developed country with significant indigenous coal resources, such technology shall, for purposes of sections 14109 and 14301, be considered a clean coal technology. In the case of combustion technologies, only the retrofit, repowering, or replacement of a conventional technology shall constitute a substantial improvement for purposes of this section.

(b) In carrying out this subtitle, the Council shall give highest priority to promoting the most environmentally sound and energy efficient technologies.

TITLE XV—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

SEC. 15101. EXEMPT WHOLESALE GENERATORS.—(a) DEFINITIONS.—For purposes of this title, the term—

(1) "exempt wholesale generator" means any person who: (A) is engaged directly, or indirectly through one or more affiliates of such person, as defined under section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(11)(B)), exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale, but such term excludes an affiliate of a registered holding company which was in existence as of the date of enactment of this title, unless the Commission has consented to such affiliate being an exempt wholesale generator; and (B) provides notice to the Commission, in such form as the Commission may prescribe, that such person is an exempt wholesale generator;

(2) "eligible facility" means a facility, wheresoever located, used for the generation of electric energy exclusively for sale at wholesale, including inter-connecting transmission facilities necessary to effect such sale at wholesale, but shall exclude any facility for which consent is required under subsection (c) if such consent has not been obtained. For purposes of this definition, the term "facility" shall include a portion of a facility and shall include a facility the construction of which has not been commenced or completed;

(3) "sale of electric energy at wholesale" shall have the same meaning as provided in section 201(d) of the Federal Power Act, as amended (16 U.S.C. 824(d));

(4) "retail rates and charges" means rates and charges for the sale of electric energy directly to consumers;

(5) "Commission" means the Securities and Exchange Commission; and

(6) "the Act" means the Public Utility Holding Company Act of 1935, as amended (15 U.S.C. 79 et seq.).

(b) APPLICABILITY OF DEFINITIONS IN PUHCA.—All of the terms used in this title and defined in the Act shall have the same meanings as defined therein.

(c) STATE CONSENT FOR ELIGIBLE FACILITIES.—If a rate or charge for, or in connection with, the construction of a facility, or for electric energy produced by a facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) was in effect under the laws of any State as of the date of enactment of this title, in order for the facility to be considered an eligible facility consent must be obtained from every State commission having jurisdiction over any such rate or charge: *Provided*, That in the case of such a rate or charge which is a rate or charge of an affiliate of a registered holding company: (1) consent with respect to the facility in question shall be required from every State commission having jurisdiction over the retail rates and charges of the affiliates of such registered holding company; and (2) the approval of the Commission under the Act shall not be required for the transfer of the facility to an exempt wholesale generator.

(d) EXEMPTION OF EWGS FROM PUHCA.—An exempt wholesale generator shall not be considered an electric utility company under section 2(a)(3) of the Act and, whether or not a subsidiary company, an affiliate, or an associate company of a holding company, shall be exempt from all provisions of the Act.

(e) OWNERSHIP OF EWGS BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of the Act, a holding company that is exempt under section 3 of the Act shall be permitted without condition or limitation under the Act to acquire and maintain an interest in the business of one or more exempt wholesale generators.

(f) OWNERSHIP OF EWGS BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of the Act and the Commission's jurisdiction as provided under subsection (g) of this section, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under the Act), to acquire and hold the securities, or an interest in the business, of one or more exempt wholesale generators.

(g) FINANCING AND OTHER RELATIONSHIPS BETWEEN EWGS AND REGISTERED HOLDING COMPANIES.—The issuance of securities by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, the guarantee of securities of an exempt wholesale generator by a registered holding company, the entering into service, sales or construction contracts, and the creation or maintenance of any other relationship in addition to that described in subsection (f) between an exempt wholesale generator and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under the Act: *Provided*, That—

(1) section 11 of the Act shall not prohibit the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system;

(2) the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located) shall be considered as reasonably incidental, or economically necessary or appropriate to the operations of an integrated public utility system;

(3) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, or (B) the guarantee of a security of an exempt wholesale generator by a registered holding company, the Commission shall not make a finding that such security is not reasonably adapted to the earning power of such company or to the security structure of such company and other companies in the same holding company system, or that the circumstances are such as to constitute the making of such guarantee an improper risk for such company, unless the Commission first finds that the issue or sale of such security, or the making of the guarantee, would have a substantial adverse impact on the financial integrity of the registered holding company system;

(4) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes other than the acquisition of an exempt wholesale generator, or (B) other transactions by such registered holding company or by its subsidiaries other than with respect to exempt wholesale generators, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an exempt wholesale generator upon the registered holding company system, unless the approval of the issue or sale or other transaction, together with the effect of such capitalization and earnings, would have a substantial adverse impact on the financial integrity of the registered holding company system; and

(5) the Commission shall make its decision under paragraph (3) to approve or disapprove the issue or sale of a security or the guarantee of a security within 120 days of the filing of a declaration concerning such issue, sale or guarantee.

SEC. 15102. OWNERSHIP OF EXEMPT WHOLESALE GENERATORS AND QUALIFYING FACILITIES.—The ownership by a person of one or more exempt wholesale generators shall not

result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of sections 3(17)(C)(ii) and 3(18)(B)(ii) of the Federal Power Act, as amended (16 U.S.C. 796 (17)(C)(ii) and 796(18)(B)(ii)).

SEC. 15103. PREVENTION OF STRANDED INVESTMENT.—The Federal Energy Regulatory Commission shall not approve a rate or charge for the sale of electric energy at wholesale by an exempt wholesale generator if such sale of electric energy would result in a State commission not permitting such purchaser to recover in retail rates and charges any portion of its capital investment in an electric generation facility:

(a) which facility was under construction as of the date of enactment of this section; or

(b) upon which portion such purchaser has previously been permitted to earn a rate of return in retail rates and charges subject to such State commission's jurisdiction.

SEC. 15104. PREVENTION OF SHAM WHOLESALE TRANSACTIONS.—The Federal Energy Regulatory Commission shall not approve a rate or charge for the sale of electric energy at wholesale by an exempt wholesale generator if:

(a) such electric energy would be resold by the purchaser to any electric consumer; and

(b) the purchaser: (1) is not a municipal electric system, state power authority, electric power cooperative or a public utility under State law; or (2) would not utilize transmission or distribution facilities owned by such purchaser to deliver all such electric energy to such electric consumer.

SEC. 15105. PROTECTION AGAINST ABUSIVE AFFILIATE TRANSACTIONS; STATE AUTHORITIES; FEDERAL RESTRICTION; RECIPROCAL ARRANGEMENTS PROHIBITED.—(a) IN GENERAL.—An electric utility company may not enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator if the exempt wholesale generator is an affiliate or associate company of the electric utility company.

(b) STATE AUTHORITY TO EXEMPT FROM PROHIBITION.—Notwithstanding subsection (a), an electric utility company may enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator that is an affiliate or associate company of the electric utility company if every State commission having jurisdiction over the retail rates of such electric utility company makes a specific determination in advance of the electric utility company entering into such contract that the transaction will benefit consumers, is in the public interest, and does not violate any State law (including where applicable, least cost planning).

(c) SALE JUST AND REASONABLE.—A rate or charge for the sale of electric energy at wholesale in interstate commerce by an exempt wholesale generator shall not be considered just and reasonable within the meanings of sections 205 and 206 of the Federal Power Act if the rate or charge allows the exempt wholesale generator to receive any unfair advantage resulting from the fact that the purchaser of such electric energy is an affiliate or associate company of such exempt wholesale generator.

(d) RECIPROCAL ARRANGEMENTS PROHIBITED.—Reciprocal arrangements among companies that are not affiliates or associate companies of each other that are entered into in order to avoid the provisions of this section are prohibited.

SEC. 15106. STATE AUTHORITY.—Section 209 of the Federal Power Act (16 U.S.C. 824h) is amended by adding at the end the following new subsection:

"(d)(1) Except as set forth in paragraph (2), nothing in this Act shall limit the authority of a State commission in accordance with State law to allow or disallow the inclusion of the costs of electric energy purchased at wholesale in retail rates subject to such State commission's jurisdiction: *Provided*, That the State commission shall have no authority to determine the reasonableness of the wholesale rate or charge (and the terms and conditions thereof): *Provided further*, That at the request of a utility which has been offered a sale of electric energy at wholesale from an exempt wholesale generator, any State commission with jurisdiction over the retail rates of such utility shall commit to allow or disallow recovery of costs attributable to the utility's proposed action with regard to the offer in advance of the effective date of the action, except that the State may include terms or conditions as a condition of cost recovery as it deems appropriate. The action of the State commission in allowing cost recovery or conditionally allowing cost recovery shall be binding (subject to the terms and conditions, if any of such cost recovery) for purposes of the inclusion of costs in retail rates, except that such commission shall not be bound to the extent there is new information which the State commission believes is relevant and material to such cost recovery.

"(2) An order by the Commission accepting or establishing as just and reasonable the terms of an agreement for the sale and purchase or interchange of electric energy among affiliates of a registered holding company shall preempt the authority of any State commission to determine the prudence of any purchase of electric energy pursuant to that agreement.

"(3) Paragraph (2) shall not apply to: (A) the purchase of electric energy at wholesale by an affiliate of a registered holding company from an exempt wholesale generator; or (B) the purchase of electric energy at wholesale by an affiliate of a registered holding company from a person other than an exempt wholesale generator when the economic substance of such purchase amounts to an indirect purchase of electric energy from an exempt wholesale generator. For purposes of this subsection (d), energy purchased by an affiliate of a registered holding company as a result of the operation of an integrated holding company shall not be deemed to be an indirect purchase of electric energy from an exempt wholesale generator.

"(4) For purposes of this subsection the term—

"(A) 'exempt wholesale generator' has the same meaning as provided in title XV of the National Energy Security Act of 1992;

"(B) 'affiliate' and 'registered holding company' have the same meanings as provided in the Public Utility Holding Company Act of 1935;

"(C) 'purchase of electric energy at wholesale' means a purchase of electric energy by any person for resale; and

"(D) 'retail rates' means rates and charges for the sale of electric energy to consumers.".

SEC. 15107. STATE CONSIDERATION OF THE EFFECTS OF POWER PURCHASES ON UTILITY COST OF CAPITAL; CONSIDERATION OF THE EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND CONSIDERATION OF ADEQUATE FUEL SUPPLIES.—The Public Utility Regulatory Policies Act of 1978 (Public Law 95-617), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(8) Consideration of the Effects of Wholesale Power Purchases on Utility Cost of Capital; Effects of Leveraged Capital Structures on the Reliability of Wholesale Power Sellers; and Assurance of Adequate Fuel Supplies.—

"(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall:

"(i) perform a general evaluation of (A) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities (B) the impact on consumers arising from the fact that the exempt wholesale generator will own the eligible facility at the end of the term of a power sales contract;

"(ii) perform a general evaluation of any negative or positive effects on the reliability of electric service provided by such utilities that may result from purchases of long term wholesale power supplies from sellers that have capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities;

"(iii) hold a proceeding to consider whether the use by exempt wholesale generators (as defined in title XV of the National Energy Security Act of 1992) of capital structures employing less than 35 percent equity threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

"(iv) implement procedures for the advance approval or disapproval of the purchase of a particular long term wholesale power supply which procedures reflect the results of evaluations under clauses (i), (ii) and (iii); and

"(v) require as a condition for the approval of the purchase of a particular long term wholesale power supply that the seller provide reasonable assurance of its access to sources of fuel adequate to perform its obligations under the terms of the contract for the sale of such power supply.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Energy Security Act of 1992.

"(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale generators, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).

"(D) Notwithstanding section 124 and paragraphs (1) and (2) of section 112(a), each State regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to the enactment of this paragraph.

"(E) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a deter-

mination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after the date of enactment of this paragraph.".

SEC. 15108. STATE COMMISSION ACCESS TO BOOKS AND RECORDS; PUBLIC ACCESS TO RECORDS AND INFORMATION; DEFINITION.—(a) ACCESS TO BOOKS AND RECORDS.—Each affected State commission shall have continuing and periodic access to relevant financial and other records of the exempt wholesale generator and any electric utility company that is an affiliate or associate company of such exempt wholesale generator relevant to the exercise of such affected State commission's authority. The records to be provided hereunder shall be specified by the affected State commission and may include: (1) all books and records which the exempt wholesale generator would be required to furnish under State law if such company were an electric utility company making retail sales subject to the jurisdiction of such affected State commission; (2) all contracts to which the exempt wholesale generator is a party relating to the financing, construction or operation of eligible facilities used to produce electric energy sold or to be sold by such exempt wholesale generator; and (3) any other records or information of the exempt wholesale generator or any electric utility company that is an affiliate or associate company of such exempt wholesale generator that are relevant to the exercise of such affected State commission's authority. All records and information provided hereunder shall be open to public inspection, and shall be subject to subpoena and other process of law, to the same extent and in the same manner as comparable records and information of electric utility companies under applicable law: *Provided further*, That trade secrets and other sensitive commercial information shall be exempt from public disclosure or disclosure to potential competitors of such exempt wholesale generator by an affected State commission and shall not be provided to a State commission unless such commission has in place procedures for protecting the confidentiality of such information.

(b) AFFECTED STATE COMMISSION.—For purposes of this section, with respect to a particular exempt wholesale generator an "affected State commission" means any State commission:

(1) having authority over the retail rates of an electric utility company to which such exempt wholesale generator sells electric energy;

(2) having authority over the retail rates of an electric utility company which is an affiliate of such exempt wholesale generator; or

(3) having authority over the retail rates of an electric utility company which is an associate company of such exempt wholesale generator and which is a subsidiary company of a holding company that is exempt under section 3 of the Act.

(c) NONPREEMPTION.—Nothing in this section shall—

(1) preempt applicable State law concerning the provision of records and other information; or

(2) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

SEC. 15109. PUBLIC UTILITY HOLDING COMPANIES TO OWN INTERESTS IN COGENERATION FACILITIES.—That Public Law 99-186 (99 Stat. 1180, as amended by Public Law 99-553, 100 Stat. 3087), be amended to read as follows:

"SECTION 1. Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935, a company registered under said Act, or a subsidiary company of such registered company, may acquire or retain, in any geographic area, an interest in any qualifying cogeneration facilities and qualifying small power production facilities as defined pursuant to the Public Utility Regulatory Policies Act of 1978, and shall qualify for any exemption relating to the Public Utility Holding Company Act prescribed pursuant to section 210 of the Public Utility Regulatory Policies Act.

"SEC. 2. Nothing herein shall be construed to affect the applicability of section 3(17)(C) or section 3(18)(B) of the Federal Power Act or any provision of the Public Utility Holding Company Act, other than section 11(b)(1), to the acquisition or retention of any such interest by any such company.".

TITLE XVI—STRATEGIC PETROLEUM RESERVE

SEC. 16101. OIL SECURITY PROTECTION.—(a) Title I of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6201) is amended—

(1) in section 152, by striking "and part C" and inserting in lieu thereof ", part C, and part D" in the material preceding paragraph (1);

(2) by redesignating part D as part E;

(3) by redesignating section 181 as section 191; and

(4) by adding the following new part after part C:

"PART D—ADDITIONAL OIL SECURITY PROTECTION

"SHORT TITLE

"SEC. 181. This part may be cited as the 'Strategic Petroleum Reserve Enhancement Act of 1992'.

"PURPOSES

"SEC. 182. The purposes of this part are to—

"(1) complete, at the earliest practicable date, storage of seven hundred and fifty million barrels of petroleum products in the Strategic Petroleum Reserve;

"(2) facilitate progress, as rapidly as practicable, toward establishment of a one billion barrel Strategic Petroleum Reserve;

"(3) authorize establishment of a Defense Petroleum Inventory of at least ten million barrels of petroleum products;

"(4) initiate, at the earliest practicable date, the acquisition of petroleum product pursuant to section 171 of the Energy Policy and Conservation Act of 1990;

"(5) acquire by purchase, exchange, or other arrangement, from one or more foreign governments, petroleum products for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory; and

"(6) provide the President with broad and flexible authority to achieve these objectives.

"COMPLETION OF 750 MILLION BARREL RESERVE

"SEC. 183. (a) The President shall initiate such actions as are necessary to complete storage of seven hundred and fifty million barrels of petroleum products in the Strategic Petroleum Reserve at the earliest practicable time. Such actions may include the alternatives in section 185.

"ENLARGEMENT OF RESERVE BEYOND 750 MILLION BARRELS

"SEC. 184. The President shall initiate such actions as are necessary to enlarge the Strategic Petroleum Reserve to one billion barrels as rapidly as possible. Such actions may include—

"(1) either of the alternatives described in section 185; and

"(2) the contracting for petroleum products for storage in facilities not owned by the United States.

"ACQUISITION OF PETROLEUM PRODUCTS

"SEC. 185. (a) The President, acting through the Secretary of Energy, may—

"(1) acquire by purchase, exchange, or other arrangement, from one or more foreign governments, without the necessity for competitive procurement, petroleum products for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory; and

"(2) contract, without regard to sections 171(b)(2)(B) and 173 of the Energy Policy and Conservation Act (42 U.S.C. 6349(b)(2)(B)), or to the restrictions which Public Law 101-512 imposes on the leasing of crude oil, for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory of petroleum products owned by one or more foreign governments.

"(b) The Secretary may utilize such funds as are available in the SPR Petroleum Account to carry out the activities described in subsection (a), and may obligate and expend such funds to carry out those activities, in advance of the receipt of petroleum products.

"(c) For the purpose of this part, the term 'foreign government' means a foreign government, a foreign State-owned oil company, or an agent of either.

"(d)(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary of Energy to acquire oil from domestic production of stripper well properties for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory. Except as provided in paragraph (d)(2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

"(2) Crude oil purchased by the Secretary pursuant to this section shall be by competitive bid. The price paid by the Secretary shall take into account the cost of production including costs of reservoir and well maintenance.

"(3) The President may also direct the Secretary of the Interior to take such actions as are within his power to provide incentives for conservation of the oil production from stripper wells located upon the public lands.

"(4) For the purpose of this section, the terms—

"(A) "domestic production" means any crude oil produced in the United States by any person; and

"(B) 'stripper well property' means any well located in the United States which produces an average of 15 or less barrels of crude oil per production day.".

(b) Part B of title I of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6215 et seq.) is amended by adding after section 167 the following new section:

"DEFENSE PETROLEUM INVENTORY

"SEC. 168. (a) Notwithstanding any other provision of this part, the Secretary may—

"(1) acquire or construct, operate and maintain storage and facilities associated with a Defense Petroleum Inventory of at least ten million barrels of crude oil to meet petroleum product requirements of the Department of Defense; and

"(2) acquire and store crude oil therein.

"(b)(1) The acquisition and storage of crude oil in the Defense Petroleum Inventory shall be in addition to any acquisition or storage of crude oil for the Strategic Petroleum Reserve required by any other law, and crude

oil acquired and stored under this section shall not be counted as part of the Strategic Petroleum Reserve.

"(2) In carrying out the functions authorized by this section, the Secretary may exercise any authority available under this part.

"(c)(1) Notwithstanding any other provision of this part, upon the request of the Secretary of Defense, crude oil acquired for or dedicated by the Defense Petroleum Inventory shall be drawn down and distributed by the Secretary to, or on behalf of, the Department of Defense for use, sale, or exchange. Crude oil in the Defense Petroleum Inventory may be drawn down and distributed, used, sold, or exchanged, without regard to—

"(A) whether the crude oil has been commingled with petroleum products of the Strategic Petroleum Reserve;

"(B) the requirements of this part concerning drawdown of the Strategic Petroleum Reserve; or

"(C) otherwise applicable Federal contracting statutes and regulations.

"(2) The Secretary of Energy shall exercise the authority provided by this subsection in a manner which does not adversely affect drawdown of the Strategic Petroleum Reserve.

"(d) Upon the request of the Secretary of Defense, and subject to the availability of funds from the Department of Defense, the Secretary shall acquire and store in the Defense Petroleum Inventory crude oil to replace crude oil drawn down under subsection (c).

"(e) An amendment to the Strategic Petroleum Reserve Plan relating to the exercise of this authority shall not be required.

"(f) The Department of Defense shall reimburse the Secretary of Energy for—

"(1) all costs of acquiring and storing crude oil in the Defense Petroleum Inventory, including the cost of associated facilities construction;

"(2) drawdown and distribution services provided under this section, in amounts that the Secretary determines to be reasonable; and

"(3) all costs of acquiring crude oil for the Strategic Petroleum Reserve to replace crude oil drawn down and distributed under subsection (c).

"(g) Crude oil acquired for the Defense Petroleum Inventory under subsection (a) shall be transferred to the Strategic Petroleum Reserve, pursuant to subsection (f)(3), in reimbursement on a barrel-for-barrel basis for the cost of replacement petroleum products acquired for the Strategic Petroleum Reserve.".

(c) The table of contents of the Energy Policy and Conservation Act (Public Law 94-163) is amended—

(1) by inserting after the item for section 167 the following item:

"Sec. 168. Defense Petroleum Inventory.";

(2) by inserting at the end of the items for part C of Title I the following items:

"PART D—ADDITIONAL OIL SECURITY PROTECTION

"Sec. 181. Short title.
"Sec. 182. Purposes.
"Sec. 183. Completion of 750 million barrel reserve.
"Sec. 184. Enlargement of reserve beyond 750 million barrels.
"Sec. 185. Acquisition of petroleum products.";

(3) by redesignating Part D in the items for title I as part E; and

(4) by redesignating the item for section 181 as the item for section 191.

TITLE XVII—STRATOSPHERIC OZONE DEPLETION

SEC. 17101. FINDINGS.—The Senate finds that:

(1) The stratospheric ozone layer, which protects all living things from harmful ultraviolet radiation from the sun, has been severely depleted in many areas of the globe.

(2) Recent scientific data show that the ozone layer over densely populated areas of the United States and other countries in the northern midlatitudes has thinned twice as fast as had previously been measured and as had been projected by theoretical models and the depletion is persisting into the warmer months of the year, and has reached significant levels even in summer.

(3) Ozone depletion in the Southern Hemisphere is proceeding even more rapidly than in the Northern Hemisphere.

(4) The incidence of skin cancer and cataracts is expected to rise significantly and the human immune system may be suppressed due to increased exposure to ultraviolet radiation.

(5) Increased exposure to ultraviolet radiation threatens food crops and some wild plants, and interferes with the ability of phytoplankton, the microscopic organisms that are at the base of the oceanic food chain, to photosynthesize and to reproduce.

(6) The scientific evidence shows that chlorofluorocarbons, hydrochlorofluorocarbons, and other halogenated chemicals undergo reactions in the stratosphere that lead to the rapid destruction of the ozone layer.

(7) The Administrator of the Environmental Protection Agency is required under the Clean Air Act Amendments of 1990 to accelerate the scheduled phaseout of ozone-destroying substances if it is determined in the light of scientific evidence that a more stringent schedule is necessary to protect human health and the environment.

(8) The recent scientific findings make necessary a reappraisal of both domestic and international policy on the control of ozone-destroying chemicals.

SEC. 17102. SENSE OF THE SENATE.—It is the sense of the Senate that:

(1) The Administrator of the Environmental Protection Agency should accelerate the interim phaseout schedules and the final phaseout date of chlorofluorocarbons, carbon tetrachloride, methyl chloroform, and halons as required pursuant to section 606 of the Clean Air Act Amendments of 1990, and shall provide for complete phaseout as early as possible, taking into account section 604 of the Act.

(2) The Administrator of the Environmental Protection Agency should accelerate the interim phaseout schedule and the final phaseout date of those hydrochlorofluorocarbons that have relatively long atmospheric lifetimes or high ozone depletion potentials.

(3) The Administrator of the Environmental Protection Agency should prioritize efforts to issue regulations, as required pursuant to title VI of the Clean Air Act Amendments of 1990, providing for the recapture and recycling of ozone-destroying substances as used in appliances and motor vehicle air conditioners, and for the elimination of such substances as used in non-essential consumer products.

(4) The President of the United States should urge the Contracting Parties to the Montreal Protocol to accelerate the interim phaseout schedules and the final phaseout date of ozone-destroying chemicals currently covered by the Protocol.

(5) The President should urge the Contracting Parties to include hydrochlorofluorocarbons within the terms of the Montreal Protocol, and to provide for the most rapid phaseout of those hydrochlorofluorocarbons with relatively long atmospheric lifetimes, or high ozone depletion potentials.

(6) The President should urge the Contracting Parties to amend the Protocol to include recapture and recycling provisions and to prohibit the venting or releasing of ozone-destroying chemicals from refrigeration and air conditioning units into the atmosphere by date certain.

(7) The President should urge the Contracting Parties to accelerate the compliance of developing countries with the terms of the Montreal Protocol.

TITLE XVIII—INDIAN ENERGY RESOURCE DEVELOPMENT COMMISSION

SEC. 18101. SHORT TITLE.—This title may be cited as the "Indian Energy Resource Development Commission Act of 1992".

SEC. 18102. ESTABLISHMENT.—There is established the Indian Energy Resources Development Commission (hereafter in this title referred to as the "Commission").

SEC. 18103. MEMBERSHIP OF THE COMMISSION.—(a) MEMBERSHIP COMPOSITION.—The Commission shall consist of—

(1) 6 members appointed by the Secretary of the Interior from recommendations submitted by Indian tribal governments;

(2) 3 members appointed by the Secretary of the Interior from recommendations submitted by the Governors of States which have Indian reservations with energy resources;

(3) 9 members appointed by the Secretary of the Interior from private sector individuals with expertise in energy development, taxation of energy resources, or oil and gas royalty management administration, auditing and accounting;

(4) the Secretary of the Interior, or his designee; and

(5) the Secretary of Energy, or his designee.

(b) APPOINTMENTS.—Members of the Commission shall be appointed not later than 60 days following the date of enactment of this title.

(c) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(d) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

(e) QUORUM.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) ORGANIZATIONAL MEETING.—The Commission shall hold an organizational meeting to establish the rules and procedures of the Commission not later than 30 days after all members are first appointed to the Commission.

(g) COMPENSATION.—Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(h) TRAVEL.—While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 18104. COMMISSION STAFF.—(a) EXECUTIVE DIRECTOR.—The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) ADDITIONAL PERSONNEL.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such appointments shall be made in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates not to exceed the rate prescribed for level GS-15 of the General Schedule under section 5108 of such title.

(c) EXPERTS AND CONSULTANTS.—Subject to such rules as may be issued by the Commission, the Chairperson may procure temporary and intermittent services of experts and consultants to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) PERSONNEL DETAIL AUTHORIZED.—Upon request of the Chairperson, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

SEC. 18105. DUTIES OF THE COMMISSION.—The Commission shall—

(1) identify barriers or obstacles to the development of energy resources on Indian lands, and make recommendations designed to foster the development of energy resources on Indian lands and promote economic development;

(2) develop proposals to address the dual taxation of the extraction of mineral resources on Indian lands;

(3) develop proposals for the promotion of vertical integration of the development of energy resources on Indian lands;

(4) make recommendations to improve the management, administration, accounting and auditing of royalties associated with the production of oil and gas on Indian lands; and

(5) develop proposals on taxation incentives to foster the development of energy resources on Indian lands including, but not limited to, investment tax credits and enterprise zone credits.

SEC. 18106. POWERS OF THE COMMISSION.—(a) HEARINGS.—For the purpose of carrying out this title, the Commission may hold hearings, take testimony, and receive evidence at such times and places as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) ADMINISTRATIVE PROVISION.—Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this title. Upon request of the Chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

SEC. 18107. REPORT.—The Commission shall prepare and transmit a report to the President, the Speaker of the House of Representatives, the Select Committee on Indian Affairs of the Senate, and the Committee on Energy and Natural Resources of the Senate within 12 months after funding for the operation of the Commission has been secured. The report shall contain the recommendations and proposals outlined in section 18105.

SEC. 18108. DEFINITION OF "INDIAN LANDS".—For the purposes of this title, the term "Indian lands" means lands that are owned by an Indian tribe or Alaska Native corporation or held in trust by the United States for the benefit of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 18109. AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 18110. TERMINATION.—The Commission shall terminate 30 days after submitting the final report required by section 18107.

TITLE XIX—GENERAL PROVISIONS

SEC. 19101. SUPPORT FOR UNITED STATES WORKERS.—(a) FINDINGS.—The Senate finds that—

(1) the United States worker is one of the most productive in the world;

(2) based on gross domestic product produced per employed person, the United States is rated number one in productivity compared to Canada, Japan, Korea, Germany, and Britain;

(3) according to a study (based on statistics from the Organization for Economic Cooperation and Development) during the mid-1980's, America produced almost twice as much as Japan for every man-hour worked;

(4) it was the hard work, dedication, and efficiency of United States workers that made the United States the number one industrial power in the world;

(5) the quality of United States products is one of the best in the world;

(6) the United States leads in many areas including computer software and hardware technology, pharmaceuticals, biotechnology, construction engineering, entertainment, agriculture, and energy and environmental control;

(7) the United States has been able to successfully export to other areas of the world;

(8) the trade deficit with Japan for 1991 is approximately $42 billion;

(9) United States and other foreign auto makers attempting to sell in Japan have less than 3 percent of the Japanese market;

(10) Japan's structural impediments, such as restrictive distribution system, exclusionary business practices, keiretsu relationships, regulatory system, land policy, and predatory pricing practices, prevent United States companies from fairly competing in Japan;

(11) Japan's tariffs and quotas on foreign agricultural goods restrict the import of United States agricultural products into Japan;

(12) Japan continues to violate United States copyright, patent, and trademark protection laws; and

(13) Japan continues to restrict foreign direct investment in certain industries, while the United States permits unrestricted foreign investment.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate objects to—

(1) the comments made by Japan's Speaker of the House, Yoshio Sakurauchi, regarding American workers, and

(2) the statements made by Prime Minister Kiichi Miyazawa disparaging the American work ethic and undermining the commitment that was made with President Bush.

SEC. 19102. AMENDMENT TO TITLE 11 OF THE UNITED STATES CODE.—(a) Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) any interest of a debtor in or to liquid or gaseous hydrocarbons which the debtor has transferred or has agreed to transfer through or by a written farmout agreement, or any written agreement directly related thereto.

The trustees' rights, created in sections 365 and 544(a)(3), shall not operate to cancel or otherwise limit the effect of paragraph (3). For purposes of this subsection, the term 'farmout agreement' is a written agreement (A) in which the owner, of the rights to drill, produce or operate liquid or gaseous hydrocarbons on property agrees or is obligated to transfer or assign all or a portion of those rights to another party and (B) in which the other party, its agents or assignees, as consideration, agrees to perform drilling, reworking, recompleting, testing or other similar or related operations to develop or produce liquid or gaseous hydrocarbons on the property. In determining if a farmout agreement exists, the courts shall look to the custom and practices within the oil and gas industry for guidance. This subsection shall not operate to exclude from the debtor's estate the consideration which the debtor retains, receives, or will receive in exchange for transfering its interest in liquid or gaseous hydrocarbons.".

(b) EFFECTIVE DATE.—Except as provided in subsection (c), section 19102 shall take effect on the date of the enactment of this Act.

(c) APPLICATION OF AMENDMENT.—The amendment made by section 19102 shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

SEC. 19103. LIMITS ON PARTICIPATION BY COMPANIES.—A company shall be eligible to receive financial assistance under this Act only if—

(1) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(2) either—

(A) the company is a United States-owned company; or

(B) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

SEC. 19104. EMERGENCY PETROLEUM SUPPLY.—(a) SHORT TITLE.—This section may be cited as the "Emergency Petroleum Supply Act".

(b) REGIONAL PETROLEUM RESERVE.—Section 157(a) of the Energy Policy and Conservation Act (42 U.S.C. 6237(a)) is amended—

(1) by designating the first and second sentences as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) For the purpose of carrying out this section—

"(A) any State that is an island shall be considered to be a separate Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations, as in effect on November 1, 1975;

"(B) determinations made with respect to Regions, other than States that are islands, shall be made as if the islands were not part of the Regions; and

"(C) with respect to determinations made for any State that is an island, the term 'refined petroleum product' shall have the same meaning as the term defined in section 3(3).".

(c) PURCHASES FROM THE STRATEGIC PETROLEUM RESERVE BY ENTITIES IN ELIGIBLE INSULAR AREAS.—Section 161 of such Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

"(j)(1)(A) The provisions listed in subparagraph (B) shall apply with respect to each offering of a quantity of a petroleum product during a drawdown of the Strategic Petroleum Reserve.

"(B)(i)(I) Subject to subclause (II), a purchaser located in an eligible insular area, in addition to having the opportunity to submit a competitive bid, may submit (at the time bids are due) a binding offer to purchase a category of petroleum product specified in a notice of sale, and shall thereupon be obligated to purchase the petroleum product at a price equal to the average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering.

"(II) A binding offer made pursuant to subclause (I) shall be accompanied by a certification made by the Governor or other chief executive officer of the eligible insular area that the petroleum product is necessary to avert a critical supply shortage in the eligible insular area.

"(ii)(I) Subject to subclause (II), a vessel that arrives at a delivery line of the Strategic Petroleum Reserve to take on a petroleum product for delivery to a purchaser located in an eligible insular area shall be loaded ahead of other vessels waiting for delivery if the Governor or other chief executive officer of the eligible insular area has certified that delivery must be expedited in order to avert a critical supply shortage in the eligible insular area.

"(II) The Secretary may waive the priority loading requirement of subclause (I) with respect to a particular vessel waiting for delivery if the Secretary determines that the requirement is impracticable.

"(2)(A) In administering this subsection, and with regard to each offering, the Secretary shall—

"(i) impose the limitation listed in clause (i) or (ii) of subparagraph (B), whichever results in the purchase of the lesser quantity; and

"(ii) at the request of a purchaser, adjust upward, to the next whole-number increment of a full tanker load, the quantity to be sold to the purchaser if the quantity is less than 50 percent less than a whole-number increment of a full tanker load of a petroleum product.

"(B)(i) The Secretary shall limit the quantity that any one purchaser may purchase through a binding offer at any one offering to 1/12 of the total quantity of petroleum products that the purchaser imported during the previous year.

"(ii)(I) The Secretary shall limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

"(II) If the Secretary imposes the limitation listed in subclause (I), the Secretary shall prorate the quantity among the purchasers who submitted binding offers.

"(3)(i) Except as provided in clause (ii), petroleum products purchased through binding offers pursuant to this subsection shall be delivered to the eligible insular area.

"(ii) Purchasers may enter into exchange or processing agreements that require delivery to other locations.

"(4) As used in this subsection:

"(A) The term 'eligible insular area' means the State of Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(B) The term 'offering' means a solicitation for bids—

"(i) that is to be submitted not later than any specified day for a quantity or quantities of a petroleum product from a delivery line of the Strategic Petroleum Reserve; and

"(ii) for a distribution with respect to which the President has made a finding pursuant to subsection (d).".

SEC. 19105. ALTERNATIVE MINIMUM TAX.—It is the sense of the Senate that the Senate Committee on Finance should review the impact of the alternative minimum tax on domestic oil and gas producers and domestic oil and gas production and take such action as may be appropriate to promote domestic production.

SEC. 19106. RADIATION EXPOSURE COMPENSATION.—Section 6 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by adding at the end the following new subsection:

"(1) JUDICIAL REVIEW.—An individual whose claim for compensation under this Act is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

SEC. 19107. ALTERNATIVE TRANSPORTATION FUELS AND ELECTRIC VEHICLES.—(a)(1) The United States is the largest consumer of oil in the world, exhausting 17 million barrels of oil per day, a 14 percent increase since 1983.

(2) The United States domestic production is in decline, estimated to fall below nine million barrels of oil per day by 1995. Today, oil imports have risen to over 40 percent of consumption, exacerbating our Nation's negative balance of trade.

(3) The Persian Gulf War commands attention to the fact that over 25 percent of America's gross oil imports are shipped from the Persian Gulf, and this reliance is the achilles heel of our Nation's energy and economic security.

(4) In the United States, the transportation sector accounts for 63 percent of total oil consumption.

(5) The Office of Technology Assessment estimates that the United States could displace 555,000 barrels of oil per day in the transportation sector by utilizing alternative fuels like compressed natural gas, electric vehicles, traffic management systems, and by reducing the number of gas guzzling vehicles on the road.

(6) Natural gas is a clean burning, abundant, and inexpensive national resource that could displace oil consumption in 25 percent of the current fleet vehicle population over ten years, reducing imported oil by 240,000 barrels per day.

(7) The United States taxpayers have invested significant resources in the development of alternative transportation fuels, electric vehicles, and traffic technologies, at our Nation's laboratories, universities, and in private industry.

(8) Both American Government and industry have met great success in the utilization of existing natural gas and electric vehicle fleets.

(9) Encouraging government and industry to convert to the use of energy efficient, alternative transportation fleets complements our national goals of energy independence, clean air, reduced balance of trade, and technology transfer.

(10) The pace of improvement of clean and efficient alternative technologies is directly correlated to the level of investment in research and development.

(b) Therefore, the Senate finds that it is in the Nation's best interest to assist the market and accelerate the adoption of alternative non-oil transportation fuels, vehicles, and traffic management systems, and the Senate will readdress this position during consideration of the appropriate tax legislation.

SEC. 19108. NATIONAL SECURITY TAX SHIFT.—(a) FINDINGS.—The Senate finds that—

(1) Conservation must be at the heart of any effective long-term national energy strategy; and increasing the motor fuels tax would encourage Americans to purchase more fuel efficient vehicles, car pool, and use alternative forms of transportation.

(2) By encouraging conservation and the market for alternative fuels, increasing the motor fuels tax would reduce our reliance on imported oil, and would reduce the likelihood that American troops will need to be sent abroad to secure the free flow of oil.

(3) Increasing the motor fuels tax would reduce automobile pollution, and, in particular, would reduce the emission of carbon dioxide, a key "greenhouse" gas.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that as part of the Nation's Energy Strategy, the Senate Finance and House Ways and Means Committees should study the possibility of legislation to shift some amount of taxation from the income tax to the motor fuels tax to encourage conservation and alternative fuels: *Provided*, That: (1) the revenue generated by the increase in motor fuels tax is shifted to taxpayers in the form of income tax reductions so that the package is revenue-neutral, does not represent a net tax increase on the average American family, and is at least as pro-

gressive as the current tax code; (2) the tax shift does not become effective until the current recession is over; and (3) the tax shift is phased in gradually to allow consumers and industries to adjust.

SEC. 19109. STRATEGIC DIVERSIFICATION.—The Office of Barter within the United States Department of Commerce and the Interagency Group on Countertrade shall within six months from the date of enactment report to the President and the Congress on the feasibility of using barter, countertrade and other self-liquidating finance methods to facilitate the strategic diversification of United States oil imports through cooperation with the former Soviet Union in the development of their energy resources. The report shall consider among other relevant topics the feasibility of trading American grown food for Soviet produced oil, minerals or energy.

SEC. 19110. NRC FEES.—It is the sense of the Senate that—

(1) the provisions of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, section 6101) that require the Nuclear Regulatory Commission to recover essentially 100 percent of its budget authority through the imposition of fees may have caused an unfair burden to be imposed on certain NRC licensees; and

(2) the Nuclear Regulatory Commission should review its policy for assessment of fees and recommend to the Congress whether there is any need for changes in existing law to prevent the placement of an unfair burden on certain NRC licensees, in particular those that hold licenses to operate federally owned research reactors used primarily for educational training and academic research purposes.

MORNING BUSINESS

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-2622. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "The President's National Urban Policy Report"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2623. A communication from the Chairman of the Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report of the Subcommittee for calendar year 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-2624. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, a report on its monetary policy; to the Committee on Banking, Housing, and Urban Affairs.

EC-2625. A communication from the Commandant of the United States Coast Guard, transmitting, pursuant to law, a report regarding a reexamination of the policies of the United States restricting use of certain ports of entry by ships and crewmembers thereof, of the former Union of Soviet Socialist Republics; to the Committee on Commerce, Science, and Transportation.

EC-2626. A communication from the Assistant Vice President of Government and Public Affaris, National Railroad Passenger Corporation, transmitting, pursuant to law, a copy of Amtrak's 1991 annual report, 1992 legislative report, report on employee salaries in excess of federal executive level I, and report on the performance of passenger routes operated during fiscal year 1991; to the Committee on Commerce, Science, and Transportation.

EC-2627. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals and Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2628. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2629. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2630. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2631. A communication from the Secretary of Energy, transmitting, pursuant to law, the thirteenth annual report on the automotive technology development program for fiscal year 1991; to the Committee on Energy and Natural Resources.

EC-2632. A communication from the Acting Assistant General Counsel, Department of Energy, transmitting, pursuant to law, a notice of meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2633. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Services, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2634. A communication from the Inspector General, Department of Energy, transmitting, pursuant to law, a final audit report entitled "Accounting for Fiscal Year 1990 Reimbursable Expenditures of Environmental Protection Agency Superfund Money, Bureau of Reclamation"; to the Committee on Energy and Natural Resources.

EC-2635. A communication from the Chairman of the Nuclear Regulatory Commission (Advisory Committee on Reactor Safeguards), transmitting, pursuant to law, a report on the Safety Research Program of the Nuclear Regulatory Program; to the Committee on Environment and Public Works.

EC-2636. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, a quarterly report on trade between the United States and China, the Soviet Union, Central and Eastern Europe, the Baltic nations, and other related countries; to the Committee on Environment and Public Works.

EC-2637. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the study of maternal infant health initiatives and the Medicaid Eligibility Quality Control program; to the Committee on Finance.

EC-2638. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on implementation of the Support for East European Democracy Act; to the Committee on Foreign Relations.

EC-2639. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements other than treaties entered into by the United States in the sixty day period prior to February 18, 1992; to the Committee on Foreign Relations.

EC-2640. A communication from the Inspector General, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the compliance with the requirements when awarding contracts, grants, loans and cooperative agreements; to the Committee on Governmental Affairs.

EC-2641. A communication from the Inspector General, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the evaluation of the agency's progress in establishing effective management controls and improving the accuracy of information provided to the Federal Procurement Data System on contracts for advisory and assistance services; to the Committee on Governmental Affairs.

EC-2642. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, a report of the Commission's implementation of the Government in the Sunshine Act during the calendar year 1991; to the Committee on Governmental Affairs.

EC-2643. A communication from the Postmaster General of the United States, transmitting, pursuant to law, a copy of the annual report of the Postmaster General for Fiscal Year 1991; to the Committee on Governmental Affairs.

EC-2644. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on federal agencies fully implementing a recommendation in connection with a bid protest; to the Committee on Governmental Affairs.

EC-2645. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a semiannual report of the Agency's Inspector General for the period April 1, 1991 through September 30, 1991, along with the required report of the Agency's Director on audit resolution and management; to the Committee on Governmental Affairs.

EC-2646. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a draft of proposed legislation to amend title 5, United States Code, to modify the retirement programs for Federal civilian employees, and for other purposes; to the Committee on Governmental Affairs.

EC-2647. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, a report of surplus real property transferred or leased for public health purposes in Fiscal Year 1991; to the Committee on Governmental Affairs.

EC-2648. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Notice of Final Priorities—Office of Indian Education: Planning, Pilot, and Demonstration Projects for

Indian Children; and Educational Personnel Development"; to the Select Committee on Indian Affairs.

EC-2649. A communication from the Marshal of the Court, Supreme Court of the United States, transmitting, pursuant to law, an annual report of the Marshal of the Supreme Court of the United States regarding administrative cost of carrying out certain duties; to the Committee on the Judiciary.

EC-2650. A communication from the Chief Administrative Officer of the Postal Rate Commission, transmitting, pursuant to law, an annual report of the Commission for 1991 on the Freedom of Information Act; to the Committee on the Judiciary.

EC-2651. A communication from the Chairman of the Internation Trade Commission, transmitting, pursuant to law, an annual report on the Commission's Activities under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-2652. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, an annual report on its implementation of the Freedom of Information Act during calendar year 1991; to the Committee on the Judiciary.

EC-2653. A communication from the Chief Justice of the United States Supreme Court, transmitting, pursuant to law, a report of the proceedings of the Judicial Conference of the United States; to the Committee on the Judiciary.

EC-2654. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, an annual report on the status and accomplishments of the Transitional Living Program for Homeless Youth; to the Committee on Labor and Human Resources.

EC-2655. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, a report on alcohol and drug abuse prevention; to the Committee on Labor and Human Resources.

EC-2656. A communication from the Chairman of the Barry M. Goldwater Scholarship and Excellence in Education Foundation, transmitting, pursuant to law, an annual report of the activities of the Goldwater Foundation; to the Committee on Labor and Human Resources.

EC-2657. A communication from the Chairman of the Harry S Truman Scholarship Foundation, transmitting, pursuant to law, the annual report of the Foundation for fiscal year 1991; to the Committee on Labor and Human Resources.

EC-2658. A communication from the Secretary of Labor as Chairman of the Board of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the annual report of the Corporation for fiscal year 1991; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. D'AMATO:

S. 2247. A bill to amend the Department of Housing and Urban Development Act to prohibit the Secretary of Housing and Urban Development from making lump sum relocation assistance payments, except under certain circumstances; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI:

S. 2248. A bill to guarantee comprehensive health care services to veterans and their families by ensuring entitlement and eligibility to a wide array of health care services, to make greater resources and funding available for the delivery of such services, and for other purposes; to the Committee on Veterans Affairs.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2249. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KASTEN:

S. Res. 260. A concurrent resolution opposing the taxation of cash buildup in life insurance annuities; to the Committee on Finance.

By Mr. SEYMOUR (for himself and Mr. DECONCINI):

S. Con. Res. 93. A concurrent resolution expressing the sense of the Congress that proposed sales of offensive military weaponry to Arab countries should be withheld until such countries establish diplomatic relations with the State of Israel; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO:

S. 2247. A bill to amend the Department of Housing and Urban Development Act to prohibit the Secretary of Housing and Urban Development from making lump sum relocation assistance payments, except under certain circumstances; to the Committee on Banking, Housing, and Urban Affairs.

PROHIBITION OF CERTAIN LUMP SUM PAYMENTS

Mr. D'AMATO. Mr. President, today I am pleased to introduce legislation that will put an end to needless waste of Federal dollars. What I am talking about is the abuse of taxpayer dollars by tenants who receive Federal housing relocation assistance. Instead of using money to find new homes, some tenants are using Government dollars to buy everything from microwave ovens to illicit drugs.

My legislation is designed to end this Government rip-off by closing the loophole that allows such waste and limiting the use of Federal dollars to their intended purpose—to provide needed housing.

Under this legislation, which was drafted in consultation with Department of Housing and Urban Development Secretary Jack Kemp, lump sum relocation assistance payments would be prohibited for any displaced residential tenant except where necessary to cover moving expenses or a down payment on the purchase of a home.

Current law allows lump sum payments to individuals who are being displaced from Government housing, but these payments for relocation assistance should be limited to their original purpose only—and that is to cover the cost of moving and to find a suitable new home.

In no way will my legislation compromise the protection for displaced individuals, nor will it cut benefits, nor does it impede local control of the process. Relocated tenants will continue to receive their benefits in a fiscally responsible manner. It simply eliminates the opportunity for scarce Federal housing dollars to go for non-Federal housing purposes.

The need for this type of legislation is overwhelming. In 1987, 57 tenants of Mulberry Square housing complex received a total of $714,921 in relocation assistance because the structure was being torn down. On the surface, this was a perfect reason why we have a Federal relocation assistance program. But what happened is a classic example of Government gone wrong.

Lump sum payments as large as $27,984 were issued to Mulberry Square tenants with no strings attached. Tenants did not have to pay taxes on the cash payments. There was no oversight to ensure that this money was used for housing purposes and often no counseling to assist tenants with those decisions. As a result, the money was squandered. Tenants bought microwave ovens, Nintendo games, stereos, and television sets. One women spent $5,000—five thousand Federal dollars allocated to help find her a new home—for miscellaneous Christman gifts.

Another woman received $20,000, promptly skipped out on her landlord, and was arrested a month later on drug possession charges. She told the court she was too poor to provide her own attorney, so the court provided one—at taxpayer expense.

In addition, some of these tenants manipulated the rules and hired lawyers, again paid for at taxpayer expense, to squeeze the maximum amount out of the relocation assistance program. And now, some of them want to get back into federally subsidized housing.

Mulberry Square is a classic example of why people are fed up with the Federal Government. While the relocation assistance program has good intentions, it is high time that we close the loopholes and utilize the funding for this program for its original purpose.

It is inconceivable to think how many millions of dollars may have been lost nationwide under this lump sum payment option. This legislation will prevent these types of abuses, not only in New York but across the Nation.

Mr. President, I ask unanimous consent that the full text of the bill and an article from the Syracuse Herald Jour-

nal dated February 2, 1992, be included in the RECORD immediately following my remarks.

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

S. 2247

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

SECTION 1. PROHIBITION OF LUMP SUM PAYMENTS.

The Department of Housing and Urban Development Act (42 U.S.C. 3531 et seq.) is amended by adding at the end the following new section:

"PROHIBITION OF LUMP SUM PAYMENTS

"SEC. 14. In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump sum payments to any displaced residential tenant, except where necessary to cover—

"(1) moving expenses;

"(2) a down payment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

"(3) any incidental expenses related to paragraph (1) or (2).".

[The Syracuse Herald Journal, Feb. 2, 1992]

ONE LEGACY OF MULBERRY SQUARE: ON WELFARE WITH $27,000 IN HAND

(By Dan McGuire and Jon Craig)

Regina Poole cashed the check, put thousands of dollars into her pocket and walked out of a Syracuse bank.

"My legs were shaking," she remembers.

Back at her apartment in a dilapidated complex for the poor, her children watched as she yelled and threw the cash into the air. Green bills, given to her by the government, fell like rain that day in 1987.

"This is our money?" one of her children asked.

"Yeah," Poole said.

The children, too, threw the money to the ceiling.

"And then I said, 'We're all going shopping,'" Poole said.

They bought a Nintendo set, stereos, microwave ovens, two sets of living room furniture, paintings, appliances and closets-full of clothes. Poole spent "100 and something for pump-em-up sneakers" for her son. She bought her mother a microwave oven and a videocassette recorder. She put $100 in her mother's purse and told her to have fun.

No more Salvation Army clothes. No more Christmases with just a tree and a nice dinner. She spent $5,000 that Christmas.

She was given $27,984 because she had to move from the Mulberry Square housing complex, which was being torn down. The government gave $714,921 to 57 Mulberry tenants in 1987. They were free to spend the money any way they liked. They didn't have to pay taxes on it. They didn't have to get off welfare. Thirteen of the people are now waiting to get back into subsidized housing.

The law that made this happen is still on the books.

This is the story of how the government threw money away as it tried to fulfill its obligation to the poor, and how good intentions led to the expectation that government's deep pockets can always be tapped.

The recipients say they deserved the money because Mulberry was run-down and living there was difficult. In 1990, when Mayor Thomas Young speculated on tearing down the Hilltop housing project, many Hilltop tenants wondered, "Where's our Mulberry money?"

"This one was a wide-open door, a totally open barn door," said Fred Murphy, executive director of the Syracuse Housing Authority, which wrote the checks. "It's an extremely naive policy written by the feds. It shows the people who wrote it have no street smarts at all."

Some Mulberry tenants manipulated federal rules to try to get the most money possible. Some were helped by lawyers paid by the taxpayers.

This is about what happened to poor people who suddenly had thousands of dollars. Some are working. But many, like Poole, remain on welfare, and some want more government aid. Some used the money to buy houses or for an education. Some bought drugs. Some bought plenty of things which won't last.

The government made no attempt to advise the people how they could use the windfall to improve their lives or pull themselves permanently out of poverty.

Governments at most levels are rethinking how much money to give the poor. New Jersey has stopped paying more to welfare mothers who have more children. California trimmed across the board. Michigan stopped benefits to healthy, single people.

The poor flock to New York for some of the highest payments in the nation. State lawmakers are looking at reducing medical benefits and limiting payments to single people who can work.

Anti-poverty programs consume money faster than the rate of inflation. Although trillions of dollars have been spent, the poverty level has changed little. In 1965, at the start of the War on Poverty, 17.3 percent of the population was below the poverty line. In 1990, it was 13.5 percent.

The federal government in fiscal 1991 spent $284 billion fighting poverty, 21 percent of its budget, more than defense. President Bush says he wants reforms.

"Welfare was never meant to be a lifestyle," Bush said in his State of the Union speech Tuesday. "It was never meant to be a habit. It was never supposed to be passed on from generation to generation like a legacy."

One federal program will spend $17.6 billion this fiscal year to provide a rent subsidy to 4.4 million families. It's in addition to the shelter subsidy included in welfare payments.

The number of people who can receive the rental subsidy—worth about $4,000 a year—is limited. In Syracuse, about 4,900 families receive it and about the same number are waiting. A family of four must make less than about $18,000 to qualify. Through the Section 8 program or public housing, people spend 30 percent of their income in rent. The government pays the difference between their payment and a market rent.

Mulberry Square tenants were getting that subsidy. The complex opened in 1968—381 apartments jammed between South Townsend, South State, East Adams and East Taylor streets in downtown Syracuse. It was owned by private companies. Taxpayers paid for most of it.

Crime, shoddy maintenance, mismanagement, abusive tenants and their visitors and poor design turned the project to a shambles. In 1986, SHA bought it and planned to tear it down and put up fewer, better apartments.

Mulberry tenants had to move. Federal law said they had to be paid the difference between their current rent and their new rent multiplied by 48. That's enough to cover their new rent for four years. Murphy hoped people would buy homes and stabilize their lives.

Many rejected SHA's offers of money and apartments. Working with the Rev. Harvey Pinyoun of Plymouth Congregational Church downtown, tenant leaders held regular news conferences to castigate SHA. And with lawyers from Legal Services of Central New York—paid for by taxpayers—they fought SHA for more money.

SHA ended up paying out almost twice what it expected. It had received the money years earlier selling land to the federal government for Interstate 81.

Because of the payouts, SHA dropped its ideas for such things as playgrounds, better security and landscaping at Langston McKinney Manor, the 75-unit apartment complex that replaced Mulberry.

The checks were so large because the difference between what people were paying at Mulberry and what they needed for unsubsidized housing was so large. The Mulberry rent was small because it was subsidized and because Mulberry's managers, before the housing authority took over, allowed tenants to pay less than they should have. The rent that people needed outside Mulberry was determined by Elijah Huling, a Syracuse University associate law professor and Baldwinsville village justice who arbitrated the SHA-tenant disputes.

Huling said he arrived at the figures using government data and his own research. The law requires people receive a payment to rent housing equal to what they were leaving. Huling said he couldn't set payments according to his guess as to how people may spend the money.

Here are the stories of several families who received some of the biggest checks:

REGINA POOLE

Poole paid $69 a month for rent and utilities at Mulberry. When she had to move, SHA found her private apartments renting for $375 and $430. She wanted one for $700. Huling said Poole would need $652 a month for rent and utilities.

Poole's $27,984 was the most any Mulberry tenant received. She was the last to leave the complex.

"We deserved the money," she said. "We put up with the roaches, the mice, the light switches broken, the ceilings caved in, the snow coming in from the windows. Every superintendent they had running that place did a bad job. . . . We needed a good start to move someplace else."

Poole was sometimes on welfare at Mulberry, sometimes working at the Veterans Administration Medical Center in Syracuse or at the city school district. She broke her leg badly several years ago and was unable to work for a long time.

The Mulberry money helped with a payment on a mobile home north of Watertown. It's stuffed with the goods she bought—a television, a reel-to-reel tape, large stereo speakers. One of her living room sets is in storage. Poole lives in the mobile home with her fiance, a soldier at Fort Drum.

She said she doesn't want to marry him yet because she would lose her welfare check. She plans to move the mobile home to the Syracuse area next month, marry and get off welfare. She wants a job working with children or old people.

SARAH AND CLINTON HILL

The Hills used their $18,812 payment for a house at 160 Monticello Drive North in Syracuse's Valley neighborhood.

"It helped a great deal," said Clinton Hill. "No new car, no new clothes. We just paid some bills and came right in" to the house.

"Some people jumped to get the money and run. Some people just didn't stop and think and just used it up in the wrong way," he said. "They didn't have the counseling. They just took the money and blew it. A lot of them misused it. We don't have a penny of it now, but it got us started where we wanted to be."

He's a machinist at Crucible Specialty Metals. Sarah Hill is a typist in Onondaga County's Child Support Division of the Social Services Department.

"Getting that kind of money is scary if you never had that kind of money before," she said. "Some of them were afraid of it. They didn't want that kind of responsibility. They should have set up some kind of counseling or doled the money out in small increments."

TINA SUBER

She was Tina Kellam when she lived in Mulberry. Now she and her husband, Michael Suber, live in Rochester where Michael Suber works for Eastman Kodak Co.

Tina Suber received $9,744 to move out. Her mother, Beatrice, who also moved to Rochester, received $5,760. Tina's father-in-law, Eugene Suber, received $4,080.

"I've known people who really did worse since they moved out of there," she said. "I don't think it was handled too well. A lot of people didn't do right with the money. They just spent it and didn't think about the future."

But she said she spent it well.

"Mulberry Square helped him (Michael) get through (Syracuse University)," she said.

GLENDA COOPER

Herald American reporters couldn't find Cooper, now 38. Court records tell a story.

At Mulberry, Cooper paid $225 for a three-bedroom apartment, utilities included. SHA offered her an apartment costing $502 a month with utilities. She refused and signed a lease for an apartment costing $752 with utilities. Huling ruled she needed $652 a month. Under the formula, she was given a check for $20,496.

Cooper skipped out on her landlord, a judgment shows. She owes him $1,411. She then rented an apartment in Syracuse for $375 a month without utilities. She didn't pay two months' rent and was evicted. She moved to another Syracuse apartment costing $350 a month, skipped some payments and owes several hundred dollars.

Cooper received her windfall check in September 1987. In November 1987 she was arrested and charged with a felony and a misdemeanor count of drug possession. In April 1988, she was arrested and charged with three drug felonies involving a quarter-ounce of cocaine.

She pleaded guilty in both cases. She was sent to prison for two months, put on probation and required to stay off drugs, get drug counseling and look for a job.

Three times she was arrested for violating those rules. One probation report said she had not looked for a job, had not gone to drug counseling, skipped meetings with her supervisor and had not told her supervisor she had moved. As a result, she was jailed for a year.

She told courts she was too poor to afford a lawyer to defend her on the drug charges, so the government provided one. It cost the taxpayers $350.

ROSE LAWSON

Lawson used her $26,976 check to buy a house at 310 Brookfield Road in Mattydale. She receives Supplemental Security Income, a government program that provides money to the elderly and disabled.

"I know how to manage money," she said. "My mother taught us. She had six children, and we always ate well. I knew the money was not going to get away from me. If you get a house, the money stays there. If you hold it in your hand, you keep pinching and pinching and pinching and then there's nothing left."

She is raising her grandchildren there and wants them far from the projects.

"I can't watch them 24 hours," she said. "What I wanted to do was put them so far away they'd never go back. That's what the money was about, my kids. I did it for them. I wanted better for them."

Lawson is a former president of the Mulberry Square tenants association. She had urged the tenants to pool their money and start a business. They didn't.

"I just got sick of them," she said. "No one wanted to do anything."

During the conflict between SHA and tenants, the word was to find the most expensive apartments possible, she said. She said she found one for $650 to maximize her check.

"There was a lot that weren't thinking," she said. "They went out and got cheap apartments on the South Side."

Lawson was paying about $60 a month rent at Mulberry. When SHA wanted to increase it, she quit welfare and got a job as a home health aide. The low pay kept her rent down. She said she survived on food stamps, Medicaid and a "guardian angel."

Lawson said the Mulberry tenants deserve the payment and more.

"They took their homes away from them, and they shouldn't have," she said." "They should have fixed the project up, but they destroyed it."

PAULA ADAMS

She was given $21,216.

She lives in an apartment near a high-crime area in Syracuse's East Side. The screens are ripped from windows and a door. The house needs paint. Wood is rotted.

Inside is a stereo system with four-foot-high speakers, a large Magnavox television, a new-looking sofa and a four-foot-long aquarium. During an interview, she sipped from a coffee cup that said. "I'm only here 'til I win the Lottery."

She remains on welfare. And she's one of 14 former Mulberry tenants—whose checks totaled $192,144—on the waiting list to get back into subsidized housing. Also on the waiting list is Rena Ausby, a former Mulberry tenant leader who was the spokeswoman against SHA in 1987.

Last year, Adams collected $4,228 more than the housing authority. She had sued in 1988, claiming she was hurt when a closet door fell on her back in her Mulberry apartment in 1987. Now she wants more.

"I want to pull Syracuse Housing into court again," she said. "We need to reopen this thing . . . I said I needed more money."

By Mr. DECONCINI:

S. 2248. A bill to guarantee comprehensive health care services to veterans and their families by ensuring entitlement and eligibility to a wide array of health care services, to make greater resources and funding available for the delivery of such service, and for other purposes; to the Committee on Veterans' Affairs.

AMERICAN VETERANS' HEALTH CARE REFORM ACT

• Mr. DECONCINI. Mr. President, I rise today to introduce the American Veterans' Health Care Reform Act of 1992, the second of three bills of critical importance to our veteran community I will be introducing this month. The legislation I am introducing today at the request of the Disabled Americans Veterans will, I hope, expedite resolution of the most of the highly controversial issues surrounding the issue of health care eligibility. I applaud the Disabled American Veterans for the hard work they expended in drafting this comprehensive bill and look forward to working with them to restore sanity and fairness in eligibility determinations for veterans health care. This legislation would guarantee comprehensive health care services to veterans and their families by ensuring them entitlement and eligibility to a wide array of health care services and make greater resources and funding available for the delivery of these services.

As my colleagues have heard so forcefully from their constituents in recent months, health care in our Nation is in a state of severe crisis. In our country today, nearly 37 million Americans have no health care insurance and millions more are considered to be underinsured. For those fortunate enough to have health care coverage, the cost of this insurance is typically increasing at four to five times the annual rate of inflation. For many families, rising health care costs are creating severe financial problems and forcing them to choose between health care and food on their tables.

Perhaps no group has been affected more by this crisis than our Nation's veterans—those very same men and women whose names would appear on what President Bush called America's Rollcall of Honor during his recent State of Union Address. "It's a long rollcall," the President said, "all of the GI Joes and Janes, all the one's who fought faithfully for freedom, who hit the ground and sucked the dust and knew their share of horror."

Sadly, America's veterans continue to see their share of horror when it comes to getting timely, quality medical care from our Nation's Department of Veterans Affairs. Since fiscal year 1977, VA health care has been cut from 11.4 percent of the Federal budget to an estimated 6.4 percent in fiscal year 1992. Is this how a grateful nation should repay its debt to the men and women on America's rollcall of Honor? I, for one, don't think so.

It is apparent, Mr. President, that prior actions taken to improve VA health care delivery, to define eligibility criteria, to provide necessary funding, and to plan for the future have been isolated, shortsighted and inadequate. To rectify this situation and

provide our Nation's veterans with a health care system befitting their sacrifices, I am pleased to introduce the American Veterans' Health Care Reform Act of 1992.

In proposing this significant legislation, I have attempted to consider the health care needs of veterans in context with the needs and imminent changes to America's health care system as a whole. A medical care system as large as the VA's cannot be separated from and, indeed, must be expected to contribute to, our Nation's total health care picture.

The centerpiece of this legislative proposal authorizes a core entitlement group consisting of service-connected disabled low-income and special-category veterans. This core group would be entitled to receive the full continuum of care provided by the VA health care system. Any veteran outside the core group would be eligible to receive care contingent upon their ability to offset costs through other Federal and private third-party reimbursements, direct payments, or purchased VA health benefit packages. This proposal also would require the VA to move from the traditional acute, disease model of care to a holistic approach, one that not only treats diseases and disabilities, but also focuses on health promotion and disease prevention.

Finally, Mr. President, this legislation calls for entitlement, nondiscriminatory congressional appropriations for the cost of care provided to the core eligible group. The amount of these funds would be strictly dependent upon how many veterans meet core group eligibility requirements and the cost of care provided to them. Administrative expenses, and the cost of care provided to the general eligibility group of veterans, would be discretionary and developed in consideration of the expected collections and reimbursements from Medicare, CHAMPUS, private insurance, VA buy-in benefits packages, and direct payments.

Mr. President, at the very least, I believe this legislation will serve to initiate meaningful debate on the direction that VA health care can and must take. Furthermore, I believe it represents a responsible plan of action to ensure that an independent VA will survive to serve the health care needs of veterans well into the 21st century. I also believe this legislation is compatible and will contribute significantly to the development of a sound national health care policy. For these reasons, I am introducing the Disabled American Veterans' "American Veterans' Health Care Reform Act of 1992" to guarantee comprehensive health care services to veterans and their families. I urge my colleagues to expedite its consideration.

Mr. President, I ask unanimous consent that the full text of my bill together with a section-by-section summary be printed in the RECORD.

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

S. 2248

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

SECTION 1. SHORT TITLE; REFERENCE TO ACT.

(a) SHORT TITLE.—This Act may be cited as the "American Veterans' Health Care Reform Act of 1992".

(b) REFERENCE TO 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 title 38, United States Code.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The health care system currently available to veterans through plans administered primarily by the Department of Veterans Affairs (hereinafter in this Act referred to as the "VA") makes a significant contribution to the health and welfare of veterans, despite years of inadequate funding for such system and the unique needs of the veteran population.

(2) Through advanced and specialized research and treatment, the veterans' health case system has greatly enhanced broader health care research and treatment of a range of illnesses, disabilities, and diseases affecting not only veterans, but the general population as well, including spinal cord injuries, post-traumatic stress disorders, blindness, and tuberculosis.

(3) A viable, cost-effective health care system for veterans must move away from the current provision of disjointed services and toward provision of a continuum of comprehensive health care.

(4) Necessary and realistic reforms are essential to guarantee improved veteran access to health care, systems restructuring, and enhanced quality of health care. The VA will be better prepared to carry out such reforms if allowed to collect, retain, and use funds in the VA Medical-Care Cost Recovery Fund for such purpose.

(5) Because of barriers resulting from statutory and administrative eligibility restrictions, demographics, the variable range of available health services, and inadequate funding, many eligible veterans are denied the adequate, comprehensive health care implicitly promised them in connection with their military service to our Nation.

(6) Demographic patterns indicate that, by the year 2010, the number of veterans 75 years of age and older will nearly triple, the type of health care services needed by veterans will have changed significantly, and substantial number of veterans will have migrated to the Sunbelt States. Consequently, health care resource planning and allocation must be responsive to these variables to ensure that access to such resources is concomitant with the health care needs of our veteran population.

(7) Given the health care needs of veterans and the cost of any health care system, it is reasonable public policy that entitled veterans receive necessary health care as an entitlement and that other veterans receive health care, on a discretionary basis, under terms and conditions that provide for payment or reimbursement for services rendered.

(8) Any comprehensive national health care proposal, including any national health insurance proposal, should address reforms in the veterans' health care system.

SEC. 3. ACCESS TO COMPREHENSIVE HEALTH CARE FOR VETERANS AND THEIR SURVIVORS AND DEPENDENTS.

(a) ENTITLEMENT OF CORE-ENTITLED VETERANS AND ELIGIBILITY OF OTHER VETERANS.—

(1) DEFINITION OF CORE-ENTITLED VETERAN.—Section 1701 is amended by adding at the end the following new paragraph:

"(9) The term 'core-entitled veteran' means any veteran described in section 1710(a)(1).".

(2) ENTITLEMENT TO HOSPITAL, NURSING HOME, AND DOMICILIARY CARE.—

(A) IN GENERAL.—Section 1710(a)(1) (relating to veteran eligibility for hospital, nursing home, and domiciliary care) is amended by adding after subparagraph (I) the following new sentence: "Any veteran described in this subsection is a 'core-entitled veteran' and shall be entitled, at the veteran's request, to all health care services described under this title.".

(B) CONFORMING AMENDMENT PROVIDING ENTITLEMENT.—Section 1710(a)(1) is further amended by striking "The Secretary shall furnish hospital care, and may furnish nursing home care," and inserting "The Secretary shall furnish hospital, nursing home, and domiciliary care,".

(3) CONTRACTS FOR CARE AT NON-DEPARTMENTAL FACILITIES; NURSING HOME AND ADULT DAY HEALTH CARE.—Paragraph (3) of section 1710(a) is amended to read as follows:

"(3) In addition to furnishing health care described in paragraphs (1) and (2) of this subsection through Department facilities, the Secretary shall, in the case of a core-entitled veteran, and may, in the case of any other veteran, furnish such hospital care in accordance with section 1703, and such nursing home care as authorized under section 1720.".

(4) OTHER CONTRACTS FOR CARE IN NON-DEPARTMENT FACILITIES.—Section 1703(a) is amended to read as follows:

"(a) When Department facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Secretary shall, in the case of a core-entitled veteran, and may, in the case of any other veteran, contract with non-Department facilities to provide hospital care, medical services, and dental services (as provided in sections 1710 and 1712).".

(5) ENTITLEMENT OF LOW INCOME VETERANS TO DOMICILIARY CARE.—Subsection (b)(1) of such section is amended by striking "may furnish" and inserting "shall furnish".

(6) ELIGIBILITY OF OTHER VETERANS TO DOMICILIARY CARE.—Subseciton (f)(1) of section 1710 is amended by inserting before the period the following: "or participates in a managed health care plan under section 1701A".

(7) ENTITLEMENT TO COLLATERAL HEALTH CARE SERVICES.—Section 1710(c) is amended—

(A) in the first sentence, by striking "may, within the limits of Department facilities:" and inserting "shall, in the case of a core-entitled veteran, and, in the case of any other veteran, may, within the limits of Department facilities,"; and

(B) in the second sentence, by striking "may furnish" and inserting "shall furnish".

(8) ENTITLEMENT TO COLLATERAL DENTAL CARE SERVICES.—The second sentence of section 1710(c) is amended to read as follows: "The Secretary shall, in the case of a core-entitled veteran, and may, in the case of any other veteran, furnish dental services and treatment, and related dental appliances,

under this subsection for a non-service connected dental condition or disability of a veteran.".

(9) ENTITLEMENT TO OUTPATIENT SERVICES.—

(A) Section 1712(a)(2) (relating to eligibility for outpatient services) is amended—

(i) in paragraph (2), by striking "medical services for a purpose" and all that follows through "of this subsection—" and inserting "such medical services as the Secretary determines are needed—";

(ii) in paragraph (3), by striking "may furnish" and inserting "shall furnish";

(iii) in paragraph (4), by striking "for a purpose described in paragraph (5) of this subsection"; and

(iv) by striking paragraph (5), and redesignating paragraph (6) as paragraph (5).

(B) Section 1712(f)(1) is amended by inserting before the period the following: "or participates in the managed health care plan under section 1710A".

(10) ENTITLEMENT TO OUTPATIENT DENTAL SERVICES.—Subsection (b) of section 1712 is amended to read as follows:

"(b)(1) Outpatient dental services and treatment, and related dental appliances, shall be furnished to any core-entitled veteran.

"(2) In the case of any other veteran, the Secretary may furnish such dental services and treatment, and related dental appliances, in accordance with subsection (f) or through the veteran's participation in the managed health care plan under section 1710A.".

(11) ENTITLEMENT TO READJUSTMENT COUNSELING AND RELATED MENTAL HEALTH SERVICES.—

(A) Section 1712A(a) is amended to read as follows:

"(a) Upon the request of any veteran who served in active duty, the Secretary shall furnish counseling to such veteran to assist such veteran with readjustment to civilian life.".

(B) Section 1712A(b)(1) is amended—

(i) in the first sentence, (I) by striking ", within the limits of Department facilities,"; and (II) by striking "under the conditions" and all that follows through the period and inserting a period; and

(ii) in the third sentence, by striking "only in accordance" and all that follows through the period and inserting "in accordance with this chapter.".

(12) USE OF SEEING EYE DOGS.—Section 1714(b) is amended to read as follows:

"(b)(1) The Secretary shall, in the case of a core-entitled veteran, provide—

"(A) seeing-eye or guide dogs trained for the aid of the blind, and travel and incidental expenses incurred (under the terms and conditions set forth in section III of this title) in travel to and from such veteran's home, and incurred by the veteran in becoming adjusted to such seeing eye and guide dogs; and

"(B) mechanical or electronic equipment for aiding the veteran in overcoming the handicap of blindness.

"(2) The Secretary may provide the dogs, equipment, and expenses described in paragraph (1), in the case of any other veteran, if the veteran agrees to pay a reasonable amount determined by the Secretary or participates in a managed health care plan under Section 1710A.".

(13) HOME HEALTH SERVICES, INVALID LIFTS AND OTHER DEVICES.—Section 1717 is amended—

(A) in subsections (a)(1), (2), and (3) by striking "may furnish" each place such term appears and inserting "shall, in the case of a core-entitled veteran, and may, in the case of any other veteran, furnish";

(B) in subsection (a)(2), by inserting "in the case of a non-core-entitled veteran" after "may not";

(C) in subsection (a)(2), by striking the second sentence; and

(D) by amending subsections (b) and (c) to read as follows:

"(b) The Secretary shall furnish, in the case of a core-entitled veteran, and may furnish, in the case of any other veteran who is receiving pension under chapter 15 of this title by reason of being in need of regular aid and attendance, an invalid lift, or any other type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines) if medically necessary.

"(c) The Secretary shall furnish, in the case of a core-entitled veteran, and may furnish, in the case of any other veteran, devices for assisting in overcoming the handicaps of deafness (including telecaptioning television decoders) to any such veteran.".

(14) REPAIR OR REPLACEMENT OF CERTAIN PROSTHETIC APPLIANCES.—Section 1719 is amended to read as follows:

"§ 1719. Repair or replacement of certain prosthetic and other appliances

"(a) The Secretary shall, in the case of a core-entitled veteran, repair or replace any artificial limb, truss, brace, hearing aid, spectacles, or similar appliance (not including dental appliances) reasonably necessary to a veteran and belonging to such veteran.

"(b) The Secretary may, in the case of any other veteran, repair or replace any such limb, truss, brace, hearing aid, or appliance, if the veteran agrees to pay to the United States a reasonable price determined by the Secretary, or if the veteran participates in the managed health care plan under section 1710A.".

(15) ENTITLEMENT TO ADULT DAY HEALTH CARE EXTENDED BEYOND FY 1991.—Section 1720 is amended—

(A) in subsection (a)(1), by striking "may transfer" and inserting "shall transfer, in the case of a core-entitled veteran who requests such transfer, and may transfer, in the case of any other veteran who requests such transfer,";

(B) in subsection (a)(3), by striking "Nursing" and inserting "Except in the case of a core-entitled veteran, nursing"; and

(C) in amending subsection (f)(1)(A) to read as follows:

"(f)(1)(A) The Secretary is authorized to furnish adult day health care as provided for in this subsection. For the purpose only of authorizing the furnishing of such care and specifying the terms and conditions under which it may be furnished to veterans needing such care, reference to 'nursing home care' in subsections (a) through (d) of this section shall be deemed references to 'adult day health care'.".

(16) ENTITLEMENT TO ALCOHOL AND DRUG TREATMENT.—

(A) Section 1720A(a)(1) is amended by striking "may contract" and inserting "shall contract in the case of a core-entitled veteran, and may contract, in the case of any other veteran".

(B) Section 1720A is further amended by striking subsection (e) (relating to FY 1994 plan expiration).

(17) ENTITLEMENT TO RESPITE CARE.—

(A) Section 1720B(a) is amended to read as follows:

"(a) The Secretary shall furnish, in the case of a core-entitled veteran, and may furnish to any other veteran, respite care services.".

(B) Section 1720B is further amended by striking subsection (c) (relating to 1992 respite care termination).

(18) MEDICATION COPAYMENTS.—Section 1722A is amended—

(A) in subsection (a)(1), by striking the parenthetical matter and inserting "(other than a core-entitled veteran)"; and

(B) by striking subsection (c) (relating to termination of medication copayments).

(b) TECHNICAL AMENDMENTS REGARDING ENTITLEMENT OF CERTAIN VIETNAM ERA AND WORLD WAR II VETERANS.—Subsection (e) of such section is amended—

(1) in paragraph (1)(A), by striking "is eligible for hospital care and nursing home care" and inserting "is entitled to health care";

(2) in paragraph (1)(B), by striking "is eligible for" and inserting "is entitled to"; and

(3) by striking paragraph (3).

SEC. 4. PREVENTIVE HEALTH CARE.

(a) IN GENERAL.—Subchapter II of chapter 17 is amended by adding at the end the following new section:

"§ 1720D. Preventive health care services

"(a) The Secretary shall furnish preventive health care services to any core-entitled veteran (described in section 1710 (a)(1)) requesting such services. The Secretary may provide such services to any other veteran, if the veteran agrees to pay the United States a reasonable amount determined by the Secretary, or if the veteran participates in the managed health care plan under section 1710A.

"(b) For purposes of this section, the term 'preventive health care services' means a full range of screening, treatment, and education, including—

"(1) periodic medical and dental examinations;

"(2) patient health education (including nutrition education);

"(3) maintenance of drug use profiles, patient drug monitoring, and drug utilization education;

"(4) mental health preventive services;

"(5) substance abuse prevention measures;

"(6) immunizations against infectious diseases;

"(7) hypertension, and colo-rectal and prostate screening;

"(8) prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature;

"(9) genetic counseling concerning inheritance of genetically determined diseases;

"(10) smoking cessation assistance;

"(11) routine vision testing, glaucoma screening, and eye care services;

"(12) periodic reexamination of members of likely target populations (high-risk groups) for selected diseases, and for functional decline of sensory organs together with attendant appropriate remedial intervention; and

"(13) such other health care services as the Secretary determines are necessary to provide effective and economical preventive care services.

"(c) In carrying out this section, the Secretary shall emphasize the use of inter-disciplinary health care teams composed of various professional and para-professional personnel.".

(b) TABLE OF CONTENTS.—The table of contents for such chapter is amended accordingly.

SEC. 5. HEALTH SERVICES FOR NON-CORE ENTITLED VETERANS AND OTHER ELIGIBLE INDIVIDUALS.

(a) ESTABLISHMENT OF MANAGED HEALTH CARE PLAN.—Subchapter II of chapter 17 is

amended by inserting after section 1710 the following new section:

"§ 1710A. Managed health care plan

"(a) The Secretary shall design, implement, and maintain a managed health care services plan to make a variety of health care service packages available to non-core entitled veterans and the survivors and dependents of any veteran. Such packages shall include varieties of health services described in this title. Services provided under such plan shall be offered on a for-pay basis in accordance with section 1710B.

"(b) The Secretary shall, by regulation, determine a range of premiums for such packages which are affordable to potential participants in the plan.".

(c) EFFECTIVE DATE.—The Secretary shall establish and implement the managed health care plan required under paragraph (1) within 2 years after the effective date of this Act.

(d) TABLE OF CONTENTS.—The table of contents for such chapter is amended accordingly.

(e) TECHNICAL AMENDMENT REGARDING ELIGIBILITY OF NON-CORE ENTITLED VETERANS TO MANAGED HEALTH CARE PLAN.—Subsection (f)(1) of section 1712 is amended by inserting before the period the following: "or the veteran is a participant in the managed health care plan established under section 1710A".

SEC. 6. PAYMENT FOR SERVICES.

(a) IN GENERAL.—Subchapter 17 is further amended by inserting after section 1710A (as added by section 5 of this Act) the following new section:

"§ 1710B. Payment by non-core veterans, and survivors and dependents

"Services provided under Section 1710A to a non-core veteran under any provision of this title, or to the survivors or and dependents of any veteran, may be paid for by direct payment from the participant to the Government, payment from a plan fund derived from premiums paid by participants, or reimbursement under Medicare, Medicaid, CHAMPUS, private health insurance, or any combination thereof. Fees shall be established at a rate no higher than necessary to recover costs of services provided.".

(b) TABLE OF CONTENTS.—The table of contents for such chapter is amended accordingly.

SEC. 7. APPROPRIATIONS; COST RECOVERY; AND SEQUESTRATION.

(a) APPROPRIATION.—

(1) ENTITLEMENT BENEFITS.—There are hereby appropriated, for each fiscal year beginning after September 30, 1992, to the extent and in such amounts as are provided in advance in appropriation Act, such sums as are necessary to provide benefits to which entitlement is established under this Act, including costs necessary to allow the VA to practice quality management and assurance functions. Such functions shall include functions related to peer review, utilization review, and practice standards and their administration and oversight.

(2) OTHER ADMINISTRATIVE EXPENSES.—There are hereby authorized to be appropriated, for any fiscal year beginning after September 30, 1992, such sums as may be necessary to cover administrative expenses (other than those specified in paragraph (1)) to carry out this Act. Such sums shall be separately accounted for and shall be stated in the documents accompanying the President's budget for each fiscal year.

(b) AUTHORIZATION FOR MEDICAID AND MEDICARE REIMBURSEMENTS.—Section 1729 (i)(1)(B) is amended by striking clauses (i) and (ii) and redesignating clauses (iii) and (iv), accordingly.

(c) COLLECTION AND RETENTION OF FUNDS.—

(1) IN GENERAL.—Section 1729(a) is amended by adding at the end the following new paragraph:

"(4)(A) The United States may collect or recover the reasonable cost of care or services provided to any non-core veteran, survivor, or dependent under this title from CHAMPUS, Medicaid, Medicare, or any other health insurance plan.".

(2) RETENTION AND USE OF FUNDS BY VA.—Section 1729(g)(4) is amended to read as follows:

"(4)(A) Notwithstanding any other provision of law, sums recovered or collected by the Secretary shall remain in the Fund and be available to the Secretary, to the extent and in such amounts as are provided in advance of appropriation Acts, for purposes of (i) providing benefits under this title; (ii) paying administrative and operational expenses associated with provision of such benefits; and (iii) to the extent remaining sums are available, further enhancing and modernizing the delivery of health services under this title.

"(B) The budget submitted by the President for each fiscal year may not take into account sums collected or recovered under this section in determining the budget requested for carrying out the activities of the Department.".

(d) EXEMPTION FROM SEQUESTRATION.—Health benefits to which veterans are entitled under chapter 17 (as amended by this Act) shall be exempt from reduction under any order issued under Part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 8. ANNUAL REPORTS.

(a) IN GENERAL.—Not later than January 15 of each fiscal year that begins after the effective date of the amendments made by this Act, the Secretary of Veterans Affairs shall submit, to the Committees on Veterans' Affairs of the Senate and of the House of Representatives, a report on the implementation and operation of the health care plans and reforms made effective by this Act. Each such report shall include the following:

(1) Information concerning the health care services provided under this Act, and detailed specification of the costs of furnishing such services, with comparisons between such costs and the costs which otherwise would have been incurred absent enactment of this Act.

(2) Demographic information regarding the veteran furnished services under this Act, including detailed descriptions regarding veterans' ages, service connections, geographic locations, prior access to and use of VA care and services, and financial needs.

(3) The Secretary's findings and conclusions concerning the effectiveness of the modifications promulgated by this Act, particularly regarding access and delivery of health care to veterans, the medical advantages of the care provided, and the cost-effectiveness of such care.

(4) Any plans for administrative action and any recommendations for legislative and regulatory action that the Secretary considers necessary to carry out this Act.

(b) PUBLIC COMMENTS.—In preparing such reports, the Secretary shall request, and take into account, comments provided by Congressionally-chartered veterans' organizations.

SEC. 9. EFFECTIVE DATE.

Except as otherwise provided, this Act (and the amendments made by this Act) shall take effect with respect to health care furnished on or after the first fiscal year beginning after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF PROPOSED AMERICAN VETERANS' HEALTH CARE REFORM ACT OF 1992

Purpose: This is a bill to guarantee comprehensive health care services to veterans and their families by ensuring entitlement and eligibility to a wide of health care services, to make greater resources and funding available for the delivery of such services, and for other purposes.

SECTION 1. SHORT TITLE; REFERENCE TO ACT

Establishes that the legislation will be referred to as the "American Veterans' Health Care Reform Act of 1992." The bill would primarily amend Chapter 17 of Title 38 of the United States Code.

SECTION 2. FINDINGS

Recognizes eight basic findings relative to veterans' health care on which the Act is premised and/or which it is intended to remedy. These findings essentially focus on three areas of consideration:

1. Veterans should be afforded health care services by the VA because of their service to the Nation and the concomitant implicit guarantee that they will be able to access and receive that health care.

2. Not withstanding that promise, the veterans' health care system is inadequate to meet their needs. Services are restricted without appropriate consideration of medical need or currency and funding of the system is significantly deficient.

3. There is a need for reforms to the veterans' health care system that will fulfull the Nation's promise to them by providing comprehensive health care services that are attendant to the current and predicted demographic and geographic patterns of veterans. In establishing these reforms the valuable role of the veterans' health care system in national health care reform must be considered.

SECTION 3. ACCESS TO COMPREHENSIVE HEALTH CARE FOR VETERANS AND THEIR SURVIVORS AND DEPENDENTS

Categories of Veterans

Core-Entitled Veterans—including all service-connected veterans, certain low income veterans, former prisoners of war, and additional limited categories of veterans.

Other Eligible Veterans (Non-Core Entitled Veterans)—including all other veterans not part of the core-entitled category the care of whom is established as discretionary.

Access and Services

Core-entitled veterans shall be entitled to the full continuum of medically-necessary health care provided by/through the VA. This would include, without limitation: inpatient, outpatient, nursing home care (including adult day care), domiciliary care, home health services, respite care, collateral health care and dental care services, readjustment counseling, the provision of therapeutic and rehabilitative devices, seeing eye dogs, and the repair of prosthetic and other appliances, alcohol and drug treatment, and necessary medications.

Other non-core entitled veterans would be eligible for all services, at the discretion of the Secretary, without statutorily prescribed limitations, but with the ability to offset the cost of the care received.

Readjustment counseling services would be provided without regard to the period of active duty service.

SECTION 4. PREVENTIVE HEALTH CARE

Adds a new section formally establishing that preventive health care services would be

among the services available to veterans. These services are essential to a comprehensive health care system and can be expected to substantially reduce the longer range costs of health care to veterans and improve their quality of life. Further, service-connected conditions (e.g., amputations), and life-style and genetic factors particularly prevalent among the veteran population (e.g., smoking rates, hypertension rates) suggest the need for these services to be readily available as an entitlement for the core-entitled veterans and contingent on ability to offset cost for non-core entitled veterans.

The full range of screening, treatment, and educational services would be available and most of these services are delineated in this section, including smoking cessation services, hypertension and colo-rectal and prostate screening, nutritional education, and immunizations.

SECTION 5. HEALTH SERVICES FOR NON-CORE ENTITLED VETERANS AND OTHER ELIGIBLE INDIVIDUALS

Adds a new section that would require the VA to put into continuing effect a managed care plan for the delivery of health care services to any non-core entitled veteran and to the survivors and dependents of any veteran. The plan would have to be in effect within 2 years of enactment of the legislation.

Provides that the VA offer various packages reflecting different combinations of services and ranges of premiums that are structured so as to be affordable to potential purchasers. In order to provide an opportunity to constituent groups to consider the degree of the "affordability" the Secretary would determine the premiums by regulation.

SECTION 6. PAYMENT FOR SERVICES

Adds a new section that prescribes the methods of payment that could be used to offset the costs of services to non-core entitled veterans and to survivors and dependents of any veteran.

Methods of payment would include:

Direct out-of-pocket payment;

Medicare reimbursement;

Medicare reimbursement;

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) reimbursement;

VA Managed Care Plan fund;

Private health insurance reimbursement;

Any combination of these.

SECTION 7. APPROPRIATIONS; COST RECOVERY; AND SEQUESTRATION

Establishes that funds for the provision of health care services to core-entitled veterans, inclusive of administrative costs associated with that care, would be appropriated as a non-discretionary entitlement exempt from sequestration, beginning in Fiscal Year 1993.

Further, provides that the mandatory, entitlement appropriation would take into account costs associated with quality management and assurance functions.

Administrative costs related to the non-mandatory services provided by VA to/for other than the core-entitled veterans would be separately appropriated and separately accounted for and stated in the President's budget requests.

Establishes the authority of VA to collect reimbursements from Medicare and Medicaid for the treatment of veterans, survivors, and dependents eligible under those programs.

Provides that the VA would have the authority to use any funds deposited in the Medical Care Cost Recovery Fund to provide health care benefits to eligible persons, to operate the VA health care system, and to enhance the quality of care and the delivery systems providing health care to veterans.

The President's budget requests for the VA would have to be developed without consideration of the collected/reimbursed amounts deposited into the Medical Care Cost Recovery Fund.

SECTION 8. ANNUAL REPORTS

Requires the VA to report to the House and Senate Veterans' Affairs Committees by January 15 of each fiscal year on the impact of the effected reforms. Specifically, the report would include:

Cost information and cost changes between the reformed system and the system of health care delivery prior to reforms;

Current and former information on the demographics of veterans, and of their access and use of the health care system;

Findings and conclusions as to effectiveness of reforms in terms of access, medical advantages, and cost;

Plans for legislative or regulatory actions necessary to the continued effectuation of the reforms.

Congressionally-chartered veterans' organizations would be given the opportunity to provide comments which the VA would consider and include in the reports.

SECTION 9. EFFECTIVE DATE

Provides for implementation of most reforms by the beginning of the first fiscal year occurring after enactment.•

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2249. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Environment and Public Works.

BOSTON HARBOR CLEANUP

Mr. KERRY. Mr. President, I rise today to introduce legislation designed to help further the Boston Harbor cleanup. This legislation which I am introducing with Senator KENNEDY will authorize a major new Federal funding commitment for the cleanup of Boston Harbor, one of America's dirtiest as well as historic coastal water bodies.

Every day, over 500 million gallons of sewage is discharged into the harbor resulting in one of the most serious coastal water quality problems in this country. This pollution is a major continuing threat to water activities such as fishing, swimming, and boating and to other uses that provide a boost to the Boston area's economy. It continues to devastate the health of marine life but most importantly the health of the citizens of the Boston area are at risk.

While discharge of sewage sludge was recently halted, continuing discharge of wastewater that has not received secondary treatment required by the Federal Clean Water Act remains a serious environmental problem. A recent report by the National Oceanic and Atmospheric Administration further substantiates the harbor's severe water quality problems.

But, if public health and user benefits of harbor cleanup are high, so are the costs. The total capital program of the Massachusetts Water Resources Authority [MWRA], which is charged with harbor cleanup, is $6.3 billion for both water supply and sewage treatment. Of that amount, $4.2 billion, in 1992 dollars, is for the wastewater capital program.

But, that is only part of the cost Boston area ratepayers will pay. While the total project cost will be $5.8 billion in inflated dollars by the time this project is finished, if the MWRA borrows this $5.8 billion in order to meet requirements of the Federal Clean Water Act as appears today to be its only option, it will cost Boston area ratepayers a staggering $15.3 billion, including debt service, to repay the debt over the next 30 years.

Mr. President, let me repeat these numbers: $4.2 billion at today's prices becomes $5.8 billion by the time this project is completed which becomes $15.3 billion when it is financed over the next 30 years. This is by far the most costly public works program in the history of New England.

MWRA has received $179 million in Federal grant funding since 1987. This means that over 95 percent of the wastewater capital program will be locally funded if no additional grant funding is provided by Congress.

I am pleased that the administration has recognized the need for Federal funding to assist the ratepayers of Massachusetts in meeting this massive federally mandated and federally supervised wastewater construction program for Boston Harbor. And, while I appreciate the $100 million requested in the President's budget, it just begins to scratch the surface.

Given the Federal mandate, given the history of 75 percent or 55 percent Federal matching grants for similar projects in the past in other localities across the Nation, given the extraordinary size and crushing rate burden associated with this project, it is only fair, reasonable, and just for the Federal Government to assume a significantly larger share of the financial burden than is currently expected.

MWRA area residents will continue to experience rate shock in undertaking this important environmental program. For instance, in fiscal year 1992, MWRA households will pay $168 for water and $297 for wastewater for a total of $465, an increase of 31 percent over the previous year. These ratepayers are expected to be subjected to an additional 25 percent increase in fiscal 1993 so they will be paying $177 for water and $408 for wastewater for a total of $585.

MWRA rates for fiscal year 1998 are projected to be $350 for water and $845 for wastewater for a total of $1,195, an average annual increase of 20 percent, perhaps the fastest growing rates in the country.

Rates for Boston residents alone already rank third highest in rates

among the 25 largest metropolitan areas in the United States. Even with significantly increased Federal help they will remain the highest or among the highest in the country; without it, our families will have the unchallenged if dubious distinction of paying more for sewage disposal than anyone else in any major metropolitan area of the United States.

The public health and environmental benefits in achieving Federal sewage treatment requirements are obvious. In addition, as one of the largest public works projects in New England, it will have significant economic benefits to Boston and the region.

The project will provide nearly $3 billion to the Boston economy and nearly 1,500 construction jobs in the average year of construction. This is vitally important to an area hard hit by the current recession.

The project will also result in as much as $150 million in tax revenues to the Commonwealth. Upon completion, it will allow removal, or avoidance of, any development moratoria related to inadequate sewage treatment facilities.

The Boston Harbor wastewater construction project is underway and on schedule. Between July 1, 1992, and June 30, 1993, it is scheduled to spend $644 million on new sewage treatment facilities alone at the Deer Island site. This amount does not include other system improvements and maintenance.

The project is currently one of the largest public works projects in New England. Its economic impact in generating much needed employment is significant. Plans are ready and additional Federal funding could be put to use this year as an important element in the Nation's effort to expand employment opportunities.

In addition to grant funding, in December of last year, MWRA received $73.1 million in loans from the Commonwealth's State revolving fund established under title VI of the Clean Water Act. However, since MWRA's own revenue bonds have a high rating, the SRF loans are expected to provide only minimal relief to the authority's ratepayers.

The $179 million in grant funding provided to the MWRA project to date is only 3 percent of total project costs. The rest will be shouldered by local ratepayers.

As summarized by the MWRA, the importance of continued Federal grant funding is clear:

> For every $1 million MWRA receives in a grant, it avoids approximately $97,900 in annual debt service costs at the January 1990 interest rate of 7.7%, or a total of $2.9 million over the term of the borrowing. For every $1 million the Authority receives as a loan, it pays approximately $60,000 in annual debt service or a total of $1.2 million over the term of the borrowing. The net savings is $1.7 million on each $1 million issued.

Mr. President, what this means is that for every $100 million in Federal grant funding, $15 is provided to households each year in rate relief for a total of $450 over the 30-year term of MWRA bonds. The $1 billion that would be authorized by this bill, which I am introducing today, would mean $150 in savings to the average household each year for a total of $4,500 over the 30-year life of MWRA bonds.

The legislation introduced today would authorize the appropriation of $1 billion over 5 years for the construction of wastewater facilities serving MWRA and Boston area households comprised of nearly 2.6 million persons and 5,500 businesses and industries. These funds would be used by MWRA to meet federally mandated secondary treatment requirements under a schedule previously ordered by the U.S. district court.

Even in combination with the $179 million provided by Congress to date, this amount would bring the Federal share of the Boston Harbor project to approximately 20 percent of total costs, a far cry from the 75-percent Federal matching funds authorized for projects in the original Clean Water Act of 1972 or 55 percent for certain projects initiated after 1984.

Many other metropolitan areas in this country have complied with the Clean Water Act with the significant assistance of these higher levels of Federal grant funding previously available. It is only fair and reasonable for the Federal Government to recognize its responsibility and expand its commitment to the Boston Harbor project. This bill enables that to happen. In so doing, this commitment would assist in meeting this important Federal mandate while at the same time adding to the national effort needed to stimulate economic development and jobs. In the long run, this bill will save Massachusetts ratepayers thousands of dollars for each family—dollars that could be better used to educate their children and meet a score of other important family financial burdens, instead of going primarily to pay some wealthy bond buyers rent on their money.

Mr. President, it isn't every day that President Bush and the Massachusetts congressional delegation agree on a priority matter to the people of our State. However, the last two budgets submitted by the President have recognized the urgent environmental need and the clear Federal responsibility to assist in the cleanup of Boston Harbor. I applaud the President for his actions, but today urge him and my colleagues in Congress to recognize that what is really necessary and fair is a much more serious and a multiyear commitment to the cleanup of the historic Boston Harbor. We are not asking for the 75-percent Federal share of such costs that was provided for similar projects in the past, or even the 55-percent that was available for such projects at other times. No, Mr. President, we are simply asking that roughly 20 percent of this federally required, federally supervised cleanup be carried by the Federal Government, so that hard-pressed Massachusetts ratepayers will not be left to tote this extraordinary load by themselves.

Therefore, Mr. President, I hope that the Congress will provide expeditious and favorable consideration of this proposal, recognizing the costs and environmental benefits, as well as the need to generate new jobs in this time of economic hardship.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2249

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

SECTION 1. BOSTON HARBOR.

Title V of the Federal Water Pollution Control Act of 1972, as amended, is amended—

(1) by redesignating section 519 as section 520; and

(2) by inserting after section 518 the following new section:

"BOSTON HARBOR AND ADJACENT WATERS"

"SEC. 519. (a) The Administrator shall establish a grant program to make grants to the State of Massachusetts for use by the Massachusetts Water Resources Authority for constructing wastewater treatment works for the areas served by the Massachusetts Water Resources Authority.

"(b) The Federal share of any construction projects described in subsection (a) of this section shall not exceed 75 percent of the cost of construction of the wastewater treatment work.

"(c)(1) For the purposes of carrying out the grant program under this section, there are authorized to be appropriated for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 an amount equal to $200,000,000.

"(2) The amounts described in paragraph (1) shall remain available until expended.

"(3) The amounts described in paragraph (1) shall be authorized to be appropriated in addition to any other amounts authorized to be appropriated under title II or IV of this Act.".

Mr. KENNEDY. Mr. President, it is a privilege for me to join with my colleague from Massachusetts, Senator KERRY, in cosponsoring legislation to provide continued and expanded Federal assistance for the cleanup of sewage discharged into Boston Harbor.

Increased Federal aid is vital to ease the crushing burden on ratepayers in Massachusetts. We must restore Boston Harbor for the sake of the environment, public health, and recreation, but we also have to recognize the economic pain that high rates are imposing on families in the Boston area, and provide a greater Federal contribution to the cleanup effort.

This important legislation addresses twin national objectives: environmental restoration and economic development. I urge its prompt consideration in this difficult economic time.

The water quality problems in Boston Harbor are well known. They garnered national attention when the President highlighted them during his last campaign. The Boston area is one of only a handful of metropolitan areas not yet meeting Federal sewage treatment requirements.

The cleanup effort is well underway now. The discharge of sewage sludge to the harbor was ended on December 24 of last year, marking an important milestone in the cleanup effort. But a great deal remains to be done to fulfill the requirements spelled out by Congress and by the Federal court order governing the cleanup project.

To date, the Federal Government has focused attention on the cleanup of the Harbor, but the resources have not been provided at levels comparable to what other cities recieved in the past 20 years.

The cost of the Boston Harbor cleanup will be enormous. The total capital program of the Massachusetts Water Resources Authority, the public agency charged with providing water supply and sewage treatment services to the 60 communities in the greater Boston area, is $7.3 billion for water supply and wastewater treatment including combined sewer overflows. The wastewater program alone is $4.2 billion in current dollars and $5.8 billion when inflation is considered. If MWRA must borrow this $5.8 billion, it will cost ratepayers $15.3 billion to repay the debt over the next 30 years.

Boston Harbor serves a regional population of over 2.6 million persons plus visitors to the Boston area. Approximately 5,500 businesses are also served by MWRA. The harbor and nearby bays are well known for commercial fishing and recreation. Massachusetts Bay has been recognized as an estuary of national significance and the adjacent Stellwagen Bank is expected to receive designation soon as a National Marine Sanctuary. Restoring Boston Harbor is essential to the preservation of these environmentally sensitive areas.

The cleanup will have important economic, as well as environmental benefits. A study of the project by Cambridge Systematics, Inc., for MWRA predicts that during the 1990's, the project will provide approximately $3 billion to the local Boston economy alone, or $2 for every $1 spent. Approximately 1,500 jobs will be created in the average construction year, and nearly $150 million will be realized in tax revenue by the Commonwealth.

Environmental protection offers one of the best opportunities to stimulate our economy and create jobs. In the economic stimulus legislation I introduced at the beginning of this session, $4.4 billion in additional funds would be provided for fiscal year 1992 for wastewater construction projects across the country under the Clean Water Act, and another $1.5 billion under the Farmers Home Administration water and wastewater programs. This is a small investment, considering the level of unmet wastewater treatment needs reported by the Environmental Protection Agency and groups such as the Association of State and Interstate Water Pollution Control Administrators.

In the Boston area, there is no doubt that additional Federal funds can be put to work immediately. MWRA now has plans ready that total $644 million for wastewater construction between July of this year and June 1993. Additional significant amounts will be spent in the 1993–94 time frame.

There is another important reason why this legislation should be approved. As it now stands, without any additional Federal funding. Boston area ratepayers will shoulder over 95 percent of the cost of meeting Federal Clean Water Act requirements.

As a result, water and sewer rates will continue to skyrocket in the coming decade. Rates for the average household in the Boston area in 1992 will be $168 for water and $297 for wastewater, for a total of $465, an increase of 31 percent over 1991. And these rates are expected to jump by an additional 25 percent in 1993.

By 1998, MRWA projects that the average household will pay $350 for water and $845 for wastewater, for a total of $1,195 in that year. We are talking about an average annual increase of nearly 20 percent and a total jump of 640 percent between 1986 and 1998. Other metropolitan areas are unlikely to have rate growth at anywhere near this level.

To date, the Boston Harbor project has received $179 million in Federal grants. I am pleased that the administration has recently seen the light, and has included funding for Boston Harbor in its fiscal year 1992 and fiscal year 1993 budget proposals, but the amounts are clearly insufficient.

The project has also received $73 million in a loan from the State Revolving Fund, financed under title VI of the Clean Water Act. This SRF loan, at a 1.8 percent interest rate, is likely to be a one-time occurrence, because it is significantly below market interest rates. No SRF can loan below-market rates for long and remain a revolving fund.

In addition, the amount of unmet wastewater construction needs throughout Massachusetts, is great, and the Commonwealth's fiscal circumstances prevent contributions above the minimum State match. Finally, MWRA's own bonds enjoy a higher rating than the Commonwealth's, and the State Revolving Fund. These combined factors mean that grant funding, not the SRF, is the primary source of real relief to ratepayers in the Boston area.

This legislation will authorize $1 billion in Federal funds under the Clean Water Act for Boston Harbor, to construct wastewater treatment facilities for sewage discharged by MWRA. The funds to be administered by the Environmental Protection Agency at a Federal share of not more than 75 percent will remain available until expended. This formulation parallels what Congress approved for Boston Harbor in 1987.

Most metropolitan areas received significant grants under a similar Federal/State match formula during the 1970's and early 1980's. At that time, Boston was determining the appropriate level of sewage treatment under the act's provisions on ocean discharges. Once this determination was made, MWRA began design and construction of the federally-mandated treatment facilities.

The $1 billion authorized by this bill, in addition to the $179 million already appropriated by Congress, represents approximately 20 percent of the wastewater project cost of $5.8 billion, adjusted for inflation. This amount is substantially less than the 75 percent funding enjoyed by other communities or even the 55 percent funding provided to projects initiated after 1984.

While this legislation will not put Boston on an equal footing with other cities, it is a reasonable response to the enormous rate increases that will face Boston families throughout this decade, as MWRA works to bring the harbor into compliance with Federal requirements.

I urge prompt and favorable consideration of this bill, in order to provide much-needed assistance to Boston area ratepayers, to create jobs, and to ensure that the clean up of Boston Harbor proceeds in a thorough and effective way.

ADDITIONAL COSPONSORS

S. 1150

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1150, a bill to reauthorize the Higher Education Act of 1965, and for other purposes.

S. 1261

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1357

At the request of Mr. BREAUX, the names of the Senator from Nevada [Mr. REID] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1658

At the request of Mr. NICKLES, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor

of S. 1658, a bill to require the Secretary of Labor, with respect to contracts covering federally financed and assisted construction, and labor standards provisions applicable to nonconstruction contracts subject to the Contract Work Hours and Safety Standards Act, to ensure that helpers are treated equitably, and for other purposes.

S. 1842

At the request of Mr. DASCHLE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1842, a bill to amend title XIX of the Social Security Act to provide for Medicaid coverage of all certified nurse practitioners and clinical nurse specialists services.

S. 1989

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1989, a bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provision of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes.

S. 2091

At the request of Mr. DECONCINI, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2091, a bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti.

S. 2211

At the request of Mr. NICKLES, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2211, a bill to amend the Internal Revenue Code of 1986 to eliminate tax penalties that apply to oil and gas investments, and for other purposes.

S. 2239

At the request of Mr. PRYOR, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 2239, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

SENATE JOINT RESOLUTION 214

At the request of Mr. RIEGLE, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 214, a joint resolution to designate May 16, 1992, as "National Awareness Week for Life-Saving Techniques."

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Indiana [Mr. COATS], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 233

At the request of Mr. BIDEN, the names of the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Connecticut [Mr. DODD], the Senator from Virginia [Mr. WARNER], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from New York [Mr. D'AMATO], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 233, a joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week."

SENATE JOINT RESOLUTION 238

At the request of Mr. RIEGLE, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 238, a joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week."

SENATE JOINT RESOLUTION 241

At the request of Mr. SPECTER, the names of the Senator from California [Mr. CRANSTON] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 241, designating October 1992 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

AMENDMENT NO. 1691

At the request of Mr. BOREN his name was added as a cosponsor of amendment No. 1691 proposed to S. 1150, a bill to reauthorize the Higher Education Act of 1965, and for other purposes.

At the request of Mr. SPECTER the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from Florida [Mr. MACK] were added as cosponsors of amendment No. 1691 proposed to S. 1150, supra.

At the request of Mr. MITCHELL his name was added as a cosponsor of amendment No. 1691 proposed to S. 1150, supra.

SENATE CONCURRENT RESOLUTION 93—RELATIVE TO PROPOSED ARMS SALES TO ARAB COUNTRIES

Mr. SEYMOUR (for himself and Mr. DECONCINI) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 93

Whereas the United Nations Partition Plan of 1947 created national homelands in Palestine for both the Arab and Jewish residents of the region;

Whereas, although the State of Israel accepted this territorial division, a coalition of Arab states rejected the Partition Plan and initiated an armed conflict to eliminate the Jewish homeland;

Whereas the joint settlement ending the Arab-Israeli war of 1948 did not include formal recognition of the sovereignty of the State of Israel by any Arab government;

Whereas the Charter of the United Nations identifies the concept of sovereignty as a basic and inviolable right of all nations;

Whereas every government in the history of the State of Israel has adopted as a formal policy the willingness to negotiate all political and economic disagreements with any Arab party that recognizes unconditionally the sovereignty of the Jewish homeland; and

Whereas the failure of every Arab nation (other than Egypt) to recognize the sovereignty of Israel is a principle cause of the proliferation of offensive military weaponry and the absence of a comprehensive peace agreement in the Middle East: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) formal diplomatic recognition of the State of Israel by the Arab nations of the Middle East should occur without condition; and

(2) the President should withhold the submission to the Congress of any proposed sale of offensive military weaponry under section 36(b)(1) of the Arms Export Control Act (other than weaponry that may be required under emergency conditions) to any Arab nation of the Middle East until such nation establishes diplomatic relations with the State of Israel.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

• Mr. SEYMOUR. Mr. President, I rise this morning to submit a concurrent resolution on behalf of myself and Senator DECONCINI expressing the sense of the Congress that the President should withhold the sale of offensive military weaponry to Arab governments refusing to establish diplomatic relations with the State of Israel.

Recent developments such as the January 6 vote by the United Nations Security Council condemning the Shamir government for its plans to discipline 12 Palestinian agitators have obscured the reality that every Arab nation with the exception of one remains in a state of war with the Israeli people.

This grim factor—not the fate of the Palestinians or the Spartan Israeli settlements on the West Bank—poses the greatest obstacle to an enduring peace agreement in the Middle East.

Furthermore, during a time when the United States has repeatedly expressed its concern about the worldwide proliferation of offensive weapons, we cannot lose sight of the fact that the Arab

world's refusal to accept the sovereignty of Israel stands as the major reason for the acquisition of long-range ballistic missiles by countries such as Libya, Syria, and Iraq.

If the President announces that he will refrain from initiating major arms sales to aggressive Arab powers, they might realize the futility of rejecting America's only democratic ally in the region.

Under these circumstances, the Israelis would have the opportunity to act upon their 40-year-old policy of negotiating all outstanding grievances with their neighbors if only the Arab States renounced their desire to destroy the Jewish homeland.

This resolution, therefore, gives all of the parties to the Arab-Israeli conflict an incentive for peace.

It takes the spotlight off the frequently hypocritical and one-sided actions of the United Nations and encourages diplomats from both sides to seriously address the deep-seated political conflicts that have haunted the Middle East for more than four decades.

During this time of hope generated by the ongoing regional peace negotiations, Congress could not make a more appropriate statement of policy than the one enunciated by this resolution. As a result, I urge the Senate to consider and adopt this vital measure at the earliest possible time.●

SENATE RESOLUTION 260—OPPOSING THE TAXATION OF CASH BUILDUP IN LIFE INSURANCE ANNUITIES

Mr. KASTEN submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 260

Whereas the U.S. savings rate is among the lowest in the industrialized world;

Whereas life insurance annuities are an important savings vehicle for Americans;

Whereas life insurance annuities are an important means of providing for retirement;

Whereas the proposed tax on annuities would result in the loss of substantial long-term capital investment;

Whereas a tax on the cash value of annuities would eliminate annuities as an attractive investment, saving, and retirement vehicle;

Whereas the proposed tax on annuities would harm the insurance industry, an important source of investment in the economy and a source of jobs for millions of Americans: Now, therefore, be it

Resolved, That the Congress shall oppose any attempt to increase taxes on life insurance annuities.

● Mr. KASTEN. Mr. President, I rise today to express my strong opposition to the administration's proposal to tax the cash buildup in life insurance annuities. I will aggressively oppose its inclusion in any tax or budget measure.

Taxing annuities in the manner proposed would result in the loss of substantial long-term capital investment. Life insurance annuities are an important program of saving and investment for Americans. Annuities provide retirement security and help to boost our Nation's low savings rate. It makes absolutely no sense that the Government would want to eliminate such an attractive and efficient private-sector insurance and retirement program. Hundreds of my constituents in Wisconsin have contacted me to express their dismay at this proposal.

The administration's proposal would harm American insurance companies, an industry that employs millions of Americans. Annuity sales are the source of substantial proportion of new business. The insurance industry is in turn, an important source of investment in the economy.

Americans want government to provide more incentives for saving, not less. It is indeed ironic that while the administration acknowledges the need for more tax favored saving opportunities, they have chosen to propose the elimination of life insurance annuities as an attractive investment.

I have authored a sense-of-the-Senate resolution expressing opposition to the proposed taxation of life insurance annuities. I invite my colleagues to join as cosponsors.●

AMENDMENTS SUBMITTED

HIGHER EDUCATION AMENDMENTS

SANFORD AMENDMENT NO. 1695

Mr. SANFORD proposed an amendment to the bill (S. 1150) to reauthorize the Higher Education Act of 1965, and for other purposes, as follows:

Strike all on page 312, line 6 through page 322, line 6 and insert:

"SEC. 495. STATE IDENTIFICATION PROCESS.

"(A) IN GENERAL.—Each State shall assist the Secretary to identify institutions of higher education within the State, which have engaged in practices that lead to misuse of Federal student aid funds, including but not limited to—

"(1) inadequate procedures to protect students enrolled at institutions of higher education in the event of school closure;

"(2) inadequate maintenance of student or other records;

"(3) inadequate procedures for resolution and investigation of student complaints;

"(4) misleading or inappropriate advertising and promotion, or student recruitment;

"(5) facilities that fail to comply with relevant safety and health standards such as fire, building and sanitation codes;

"(6) failure to provide relevant information to students by institutions of higher education which may include—

"(A) information relating to market and job availability for students in professional and vocational programs;

"(B) information regarding courses which exceed standards for State licensure in specific occupations, where appropriate; and

"(C) information regarding course cancellation procedures and rights;

"(7) the inflation of credit or clock hours required for the completion of programs or where 600-hour courses are not appropriate in length;

"(8) occupational or vocational programs which are inadequate to permit students to meet State licensing requirements in the occupation for which training is provided;

"(9) the actions of any owner, shareholder, or person exercising control over the educational institution which may adversely affect eligibility for programs under this title; or

"(10) the absence of a fair and equitable refund policy to protect students as established in Section 498.

"(b) STATE PROCEDURES.—

(1) In carrying out the purpose of this section, the State shall establish and publicize the availability of a process to permit students, faculty members and others to report complaints or instances of fraud and abuse;

"(2) The State shall notify the Secretary, in a timely manner, of any institution it has identified pursuant to this section. The Secretary shall take prompt, appropriate action based on such notification and report such action to the State; and

"(3) Each State shall designate, for purposes of this section, a single state entity or individual to be responsible for reporting information under this section to the Secretary.

"(c) In identifying institutions of higher education pursuant to this section, the State shall give priority to institutions that have:

"(1) a cohort default rate as defined in section 435(m) equal to or greater than 10 percent; and

"(A) more than two-thirds of an institution of higher education's total undergraduate students enrolled on a half-time or more basis receive assistance under this title (except subparts 4 and 6 of part A); and

"(B) two-thirds of more of an institution of higher education's education and general expenditures are derived from funds provided to students enrolled at such institution from the programs assisted under this title (except subparts 4 and 6 of part A and section 4288);

"(2) A limitation, suspension, or termination action by the Secretary against an institution pursuant to section 487(c)(1)(D), 487(c)(1)(E) or section 487(c)(2)(A) during the preceding 5 years; or

"(3) An audit finding during the two most recent audits of an institution of higher education's conduct of the programs assisted under this title that resulted in the repayment by such institution of amounts greater than 5 percent of the funds such institution received from the programs assisted under this title for any 1 year; or

"(4) A citation of an institution of higher education by the Secretary for failure to submit audits required by this title; or

"(5) A year-to-year fluctuation of more than 25 percent in the amounts received by students in Pell grants or loans made, insured or guaranteed under sections 428 and 428A, which are not accounted for by changes in such loan programs; or

"(6) A change of ownership of the institution of higher education that results in a change of control, including—

"(A) the sale of such institution or the majority of its assets;

"(B) the transfer of the controlling interest of stock of such institution or its parent corporation;

"(C) the division of one or more such institutions into two or more institutions;

"(D) the transfer of the controlling interest of stock of such institution to its parent corporation; or

"(E) the transfer of the liabilities of such institution to its parent corporation.

"(7) Except with regard to any institution that is affiliated with a State system of higher education, participation in one or more of the programs established by this title for less than 5 years; or

"(8) any other institution which the State has reason to believe is engaged in fraudulent practice."

On page 322, line 7, strike "(h)" and insert "(d)".

On page 322, line 11, strike "standards required by".

On page 322, line 23, strike "$10,000,000" and insert "$20,000,000".

On page 335, strike lines 15 and 16 and insert "from States under section 495".

On page 336, lines 8-9, strike "State agencies designated under section 495(c)" and insert "States".

On page 333, between lines 2 and 3, insert the following:

"(7) assure that the institutions of higher education has a fair and equitable refund policy.

"(b) FAIR AND EQUITABLE REFUND POLICY.—

"(1) IN GENERAL.—An institution's education refund policy shall be considered to be fair and equitable for purposes of this section if the policy provides for a refund that meets—

"(A) the requirements of applicable State law;

"(B) the specific refund requirements established by an institution's nationally recognized accrediting agency and approved by the Secretary; or

"(C) the pro rata refund requirement described in paragraph (2), except that this paragraph shall not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the halfway point (in time) in the period of enrollment for which the student has been charged.

"(2) PRO RATA REFUND.—As used in this section, the term 'pro rata refund' means a refund by the institution to a student attending such institution for the first time of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last day of attendance by the student.

"(3) REFUND CREDIT.—For purposes of this section, a refund first shall be credited against any part B loan assistance and second against any grant awarded a student under this title for the period of enrollment.

PRYOR AMENDMENT NO. 1696

Mr. PELL (for Mr. PRYOR) proposed an amendment to the bill S. 1150, supra, as follows:

On page 225, between lines 11 and 12, insert the following:

SEC. . ALLOCATION OF FUNDS.

Subsection (j) of section 462 of the Act (20 U.S.C. 1087bb(j)) is amended to read as follows:

"(j) REALLOCATION OF EXCESS ALLOCATIONS.—

"(1) IN GENERAL.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate such excess to eligible institutions which were participants in the program in fiscal year 1985 but which did not receive an allocation under subsection (a), an amount equal to those institutions' excess eligible amounts as determined under paragraph (2) multiplied by the institution's default penalty, as determined under subsection (f), except that—

"(A) if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this subparagraph; and

"(B) except that the reallocation to an institution shall not exceed such institution's eligible amount (as determined under paragraph (3) of subsection (c)).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) that institution's eligible amount (as determined under paragraph (3) of subsection (c)), divided by (ii) the sum of the eligible amounts of all institutions described in paragraph (1) (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

"(B) the amount required to be allocated to that institution under subsection (c) of section 462.

"(3) From the remainder of such excess, the Secretary shall reallocate the remainder, in accordance with regulations, to eligible institution which did not return to the Secretary any portion of the sums allocated to such institution.".

PELL AMENDMENT NO. 1697

Mr. PELL proposed an amendment to the bill S. 1150, supra, as follows:

On page 24, strike line 17 through page 25, line 20, and insert:

"SEC. 126. STUDENT LITERACY CORPS PROGRAM.

"(a) IN GENERAL.—From the amount reserved pursuant to section 131(b) for any fiscal year, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to institutions of higher education for not more than 3 years to pay for the Federal share to carry out student literacy corps programs.

"(b) SPECIAL RULE.—An institution of higher education shall only receive 1 grant under this section in each fiscal year.

"(c) CONTINUATION OF LITERACY PROGRAM.—Grants under this section are renewable upon application by the institution of higher education in accordance with section 128.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of carrying out student literacy corps programs under this subpart shall be—

"(A) up to 100 percent for an initial grant to an institution of higher education; and

"(B) up to 75 percent for a grant renewed under subsection (c).

"(2) NONFEDERAL SHARE.—The non-Federal share of carrying out student literacy corps programs under this subpart may be paid from any non-Federal sources.

"SEC. 127. USES OF FUNDS.

"(a) IN GENERAL.—Funds made available under this subpart may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the student literacy corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the student literacy corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 129.

"(b) LIMITATION.—No grant award to an institution of higher education under this subpart shall exceed $100,000.

"(2) FIRST YEAR.—No institution of higher education may expend more than $50,000 of a grant made under this subpart in the first year in which the institution receives such a grant.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PRIVATE RETIREMENT PLANS AND OVERSIGHT OF THE INTERNAL REVENUE SERVICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Private Retirement Plans and Oversight of the Internal Revenue Service of the Committee on Finance be authorized to meet during the session of the Senate on February 21, 1992, at 9:30 a.m. to hold a hearing on the taxpayer bill of rights 2.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, February 21, at 10 a.m. to hold a hearing on the crisis in East Timor and United States policy toward Indonesia.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Friday, February 21, at 9:30 a.m., for a hearing on the subject: fewer airlines, higher fares?

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

ADDITIONAL STATEMENTS

SECTION-BY-SECTION ANALYSIS OF S. 543 AS REPORTED BY THE BANKING COMMITTEE

• Mr. RIEGLE. Mr. President, I ask to insert in the RECORD a section-by-section analysis of S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, as reported by the Banking Committee to the full Senate on October 1, 1991.

The section-by-section analysis follows:

TITLE I—BANK INSURANCE FUND RECAPITALIZATION

SECTION 101. FDIC BORROWING AUTHORITY

Section 101(a) amends and recodifies section 14 of the Federal Deposit Insurance Act (12 U.S.C. §1824) to increase the authority of the Federal Deposit Insurance Corporation ("FDIC") to borrow from the Treasury and the Federal Financing Bank ("FFB") to meet the liquidity needs of the Bank Insurance Fund ("BIF").

Section 101(b) amends the limitation on total outstanding FDIC obligations in sec-

tion 15(c) of the Federal Deposit Insurance Act. 12 U.S.C. §1825(c). All borrowing under amended section 14 will be subject to the limitations of section 15(c).

A. Treasury loans

Section 101(a) amends section 14 of the Federal Deposit Insurance Act, which currently authorizes the FDIC to borrow from the Treasury such funds as the FDIC Board of Directors deems required for insurance purposes, not exceeding $5 billion.

1. Authority to borrow for insurance costs

Paragraph (1) of new section 14(a) generally authorizes the FDIC to borrow from the Treasury, and the Treasury to lend to the FDIC, in accordance with section 14 and subject to the limit on aggregate borrowing by the FDIC set forth in section 15(c).

2. Loan purposes

Paragraph (2) specifies the purposes for which the FDIC may borrow from the Treasury. Specifically, the FDIC may borrow only to cover (1) losses incurred by the FDIC in protecting depositors (including losses to the BIF or the SAIF), or (2) administrative costs associated with resolving FDIC-insured depository institutions.

3. Priority for repayment of loss borrowings

Paragraph (3) governs the priority in which the FDIC expends its income from premiums assessed on members of either deposit insurance fund.

Under paragraph (3)(A), the Corporation should use such income, first, to make any scheduled payments on borrowings from the Treasury on behalf of the fund; second, to provide for the fund's expected operating expenses and to cover new insurance losses to the fund as they occur; and last, to increase the fund's cash reserves.

Paragraph (3)(B) creates a limited exception to the priority order established in paragraph (3)(A). When the FDIC has borrowed from the Treasury on behalf of a fund, and the cash reserve balance of that fund exceeds $5 billion, subparagraph (B) requires the FDIC to use income from assessments on members of that fund, first, to make any scheduled payments on borrowings from the Treasury on behalf of the fund; second, to provide for the fund's expected operating expenses and to cover insurance losses to the fund as they occur; and last, to accelerate repayment of any Treasury borrowings.

4. Interim rule

Paragraph (4) prohibits the FDIC from reducing the deposit insurance assessment rates in effect on July 15, 1991, for members of any deposit insurance fund if (1) the FDIC has borrowed from the Treasury on behalf of the fund, or (2) the fund's reserve ratio remains below the designated reserve ratio. This prohibition will remain in effect until the risk-based deposit insurance assessment system in section 212 becomes effective. (New section 7(b)(2)(E)–(F), as added by section 212, will then serve a similar purpose.)

5. Terms

Paragraph (5) permits the Secretary of the Treasury to lend under section 14(a) only in accordance with a written agreement that (1) sets forth a schedule for repaying the loan over a period not exceeding 15 years from the date of the loan, and (2) provides that the loan shall bear interest at the current market yield (as of the date of the loan) on outstanding Treasury obligations of comparable maturities. The written agreement may include additional terms, as long as those terms are consistent with those required by paragraph (5).

Paragraph (5) permits the Secretary to lend under section 14(a) only if the Secretary has determined in writing that income to the deposit insurance fund on behalf of which the loan will be made will suffice to repay the loan in accordance with the agreement.

6. Limit on total borrowing for insurance costs

Paragraph (6) limits the FDIC's aggregate outstanding borrowings from the Treasury under section 14(a). The limit is $30 billion until the BIF's reserve ratio first equals or exceeds the designated reserve ratio for a complete semiannual assessment period. The limit then falls to $10 billion and remains at that level even if the BIF's reserve ratio again declines below the designated reserve ratio.

Of the FDIC's aggregate borrowings under section 14(a), no more than $5 billion may be on behalf of the SAIF.

7. Public debt status

Consistent with current law, paragraph (7) provides that loans and repayments under section 14(a) shall be treated as public debt transactions of the Federal Government.

8. Apportionment of liability

Consistent with current law, paragraph (8) apportions liability for any loan from the Treasury between the BIF and the SAIF in accordance with the amount of the loan used on behalf of each fund.

B. Federal financing bank loans

1. Authority to borrow for working capital

Paragraph (1) reenacts and amends portions of current section 14(b) of the Federal Deposit Insurance Act. Generally, it authorizes the FDIC (on behalf of either the BIF or the SAIF) to borrow from the Federal Financing Bank ("FFB"), and the FFB to lend to the FDIC, in accordance with section 14(b). The FFB may prescribe terms for such loans.

2. Purposes

Paragraph (2) permits the FDIC to borrow from the FFB only for two working capital purposes: first, to finance the acquisition, retention, maintenance, liquidation, disposal, or improvement of the assets of an FDIC-insured depository institution in the course of the FDIC's resolution and receivership activities; or second, to provide temporary liquidity to insured depository institutions to the extent otherwise authorized by statute.

3. Limitation on borrowing for working capital

Paragraph (3) limits the FDIC's borrowings from the FFB on behalf of the BIF to $45 billion.

4. Effect on other entities

Paragraph (4), which reenacts current law, indicates that section 14(b)—in specifying the FDIC's authority to borrow from the FFB—creates no negative implication about the borrowing authority of other entities.

C. Limitation on total outstanding obligations

1. Current law

Section 15(c) of the Federal Deposit Insurance Act currently limits the FDIC's total outstanding obligations. 12 U.S.C. §1825(c). Paragraph (5) of current section 15(c) forbids the FDIC to issue any obligation or guarantee on behalf of either deposit insurance fund if the fund's net worth would be less than 10 percent of assets after reduction for the cost of the obligation or guarantee. Current paragraph (6) allows the FDIC, with the prior approval of the Secretary of the Treasury, to issue or incur an additional $5 billion of liabilities in excess of the limitations in paragraph (5). To the extent the FDIC exercises its authority under section 15(c)(6), however, its borrowing authority under section 14(a) diminishes. Current paragraph (7) requires the FDIC to calculate the assets and net worth of the BIF and SAIF based on the most recent audits of those funds by the Comptroller General.

2. Revised limitation

Section 102(b) of the bill replaces paragraphs (5), (6), and (7) of current section 15(c) with new paragraphs (5) and (6).

a. Limitation on maximum amount of outstanding obligations

New paragraph (5) forbids the FDIC to issue any note or incur any liability if the FDIC's obligations on behalf of the BIF or SAIF would exceed the sum of that fund's cash balance, plus 90 percent of the estimated fair market value of its noncash assets, plus the aggregate amount of any loans outstanding under section 14(a). The new paragraph (5) further requires that the FDIC base its estimate of the fair market value of its noncash estimates on the GAO's most recent audit of FDIC.

b. Obligation defined

New paragraph (6) defines "obligations" of the FDIC for purposes of paragraph (5). The term includes any guarantee by the FDIC other than deposit guarantees, any extension of credit from the Treasury or the FFB to the FDIC under section 14, and any other note, bond, or contract for which the FDIC has a direct or contingent liability. In the case of a contingent liability, the amount subject to the borrowing limit should be the expected cost of the contingent liability (i.e., conceptually, the sum of the contingent liability's cost under the full range of possible future events, with each cost multiplied by the event's probability).

Taken together, amended section 15(c) and new section 14(b)(3) limit the FDIC's total borrowings from the FFB on behalf of the BIF to the lesser of $45 billion or the sum of the BIFs cash balance plus 90 percent of the estimated fair market value of the fund's noncash assets. Working capital borrowings will be repaid from the proceeds of sales by the FDIC of assets of failed institutions. Should sales proceeds prove insufficient for that purpose, the FDIC must recognize the shortfall as a loss to be subtracted from the fund's assets and, if necessary, funded through borrowings under section 14(a).

D. Conforming amendment

Section 101(c) section 3 of the Federal Deposit Insurance Act (12 U.S.C. §1813) to define "deposit insurance fund" as the Bank Insurance Fund or Savings Association Insurance Fund, as the case may be.

SECTION 102. RECAPITALIZING BANK INSURANCE FUND

This section amends section 7(b)(1)(C) of the Federal Deposit Insurance Act to provide a system for setting assessment rates for BIF members sufficient to repay borrowings by the FDIC under section 14(a) and return the BIF's reserve ratio to the designated reserve ratio.[1]

New section 7(b)(1)(C), which applies to the BIF alone, will remain in force until the risk-based deposit insurance assessment system in section 212 becomes effective, and will then be replaced by new section 7(b)(3) (as

[1] Section 7(b)(1)(B) of the Federal Deposit Insurance Act establishes the "designated reserve ratio" of both the BIF and the SAIF as 1.25 percent of estimated insured deposits or such higher percentage of estimated insured deposits as the Board of Directors determines for that year to be justified by circumstances raising a significant risk of substantial future losses to the fund.

added by section 212), which will apply to both the BIF and the SAIF. The SAIF is treated differently than the BIF in order to preserve SAIF-related transition provisions enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA").

A. General rule

Clause (i) of new section 7(b)(1)(C) establishes the general rule that, when the BIF's reserve ratio equals or exceeds the designated reserve ratio, the FDIC Board should set assessment rates for BIF members so as to maintain the BIF's reserve ratio at the designated reserve ratio.

B. Special rules for recapitalizing undercapitalized funds

Clause (ii) establishes the standard for setting assessment rates for BIF members when the BIF's reserve ratio is less than the designated reserve ratio. In that event, the Board should set assessment rates so as either to rebuild the fund to the designated reserve ratio within one year, or to achieve an interim target reserve ratio under a recapitalization schedule promulgated by the FDIC.

C. Recapitalization schedules

If the BIF's reserve ratio is less than the designated reserve ratio, and the FDIC elects not to set an assessment rate for BIF members sufficient to achieve the designated reserve ratio within one year, the FDIC must promulgate—if it has not already promulgated—a recapitalization schedule for the BIF and the set the assessment rate for BIF members in accordance with that schedule. Clause (iii) requires that such a recapitalization schedule specify target reserve ratios for the BIF at semiannual intervals, culminating in a reserve ratio equal to the designated reserve ratio by the end of the period determined under the following clause.

D. Date for achieving designated ratio

Clause (iv) provides a mechanism for determining the date by which the BIF's reserve ratio must equal the designated reserve ratio in a recapitalization schedule promulgated under clause (iii). Subclause (I) limits the maximum permissible time period for rebuilding the BIF to 15 years. Subclause (II) provides a formula for calculating the maximum permissible time period that may yield a maximum period less than 15 years, depending on the extent of the shortfall in the BIF's reserves. The formula provides a maximum time period that increases directly with the extent of the shortfall. If the designated reserve ratio remains 1.25 percent, the formula will provide roughly 1 year for rebuilding the BIF for each 0.083 percent of insured deposit by which the BIF's actual reserve ratio falls short of the designated ratio.

E. Amending schedule

Clause (v) permits the FDIC to amend a recapitalization schedule promulgated under clause (iii) if the amendments do not extent the final deadline for rebuilding the BIF to the designated reserve ratio. Under clause (v), the FDIC could, for example, adjust interim target reserve ratios to avoid excessive burdens on the banking industry during a recession. Once the FDIC has promulgated a recapitalization schedule, however, the final deadline for achieving the designated reserve ratio will remain fixed unless the FDIC succeeds in extending the schedule under clauses (vi) and (vii).

F. Procedure for extending schedule

Clause (vi) sets forth the procedures the FDIC must follow to extend a recapitalization schedule. The FDIC must determine that maintaining assessments at levels sufficient to achieve the designated reserve ratio by the end of the schedule period would significantly increase losses to the fund or significantly impair the availability of credit. If the FDIC makes such a determination, it may submit a report to Congress setting forth a revised schedule and providing a detailed justification for the revision. The FDIC may not, however, implement the revised schedule unless Congress enacts a joint resolution of approval within 60 calendar days (excluding days on which either House of Congress is adjourned for more than 3 days to a date certain or is adjourned sine die) of receiving the FDIC's report.

G. Procedures for expedited congressional consideration

Clause (vii) specifies the wording of the joint resolution Congress must pass before the FDIC can implement a revised capitalization schedule, and sets forth procedures for expedited congressional consideration of such a joint resolution. When the FDIC submits a report to the Congress under clause (vi), a joint resolution allowing the FDIC to implement the proposed revised schedule contained in the report will be introduced by request in the House of Representatives and in the Senate. The appropriate House and Senate committees will then have 30 days in which to report the joint resolution. Any committee that fails to do so will be discharged from further consideration of the joint resolution. To expedite consideration of the joint resolution, it will be considered in the Senate in accordance with section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 (Pub. L. 94-329), which limits debate to 10 hours. In the House of Representatives it will be treated as highly privileged.

H. Special assessment to recover losses on foreign deposits

Clause (viii)(I) establishes a general rule requiring the FDIC to recover as soon as practicable through special assessments on foreign deposits any "payment with respect to foreign deposits." That term refers to the ratio of an institution's foreign deposits to its total liabilities, multiplied by the estimated total loss incurred by the deposit insurance fund with respect to the institution.

Clause (viii)(II) provides different rules for calculating the ratio of the institution's foreign deposits to total liabilities, depending on when the "payment with respect to foreign deposits" occurs. The distinguishing feature between the different rules is the time at which the amounts of foreign deposits and total liabilities are determined.

Before January 1, 1995, the ratio of the institution's foreign deposits to total liabilities shall be calculated based on either (1) the amounts of those deposits and liabilities on the date on which the FDIC appointed a receiver for the institution or initiated assistance under section 13(c) of the Federal Deposit Insurance Act, or (2) the average amounts of those deposits and liabilities between the date on which the institution was significantly undercapitalized and first received an advance from a Federal Reserve bank and the date on which the FDIC appointed a receiver for the institution or initiated assistance under section 13(c) of the Federal Deposit Insurance Act. Clause (viii)(II) directs the FDIC to choose whichever method of calculation yields the greater quotient.

After January 1, 1995, the ratio of the institution's foreign deposits to total liabilities shall be calculated from the amounts of such deposits and liabilities on the date on which the FDIC appointed a receiver for the institution or initiated assistance under section 13(c) of the Federal Deposit Insurance Act.

Clause (viii)(IV) defines "foreign deposit" as any deposit described in subparagraph (A) or (B) of section 3(l)(5) of the Federal Deposit Insurance Act.

SECTION 103. GAO AUDIT OF RECAPITALIZATION SCHEDULE

Section 17(d)(1) of the Federal Deposit Insurance Act requires the Comptroller General to audit annually the financial transactions of the FDIC, the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund in accordance with generally accepted government auditing standards. 12 U.S.C. §1827(d)(1). This section amends section 17(d)(1) to require the Comptroller General, as part of the annual audit, to audit the FDIC's compliance with any capitalization schedule promulgated under section 7(b)(1)(C) in effect at the time of the audit.

SECTION 104. EMERGENCY GUARANTEE

This section provides for the Secretary of the Treasury, upon written request by the State of Rhode Island or the Depositors Economic Protection Corporation (the "Corporation") established by that State, to guarantee the repayment of up to $180 million in borrowing by the Corporation. This will assist in the repayment of depositors at certain state-chartered banks and credit unions in receivership in Rhode Island that were not FDIC-insured.

The Secretary of the Treasury may guarantee borrowing by the Corporation only if the Director of the Office of Management and Budget determines that the guarantee has no net cost to the United States Government. The Secretary may guarantee only Corporation borrowing that occurs within 1 year after the date of enactment of this Act. The borrowing must mature within 10 years and must be scheduled to be repaid in equal installments of principal during the last 5 years of its repayment term.

No guarantee may be made unless the amount of the borrowing for which the guarantee is requested is fully secured by a grant by the Corporation to the United States of a first mortgage lien and prior perfected security interest in sufficient performing assets held by the Corporation and all proceeds from the sales of such assets. The appraised market value of such pledged collateral must be at least 2.5 times the principal amount of the borrowing at the time of the borrowing. The borrowing must also be secured by a pledge by the Corporation of any revenue from the Rhode Island sales tax dedicated to the Corporation, in excess of the amount necessary to pay principal and interest on any obligation issued by Rhode Island or the Corporation before the date of enactment to repay the depositors. Each proposed borrowing must receive the highest investment grade rating by a nationally recognized statistical rating organization before a guarantee can be made. In addition, all income received in a fiscal year by the Corporation from or attributable to assets pledged to the United States as collateral, in excess of the amount necessary to pay principal and interest on any borrowings guaranteed by the Secretary, must be deposited into a sinking fund dedicated to the repayment of guaranteed borrowings.

The Secretary will assess and collect from the Corporation a guarantee fee at least annually. The guarantee fee will be computed

daily at a rate of at least one-half of one percent per year on the outstanding principal amount of borrowing guaranteed. All fees received by the Secretary shall be paid into the general fund of the Treasury.

The Secretary may establish additional terms and conditions for provision of a guarantee as he or she deems appropriate.

This section is subject to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Enforcement Act of 1990.

TITLE II—DEPOSIT INSURANCE REFORM

SECTION 201. FULL FAITH AND CREDIT

Section 201 provides that the full faith and credit of the United States stands behind deposit insurance under the Federal Deposit Insurance Act.

Previous legislation has declared "the sense of the Congress that it should reaffirm that deposits up to the statutorily prescribed amount in federally insured depository institutions are backed by the full faith and credit of the United States." Pub. L. No. 100-86, §901, 101 Stat. 552, 657 (1987); *accord*, H. Con. Res. 290, 96 Stat. 2639 (1982). Likewise, current law requires savings associations (and permits banks) to display a sign containing a "statement that insured deposits are backed by the full faith and credit of the United States Government." 12 U.S.C. §1828(a)(1)-(2). Section 201 is intended to avoid any possible ambiguity about the Government's obligation to insured depositors.

SECTION 202. IMPROVING CAPITAL STANDARDS

A. Periodic review of capital standards

Section 202(a) adds a new section 18(o) to the Federal Deposit Insurance Act, aimed at improving capital standards for FDIC-insured depository institutions. Section 18(o) requires each Federal banking agency, in consultation with the other Federal banking agencies, to review its capital standards for insured depository institutions biennially. Each agency must determine whether its capital standards require sufficient capital to facilitate prompt corrective action to prevent or minimize loss to the deposit insurance funds, consistent with section 37 of the Federal Deposit Insurance Act (as added by section 205).

B. Review of risk-based capital standards

Section 202(b) requires each Federal banking agency to revise its risk-based capital standards for insured depository institutions to ensure that those standards take adequate account of interest-rate risk, concentration of credit risk, and the risks of nontraditional activities. Each agency must promulgate final regulations to implement those revisions within 18 months after the bill becomes law, and must establish reasonable transition rules to facilitate compliance with the revised capital standards. The Federal banking agencies must discuss the development of comparable standards with members of the supervisory committee of the Bank for International Settlements (which developed the International Convergence of Capital Measurement and Capital Standards, commonly known as the Basel Accord).

C. Federal banking agencies defined

Section 202(c) adds a new section 3(z) to the Federal Deposit Insurance Act, defining "Federal banking agencies" as the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Reserve Board, and the Federal Deposit Insurance Corporation. This new definition complements section 3(q), which defines "appropriate Federal banking agency" by reference to the types of institutions each agency regulates.

SECTION 203. ACCOUNTING AND AUDITING REFORM

A. Accounting reform

Section 203(a) adds a new section 18(p) to the Federal Deposit Insurance Act, setting forth the objectives of accounting principles for FDIC-insured depository institutions and establishing a process for achieving those objectives.

1. Objectives

Paragraph (1) of new section 18(p) declares that accounting principles applicable to insured depository institutions should (1) result in financial statements and reports of condition that accurately reflect the economic condition of those institutions, and (2) facilitate effective supervision of insured depository institutions, including prompt corrective action to resolve troubled institutions' problems with no or minimal loss to the deposit insurance fund.

2. Improving accounting principles applicable to insured depository institutions

Paragraph (2) requires the Federal Financial Institutions Coordination Council (as reconstituted by section 441), in consultation with the Securities and Exchange Commission, to facilitate the development of accounting principles that meet the objectives set forth in paragraph (1). The phrasing of paragraph (2)—"facilitate the development"—anticipates that the Council will work closely with the Financial Accounting Standards Board. The optimal result would be for the Board to reform generally accepted accounting principles ("GAAP") so that they meet the objectives in paragraph (1).

3. Stringency

Paragraph (3) requires each Federal banking agency to prescribe accounting principles applicable to insured depository institutions no less conservative than GAAP. The agency may prescribe accounting principles more conservative than GAAP as appropriate to facilitate effective supervision of insured depository institutions, including prompt corrective action to resolve troubled institutions' problems at no or minimal loss to the deposit insurance fund.

B. Improvements in financial management

Section 203(b) adds a new section 36 to the Federal Deposit Insurance Act. New section 36 requires certain improvements in reporting by the management of insured depository institutions. These improvements are intended to facilitate the system of prompt corrective action established under section 205 by requiring the compilation and disclosure of reliable information concerning insured depository institutions' financial condition and management.

1. Annual report on financial condition and management

Subsection (a) of new section 36 generally requires all insured depository institutions to make an annual report on their financial condition and management. Subsection (j) sets forth the only exception, for small institutions.

a. Report required

Paragraph (1) of subsection (a) requires each insured depository institution to submit an annual report to the FDIC and the appropriate Federal banking agency (the institution's primary Federal regulator). A State-chartered institution must also submit the report to its State bank supervisor.

The report required by paragraph (1) must include several specific items. First, in accordance with subsection (b), the report must include the institution's financial statements and a report by the institution's management on internal controls and compliance with designated safety-and-soundness laws. Second, in accordance with subsections (c) and (d), the report must include an attestation and report by the institution's independent public accountant on both the institution's financial statements and the report by the institution's management on internal controls and compliance with safety-and-soundness laws. Finally, the report must include such other information as the FDIC and the institution's primary Federal regulator may require for assessing the institution's financial condition and management.

b. Report to be publicly available

Paragraph (2) requires that institutions and their regulators make the reports required under paragraph (1) available for inspection by the public.

2. Management's responsibility for financial statements and internal controls

Subsection (b) provides detail on those portions of the annual report required by subsection (a) that a depository institution must prepare. (Subsections (c) and (d) provide comparable detail on the portions to be prepared by the institution's independent public accountant.) Specifically, subsection (b) requires each depository institution to prepare both annual financial statements and a report on internal controls and compliance with safety-and-soundness laws.

a. Financial statements

Paragraph (1) of subsection (b) requires that the institution's annual financial statements be prepared in accordance with both generally accepted accounting principles and such other disclosure requirements as the FDIC or the institution's primary Federal banking regulator may prescribe. The reference to "such other disclosure requirements" includes requirements established by the FDIC or the institution's primary Federal banking regulator under new sections 7(a)(3) and 18(p) of the Federal Deposit Insurance Act (added by sections 225(a) and 203(a) of the bill).

b. Internal controls

Paragraph (2) requires that the institution's report on internal controls and compliance with safety-and soundness laws include two items. First, the report must include a statement of management's responsibility for preparing financial statements, establishing and maintaining an adequate internal control structure and procedures for financial reporting, and complying with designated safety-and-soundness laws. Second, the report must include an assessment, as of the end of the institution's most recent fiscal year, of both the effectiveness of the institution's internal control structure and procedures and the institution's compliance with designated safety-and-soundness laws. The report must be signed by the institution's chief executive officer and chief accounting or chief financial officer.

3. Internal control evaluation and reporting requirements for independent public accountants

Subsections (c) and (d) describe the responsibilities of each insured depository institution's independent public accountant in connection with the report required under subsection (a).

Subsection (c) describes the independent public accountant's responsibilities for the report required under subsection (b)(2). Specifically, each insured depository institution's independent public accountant must

attest to, and report separately on, the assertions of the institution's management contained in the report. The attestation must accord with generally accepted standards for attestation engagements.

4. Annual independent audits of financial statements

Subsection (d) describes the independent public accountant's responsibilities for the annual financial statements required under subsection (b)(1). Specifically, paragraph (1) of subsection (d) requires the FDIC, in consultation with the other Federal banking agencies, to prescribe regulations requiring each insured depository institution to have its annual financial statements audited by an independent public accountant in accordance with generally accepted auditing standards.

Paragraph (2) describes the scope of the independent public accountant's audit of the institution's financial statements. The independent public accountant must determine and report on whether the institution's financial statements are presented fairly in accordance with generally accepted accounting principles and comply with such other disclosure requirements as the FDIC and the appropriate Federal banking agency may prescribe. Again, the reference to "other disclosure requirements" includes requirements prescribed under sections 7(a)(3) and 18(p) of the Federal Deposit Insurance Act.

Paragraph (3) of subsection (d) permits insured depository institutions that are subsidiaries of holding companies to comply with the requirement for an annual audit of their financial statements through a consolidated independent audit of the holding company.

5. Detecting and reporting violations of designated safety-and-soundness laws

Subsection (e) details the responsibilities of each insured depository institution's independent public accountant in connection with its audit of management's statements regarding its responsibility for complying with designated safety-and-soundness laws and management's assessment of the institution's compliance with those laws. Paragraph (1) of subsection (e) requires the accountant to apply procedures agreed upon by FDIC to determine objectively the extent to which each insured depository institution or depository institution holding company has complied with designated safety-and-soundness laws. The reference to "procedures agreed upon by the Corporation" indicates that the FDIC should be cognizant of the recommendations of the accounting profession and the Federal banking agencies in identifying appropriate procedures for determining the extent of compliance with designated safety-and-soundness laws. "Determine objectively," as used in paragraph (1), does not preclude the use of sampling procedures sufficient to provide a reasonable basis for attestation. The phrase "or depository institution holding company" accommodates subsection (j)'s provision for holding company reporting in the case of holding company subsidiaries.

Paragraph (2) of subsection (e) requires any attestation by an independent public accountant in connection with the audit of management statements on and assessments of compliance with designated safety-and-soundness laws to accord with generally accepted standards for attestation engagements.

6. Form and content of reports and auditing standards

Subsection (f) sets forth general rules concerning the form and content of reports by independent public accountants required under new section 36. In particular, the scope of such reports, and the procedure followed in preparing such reports, must satisfy generally accepted auditing standards ("GAAS") and other applicable standards recognized by the FDIC. The phrase "and other applicable standards" permit the FDIC to require the observance of auditing standards above and beyond GAAS standards as necessary to protect the deposit insurance funds. The conjunction "and" connotes that non-GAAS standards thus recognized should not replace or derogate from GAAS standards but, on the contrary, should complement and strengthen the application of GAAS standards. Subsection (f) further requires the FDIC to consult with the other Federal banking agencies in implementing subsection (f).

7. Improved accountability

Subsection (g) includes five measures intended to enhance the accountability of the management of an insured depository institution for internal control weakness, failure to comply with safety-and-soundness laws, and unsound financial condition.

a. Independent audit committee

Paragraph (1) of subsection (g) requires each insured depository institution to establish an audit committee consisting of independent members of the institution's board of directors.

Subparagraph (A) of paragraph (1) specifies certain criteria for independence: Members of the audit committee must be neither officers, nor employees, nor major shareholders of the institution. In addition, they must satisfy any additional requirements established by the FDIC. The language permitting the FDIC to impose additional requirements reflects the fact that factors other than employment by or ownership of an institution may compromise a director's independence from that institution. For example, a director's independence may be compromised by relying on the institution for financing his or her business interests, by ongoing contractual relationships with the institution, and by numerous other factors.

Subparagraph (B) details the duties of independent audit committees. Such committees shall be responsible for reviewing with the institution's management and the institution's independent public account the basis for reports issued and audits made under subsections (b)(2), (c), and (d). Independent audit committees should take care to fully understand the nature and extent of any weaknesses detected by the independent public accountant and work to ensure that the full board of directors and management of the institution identify and implement appropriate corrective measures. "Duties" in subparagraph (b) connotes a fiduciary obligation for the breach of which members of an audit committee may have civil liability.

Subparagraph (C) mandates certain additional characteristics for the audit committees of large insured depository institutions. Such audit committees must include members with expertise in banking or the management of related financial services; have discretion to retain independent legal counsel, at the institution's expense; and not include any large customers of the institution. Subparagraph (C) gives the FDIC discretion to define "large" with respect to both the size of the institutions falling within the scope of the subparagraph and the size of customer sufficient to merit disqualification from service on the audit committee. "Independent" legal counsel, in the context of the subparagraph, means legal counsel serving at the sole pleasure of the audit committee, over whose retention and payment neither the management, nor the officers, nor the full board of directors have any discretion whatever. Independent audit committees may from time to time require advice of counsel, for example, to evaluate the seriousness of weaknesses detected by the independent accountant or to review the adequacy of corrective measures adopted by the full board of directors or the management. The subparagraph does not authorize an independent audit committee or its members to retain legal counsel for purposes beyond the scope of the independent audit committee's responsibilities.

b. Review of quarterly reports of large insured depository institutions

Paragraph (2) of subsection (g) authorizes the FDIC to require an independent public accountant retained by a large insured depository institution to review the institution's quarterly financial reports. Subparagraph (A) of paragraph (2) sets forth the grant of authority to the FDIC. The FDIC has discretion to define "large" and to delineate the procedures according to which the accountant should conduct the review. As in subsection (e), the phrase "procedures agreed upon by the Corporation" reflects an expectation that the FDIC will be cognizant of the recommendations of the accounting profession and the Federal banking agencies in identifying appropriate procedures for determining the extent of compliance with designated safety-and-soundness laws.

Under subparagraph (B), when the FDIC exercises its authority under subparagraph (A), the insured depository institution's independent public accountant must report to the institution's independent audit committee on its review of the institution's quarterly financial reports. Subparagraph (B) makes the audit committee, in turn, responsible for providing copies of the independent public accountant's report to the FDIC, the institution's primary Federal banking regulator and, in the case of State institutions, the appropriate State bank supervisor.

Subparagraph (C) provides that reports by an independent public accountant under subparagraph (B) shall be made solely for the information and use of the insured depository institution, the FDIC, the institution's primary Federal banking regulator, and any appropriate State bank supervisor.

c. Qualifications of independent public accountants

Paragraph (3) establishes minimum standards for the qualification of independent public accountants to perform services under new section 36.

Subparagraph (A) of paragraph (3) prohibits any insured depository institution from retaining an independent public accountant to perform services required by new section 36 unless the accountant satisfies two criteria. First, the accountant must have agreed to provide, upon request, any working papers, policies, and procedures related to the accountant's performance of those services to the FDIC, the appropriate Federal banking agency for the institution, and in the case of State-chartered institutions, the appropriate State bank supervisor.

Second, the accountant must have received a peer review that meets guidelines acceptable to the FDIC. The accounting profession currently administers its own peer and quality review programs. Subparagraph (A) does not preclude the FDIC from relying upon the peer review programs of the profession if the

FDIC determines, upon review, that such programs provide an assurance of quality satisfactory to the FDIC. The phrase "guidelines acceptable to the FDIC" includes both the procedures for peer review and the outcome of those procedures.

Subparagraph (B) requires reports on peer reviews to be filed with the FDIC and made available by the FDIC for public inspection.

d. Enforcement actions

Paragraph (4) authorizes the FDIC or any appropriate Federal banking agency—upon a showing of good cause—to remove, suspend, or bar an independent public accountant from performing services under new section 36. Subparagraph (A) of paragraph (4) sets forth the general grant of authority, which is in addition to other enforcement powers of the FDIC and the Federal banking agencies. Subparagraph (B) requires the Federal banking agencies to jointly issue rules of practice to implement paragraph (4).

e. Notice if accountant's services terminate

Paragraph (5) requires any independent public accountant who ceases to perform services for an insured depository institution under new section 36 to promptly notify the FDIC. The paragraph authorizes the FDIC to prescribe rules for providing such notice.

8. Exchange of reports and information

Subsection (h) establishes requirements for the exchange of certain reports and information among insured depository institutions, their independent auditors, the appropriate Federal banking agencies, and the FDIC. "Independent auditor," as used in subsection (h), means an independent public accountant performing auditing services under new section 36.

a. Report to the independent auditor

Paragraph (1) of subsection (h) requires insured depository institutions to provide their auditors with certain information. In particular, institutions must provide their auditors with a copy of the institution's most recent report of condition, a copy of the institution's most recent report of examination, and a copy of each memorandum of understanding and written agreement in effect between the institution and its Federal or State regulator or supervisor. The institution must also provide its auditor with a report detailing enforcement actions initiated or taken against the institution by the appropriate Federal banking agency or the FDIC under certain provisions of section 8 of the Federal Deposit Insurance Act; in the case of State-chartered institutions, any actions initiated or taken under State law that are similar to actions that could be taken by the appropriate Federal banking agency or the FDIC under the same provisions of section 8; and any assessment of a civil money penalty under any other provision of Federal or State law against the institution or any institution-affiliated party.

b. Reports to banking agencies

Paragraph (2) requires depository institutions to provide certain information to their regulators and the FDIC. Subparagraph (A) of paragraph (2) requires each insured depository institution to provide a copy of each report from the institution's auditor, including any qualification to such a report and any management letter, within 15 days after receiving the report, qualification, or letter from the auditor.

Subparagraph (B) requires each insured depository institution to notify the FDIC, the appropriate Federal banking agency, and, in the case of State-chartered institutions, the appropriate State bank supervisor, whenever the institution's auditor resigns or is dismissed or the institution engages a new independent auditor. The notice must state the reasons for the change in auditor and be provided within 15 days after the change occurs. In implementing subparagraph (B), the FDIC and the Federal banking agencies should review the model from 8-K process developed by the Securities and Exchange Commission for a similar purpose and consider whether adopting the same process would satisfy subparagraph (B).

9. Requirements for insured subsidiaries of holding companies

Subsection (i) provides special rules for insured depository institutions that are subsidiaries of holding companies. The rules prescribe circumstances under which consolidated audits of the holding company will suffice in lieu of an audit of an insured depository institution. The rules set forth in subsection (i) do not apply to audits of financial statements under subsection (d). Under subsection (d)(3), audits of financial statements may in all instances be performed on a consolidated basis at the holding company level.

Specifically, subsection (i) permits a depository institution that is a subsidiary of a holding company to satisfy the requirements of new section 36 (other than requirements for an audit of its financial statements) if two conditions are met.

First, services and functions comparable to those required under section 36 must be provided at the holding company level. In general, this requirement will be satisfied if the holding company files an annual report containing the information required by subsection (a) (as further detailed in subsections (b) through (f); maintains an independent audit committee whose composition and responsibilities satisfy subsection (g); retains an independent public accountant qualified in accordance with subsection (g)(3) to provide services required by section 36; and reports to the FDIC, appropriate Federal and State regulatory authorities, and the independent auditor in accordance with the requirements of subsection (h).

Second, the depository institution must satisfy an asset size requirement. An institution satisfies this requirement if it had total assets of less than $5 billion as of the beginning of its fiscal year, or if it had total assets of more than $5 billion and less than $9 billion as of the beginning of its fiscal year together with a CAMEL rating of 1 or 2 (or an equivalent rating under a comparable rating system) from the FDIC or the institution's primary Federal banking regulator on the institution's most recent examination. An insured depository institution whose total assets exceed $9 billion as of the start of its fiscal year may not satisfy section 36 at the holding company level.

10. Exemption for small depository institutions.

Subsection (j) completely exempts certain small depository institutions from new section 36. To qualify for the exemption, an institution's total assets at the beginning of its fiscal year must not exceed the greater of $150 million or such higher amount as the FDIC may prescribe by regulation.

11. Designated safety-and-soundness laws defined

Subsection (k) defines "designated safety-and-soundness laws," as used in new section 36, to mean statutes and regulations relating to safety and soundness as designated by the FDIC or the appropriate Federal banking agency. In designating safety-and-soundness laws to fall within the scope of section 36, the FDIC and the appropriate Federal banking agencies should take cognizance of the requirement of subsection (e)(1) that the extent of compliance with such laws be susceptible to objective determination by an independent public accountant.

C. Effective date

Section 203(c) makes new section 36 effective for a given insured depository institution at the start of the institution's first fiscal year beginning after December 31, 1992.

SECTION 204. ANNUAL EXAMINATIONS

Section 204(a) adds a new section 10(d) to the Federal Deposit Insurance Act, generally requiring annual on-site examinations of all FDIC-insured depository institutions.

A. In general

Paragraph (1) of new section 10(d) requires the appropriate Federal banking agency to conduct a full-scope, on-site examination of each insured depository institution at least once every 12 months. Paragraph (2) specifies that a full-scope, on-site examination by the FDIC satisfies the annual examination requirement. Under paragraph (3), the appropriate Federal banking agency may, in alternate years, accept a State supervisor's examination of a depository institution chartered by that State. The Federal banking agency must be satisfied that the State examination is as rigorous and thorough as the agency's own examinations.

B. 18-month rule for certain small institutions

Under paragraph (4), a well-capitalized institution with total assets of less than $100 million may be examined once every 18 months—instead of annually—if (1) when the institution was most recently examined, its management and its composite condition both received the highest possible rating (i.e., a rating of 1, or "outstanding," on the 5-point CAMEL rating system currently in use); and (2) the institution has not undergone a change in control during the preceding 12 months. The appropriate Federal banking agency should not allow 18 months to elapse between examinations of an institution if the agency has reason to believe that the institution is not well-capitalized or well-managed.

C. Limits on scope of annual examination requirement

Paragraph (5) exempts from the annual examination requirement (1) any institution for which the FDIC is conservator and (2) any bridge bank of which no one other than the FDIC owns any voting securities.

Paragraph (6) provides that the "full-scope, on-site examination" required by new section 10(d) does not include a consumer compliance examination as defined in section 41(b) of the Federal Deposit Insurance Act (as added by section 523).

D. Effective date; transition rule

Section 204(b) makes new section 10(d) effective one year after the bill becomes law.

Section 204(c) provides a transition period between the effective date and December 31, 1993, during which full-scope, on-site examinations are generally required only every 18 months, rather than every 12 months. But the 12-month rule applies to any institution that (1) when most recently examined, received a less-than-satisfactory rating (i.e., a composite rating of 3, 4, or 5 under the CAMEL system); or (2) underwent a change in control during the preceding 12 months.

SECTION 205. PROMPT CORRECTIVE ACTION

Section 205(a) adds a new section 37 to the Federal Deposit Insurance Act, establishing a system of prompt corrective action to re-

solve the problems of FDIC-insured depository institutions.

A. Resolving problems to protect deposit insurance funds

The overriding purpose of new section 37 is to resolve the problems of insured depository institutions with no loss or minimal loss to the deposit insurance fund and, when loss cannot be avoided, at the least possible long-term loss to the fund. Each Federal banking agency is to carry out that purpose by taking prompt corrective action to resolve the problems of insured depository institutions.

B. Definitions

Subsection (b) of new section 37 defines various terms used in section 37, with paragraph (1) defining capital categories and paragraph (2) defining other terms.

1. Capital categories

Section 37 classifies insured depository institutions into five capital categories, set forth in subsection (b)(1): (1) well-capitalized; (2) adequately capitalized; (3) undercapitalized; (4) significantly undercapitalized; and (5) critically undercapitalized.

These categories relate an institution's capital to the "required minimum level" for each "relevant capital measure." Subsection (c)(1) generally provides for two "relevant capital measures": a "leverage limit," which relates to an institution's capital to its total assets; and a "risk-based capital requirement," which relates an institution's capital to its risk-adjusted assets. (The appropriate Federal banking agencies have some discretion to revoke these relevant capital measures or prescribe additional measures, as discussed below in connection with subsection (c)(1).) For each relevant capital measure, the appropriate Federal banking agency must set the "required minimum level"—the minimum acceptable level.

Under subsection (b)(1), a "well capitalized" institution has capital significantly exceeding the required minimum level for each relevant capital measure. An "adequately capitalized" institution meets the required minimum level for each relevant capital measure. An institution is "undercapitalized" if it fails to meet the required minimum level for any relevant capital measure, and "significantly undercapitalized" if it is significantly below the required minimum level for any such measure. An institution is "critically undercapitalized" if it fails to meet any critical capital level specified under subsection (c)(3)(A). (As discussed in connection with that subsection, the appropriate Federal banking agency must set a critical capital level for the leverage limit and may set additional critical capital levels.)

The five capital categories, by their terms, overlap to some extent. All institutions are either adequately capitalized or undercapitalized. A well-capitalized institution is also adequately capitalized because it meets the required minimum level for each relevant capital measure. A significantly undercapitalized institution is also undercapitalized because it fails to meet the required minimum level for at least one relevant capital measure.

This overlap makes policy sense—and simplifies the drafting of section 37—because the safeguards applicable to undercapitalized institutions are also intended for significantly undercapitalized and critically undercapitalized institutions, and the safeguards applicable to significantly undercapitalized institutions are also intended for critically undercapitalized institutions.

2. Other definitions

Subsection (b)(2) defines other terms used in section 37: "average," "capital distribution," "capital restoration plan," "company," "compensation," "relevant capital measure," "required minimum level," "senior executive officer," and "subordinated debt."

a. Average

To improve accuracy and impede manipulation, some provisions of section 37 measure compliance on average during a period, rather than on a single date. (For example, subsection (3)(2) governs increases in an undercapitalized institution's average total assets from one quarter to another.) Subparagraph (A) of subsection (b)(2) generally defines the "average" of an accounting item (such as total assets or tangible equity) during a given period as the sum of that item at the close of business on each business day during that period divided by the number of business days in that period—thus providing for daily averaging. The appropriate Federal banking agency may, however, permit weekly averaging by any institution with total assets of less than $300 million that normally files call reports reflecting weekly (rather than daily) averages of accounting items.

b. Capital distribution

Subparagraph (B) defines "capital distribution" broadly as any transaction that falls into any of the following categories: (1) a distribution of cash or other property by an insured depository institution or company to its owners made on account of that ownership (with two exceptions discussed below); (2) a payment by the institution or company to repurchase, redeem, retire, or otherwise acquire any of its shares or other ownership interests (including an extension of credit to finance an affiliate's acquisition of those shares); or (3) a transaction that the appropriate Federal banking agency determines to be in substance a distribution of capital to the owners of the institution or company.

The first category of transactions includes two exceptions: for a dividend consisting only of shares of the institution or company (e.g., a stock dividend), or rights to purchase such shares; and for a payment on the deposits of a mutual or cooperative institution—to the extent that the appropriate Federal banking agency determines that it is not a distribution.

c. Company

Under subparagraph (D), "company" has the same meaning as in section 2 of the Bank Holding Company Act of 1956, which generally defines that term to mean "any corporation, partnership, business trust, association, or similar organization," includes certain other trusts, and excludes certain government-controlled corporations. 12 U.S.C. §1841(b).

d. Compensation

Subparagraph (E) broadly defines "compensation" as including any payment of money or provision of anything else of value in consideration of employment.

e. Senior executive officer

Under subparagraph (H), "senior executive officer" in section 37 has the same meaning as "executive officer" in section 22(h) of the Federal Reserve Act. 12 U.S.C. §375b. In recodifying section 22(h), section 216(a) of the bill defines that term to mean any person who participates or has authority to participate in major policymaking functions of a bank or company.

f. Subordinated debt

Subparagraph (I) defines "subordinated debt" as debt subordinated to the claims of general creditors.

C. Capital standards

Subsection (c) contains several rules relating to capital standards for insured depository institutions.

1. Relevant capital measures

Paragraph (1)(A) of subsection (c) requires the capital standards prescribed by each appropriate Federal banking agency to include a leverage limit and a risk-based capital requirement. Under paragraph (1)(B), the agency may rescind such a capital measure of the agency determines that the capital measure is no longer an appropriate means for carrying out the purpose of section 37, and all other Federal banking agencies concur in that determination. The agency may also establish (or rescind) additional relevant capital measures to carry out the purpose of section 37.

2. Capital categories generally

Paragraph (2) requires each Federal banking agency to prescribe regulations specifying, for each relevant capital measure, the levels at which an insured depository institution is well-capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized. In the case of adequately capitalized institutions, those levels are synonymous with the required minimum levels.

3. Critical Capital

Paragraph (3) requires each Federal banking agency to prescribe regulations specifying a ratio of tangible equity to total assets at which an insured depository institution is critically undercapitalized. The level is to be high enough so that the problems of insured depository institutions can be resolved with no loss or minimal loss to the deposit insurance fund by carrying out subsection (h) when the institution's capital falls below that level—but not less than 2 percent of total assets nor more than 65 percent of the required minimum level of capital under the leverage limit. The agency needs the FDIC's concurrence to specify a level lower than that specified by the FDIC for State nonmember banks.

The agency has discretion to specify a critical capital level for other relevant capital measures (such as the risk-based capital requirement).

D. Provisions applicable to all institutions

Subsection (d) prohibits an insured depository institution from making a capital distribution—or paying a management fee to any person having control of the institution—if the institution would be undercapitalized after making the distribution or payment.

E. Provisions applicable to undercapitalized institutions

Subsection (e) contains safeguards on undercapitalized institutions.

1. Monitoring required

Paragraph (1) of subsection (e) requires the appropriate Federal banking agency to (1) closely monitor the condition of any undercapitalized insured depository institution; (2) closely monitor the institution's compliance with any capital restoration plan, and with any restrictions and requirements imposed by section 37 or by regulators under section 37; and (3) periodically review whether the plan, restrictions, and requirements are achieving the purpose of section 37.

2. Capital restoration plan required

Subparagraph (A) of paragraph (2) requires an undercapitalized institution to submit an

acceptable capital restoration plan to the appropriate Federal banking agency.

a. Contents of plan; criteria for accepting plan

Under subparagraph (B), the capital restoration plan must specify (1) the steps the institution will take to become adequately capitalized; (2) the levels of capital to be attained during each year in which the plan is in effect; (3) how the institution will comply with the restrictions and requirements in effect under section 37 when the plan is accepted; and (4) the types and levels of activities in which the institution will engage. The plan must also contain any other information that the agency may require.

Under subparagraph (C), the agency cannot accept a capital restoration plan unless the agency determines that the plan (1) complies with subparagraph (B); (2) is based on realistic assumptions, and is likely to succeed in restoring the institution's capital; and (3) and would not appreciably increase the risks to which the institution is exposed (including credit risk, interest-rate risk, and other types of risk). A plan is not acceptable, moreover, unless each company having control of the institution (a) has guaranteed that the institution will comply with the plan until the institution has been adequately capitalized on average during each of four consecutive calendar quarters, and (b) has provided appropriate assurances of performance. The guarantee requirement is intended to induce the parent company to decide promptly whether to recapitalize the institution, sell it, or stand behind it until it recovers.

b. Guarantee liability limited

Subparagraph (E) limits liability under the guarantee requirement. The aggregate liability of all companies having control of the institution is limited to 5 percent of the institution's total assets at the time the institution became undercapitalized.

Subparagraph (E) is a negative restatement of subparagraphs (A) and (C)(ii): if a company does not have control of an undercapitalized institution, it need not guarantee or otherwise be liable on the institution's capital restoration plan; and only an insured depository institution must submit a capital restoration plan.

c. Deadlines for submission and review of plan

Subparagraph (D) requires the appropriate Federal banking agency to set forth deadlines by regulation for the submission and review of capital restoration plans. The deadlines must give insured depository institutions reasonable time to submit such plans, and require the agency to act on such plans expeditiously. The deadlines must generally require an institution to submit a plan within 30 days after receiving the plan. The 30-day standard is a general guideline, rather than an inflexible rule: the regulation may, as appropriate, prescribe longer periods for particular types of cases and provide for case-by-case extensions.

3. Asset growth restricted

Paragraph (3) restricts an undercapitalized institution's asset growth. Such an institution may not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless three conditions are satisfied: (1) the appropriate Federal banking agency has accepted the institution's capital restoration plan; (2) the increase in total assets is consistent with that plan; and (3) the institution's ratio of tangible equity to assets increases during the calendar quarter at a rate sufficient to enable the institution to become adequately capitalized within a reasonable time.

4. Prior approval required for acquisitions, branching, and new lines of business

Under paragraph (4), an undercapitalized institution generally cannot acquire any interest in any company or institution, establish or acquire any additional branch, or engage in any new line of business unless (1) the appropriate Federal banking agency has approved the institution's capital restoration plan; (2) the institution is implementing the plan; and (3) the agency determines the proposed action is consistent with and will further the achievement of the plan.

Exceptions can be made only if the FDIC's Board of Directors determines, by a vote of three-fourths of its members, that the proposed action will further the purpose of section 37. This narrow exception procedure is intended for cases in which an acquisition, additional branch, or new line of business will significantly aid in maintaining the value—and thus facilitating the acquisition or recapitalization—of an institution that cannot satisfy the general rule.

5. Discretionary safeguards

Subsection (f)(2) authorizes the appropriate Federal banking agency to apply various safeguards to a significantly undercapitalized institution. Subsection (e)(5) permits the agency to apply such safeguards to an undercapitalized institution if the agency determines that the safeguards are necessary to carry out the purpose of section 37.

F. Provisions applicable to significantly undercapitalized institutions

1. In general

Subsection (f) applies to (1) any significantly undercapitalized insured depository institution, and (2) any undercapitalized insured depository institution that fails to submit an acceptable capital restoration plan by the deadline established under subsection (e)(2)(D) or materially fails to implement a plan accepted by the appropriate Federal banking agency.

2. Specific actions authorized

Paragraph (2) of subsection (f) authorizes the appropriate Federal banking agency to apply the following safeguards to such an institution, and requires the agency to apply to least one of those safeguards:

a. Requiring sale of shares or obligations

Under subparagraph (A) of paragraph (2), the agency may require the institution to sell enough shares or obligations of the institution so that the institution will be adequately capitalized after the sale. The agency may also specify that the instruments in question be voting shares. Subparagraph (A) thus enables the agency to overcome the reluctance of the institution's management to dilute the interests of existing shareholders (and possibly weaken its own position) by issuing new shares. It also facilitates a market test of the institution's viability: ascertaining whether investors—offered a sufficient stake in the institution—believe that curing the institution's capital deficiency makes economic sense.

b. Restricting transactions with affiliates

Under subparagraph (B), the agency may restrict the institution's transactions with affiliates (1) by denying the institution the exemption in section 23A(d)(1) of the Federal Reserve Act for transactions with certain commonly controlled banks (as explained below), and (2) by further restricting the institution's transactions with affiliates.

Section 23A generally restricts an institution's transactions with any one affiliate to 10 percent of the institution's capital, and restricts the institution's transactions with all affiliates to 20 percent of the institution's capital. 12 U.S.C. §§371c(a)(1), 1468(a)(1), 1828(j)(1). Section 23A also generally requires an institution's extensions of credit to affiliates to be fully secured by acceptable collateral, and prohibits a member bank from purchasing a low-quality asset from an affiliate. *Id.* §371c(a)(3), (c)(2). Section 23A(d)(1) exempts from the percentage-of-capital restrictions, collateral requirement, and low-quality-asset prohibiting any transaction between the institution and a bank if (1) the bank controls at least 80 percent of the institution's voting shares; (2) the institution controls at least 80 percent of the bank's voting shares; or (3) another company controls at least 80 percent of each institution's voting shares. *Id* §371c(d)(1). To reduce the potential for troubled institutions to abuse this exemption, subparagraph (B) authorizes the agency to deny the exemption to a significantly undercapitalized institution—and impose further restrictions on the institution's transactions with affiliates.

c. Restricting interest rates paid

Under subparagraph (C), the agency may restrict the interest rates the institution pays on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the institution is located, as determined by the agency. Subparagraph (C) does not, however, authorize the agency to restrict interest rates paid on existing time deposits (e.g., certificates of deposit that cannot be withdrawn before a specified date) that have not been renewed or renegotiated.

d. Restricting asset growth

Subparagraph (D) authorizes the agency to restrict the institution's asset growth more stringently than subsection (e)(3)—the general rule restricting asset growth by undercapitalized institutions—or may require the institution to reduce its total assets.

e. Restricting activities

Subparagraph (E) authorizes the agency to require the institution or any of its subsidiaries to alter, reduce, or terminate any activity that the agency determines poses excessive risk to the institution.

f. Improving management

Under subparagraph (F), the agency may (1) order a new election for the institution's board of directors; (2) require the institution to dismiss from office any director or senior executive officer who had held office for more than 180 days immediately before the institution became undercapitalized; or (3) require the institution to employ qualified senior executive officers—and specify that they be acceptable to the agency.

The dismissal authority enables the agency to oust directors and senior executive officers whose continued service would not materially strengthen the institution's ability to overcome its problems. Such a dismissal is not a removal under section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. §1818(e)), and thus does not bar other insured depository institutions from employing the dismissed director or officer.

g. Requiring change of auditor

Under subparagraph (G), the agency may require the institution to retain a new independent auditor. The agency should not, however, exercise this authority so as to create disincentives for auditors to be vigilant

in uncovering problems and calling for the recognition of losses.

h. Requiring prior approval for capital distributions by bank holding company

Under subparagraph (H), the agency may forbid any bank holding company having control of the institution to make any capital distribution without the prior approval of the Federal Reserve Board.

i. Requiring divestiture

Under subparagraph (I), the agency may (1) require the institution to divest itself of or liquidate any subsidiary if the agency determines that the subsidiary (a) is in danger of becoming insolvent and poses a significant risk to the institution, or (b) is likely to cause a significant dissipation of the institution's assets or earnings; (2) require any company controlling the institution to divest itself of or liquidate any affiliate (other than an insured depository institution) if the appropriate Federal banking agency for that company determines that the affiliate (a) is in danger of becoming insolvent and poses a significant risk to the institution, or (b) is likely to cause a significant dissipation of the institution's assets or earnings; or (3) require any company controlling the institution to divest itself of the institution if the appropriate Federal banking agency for that company determines that divestiture would improve the institution's financial condition and future prospects.

j. Requiring other action

Under subparagraph (J), the agency may require the institution to take any other action that the agency determines will better carry out the purpose of section 37 than any of the *other* safeguards authorized under paragraph (2).

3. Presumption in favor of certain actions

Paragraph (3) requires the appropriate Federal banking agency to apply each of the following safeguards unless the agency determines that the safeguard in question would not further the purpose of section 37: (1) requiring the institution to sell enough shares or obligations so that the institution will be adequately capitalized after the sale; (2) denying the institution the exemption in section 23A(d)(1) of the Federal Reserve Act for transactions with certain commonly controlled banks; and (3) restricting the interest rates the institution pays on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the institution is located. These safeguards—authorized under subparagraphs (A)(i), (B)(i), and (C) of paragraph (2)—are discussed above in connection with paragraph (2).

4. Senior executive officers' compensation restricted

Under paragraph (4), the institution cannot—without the prior written approval of the appropriate Federal banking agency—pay any bonus to a senior executive officer, or provide compensation to such an officer at a rate exceeding the officer's average rate of compensation (excluding bonuses, stock options, and profit-sharing) during the year preceding the calendar month in which the institution became undercapitalized. Moreover, any institution that has not submitted an acceptable capital restoration plan is categorically prohibited from paying any bonus or increased compensation to a senior executive officer.

5. Discretion to impose certain additional restrictions

Subsection (i) requires the appropriate Federal banking agency to restrict the activities of a critically undercapitalized institution. Subsection (f)(5) permits the agency to apply to a significantly undercapitalized institution (or an undercapitalized institution that fails to submit and implement a capital restoration plan) any restriction prescribed by regulation under subsection (i) if the agency determines that the restriction is necessary to carry out the purpose of section 37.

G. More stringent treatment based on other supervisory criteria

Subsection (g) authorizes the appropriate Federal banking agency to take action against an insured depository institution based on *noncapital* (as well as capital) criteria. Specifically, the agency may treat the institution as if it were in the next lower capital category if the agency (1) determines that the institution is in an unsafe or unsound condition; or (2) under new section 8(b)(8) of the Federal Deposit Insurance Act, deems the institution to be engaging in an unsafe or unsound practice. New section 8(b)(8) (added by section 205(c) of the bill) authorizes the agency to deem the institution to be engaging in an unsafe or unsound practice if the institution has received a less-than-satisfactory rating for asset quality, management, earnings, or liquidity in the institution's most recent report of examination (i.e., a rating of 3, 4, or 5 under the CAMEL system), and has not corrected the deficiency.

Thus if the institution is well-capitalized, the agency may reclassify it as adequately capitalized. If the institution is adequately capitalized, the agency may apply any of the safeguards in subsection (d) and (e), namely: restricting the institution's capital distributions and management fees; requiring the institution to submit an acceptable plan to correct the problem; restricting the institution's asset growth; requiring prior approval for acquisitions, branching, new lines of business; and—to the extent necessary to carry out the purpose of section 37—applying one or more of subsection (f)(2)'s safeguards on significantly undercapitalized institutions. If the institution is undercapitalized, the agency may apply the safeguards in subsections (d), (e), and (f)(2).

The agency must provide notice and an opportunity for hearing before determining that the institution is in an unsafe or unsound condition or is engaging in an unsafe or unsound practice, but not before taking further action under subsection (g).

Any plan required under subsection (g) must specify the steps the institution will take to correct the unsafe or unsound condition or practice. The deadlines and procedures for submission and review of plans required by the agency under subsection (g) will parallel those under subsection (e)(2) for capital restoration plans, and the agency may treat failure to submit and implement a required plan as a failure to submit and implement a capital restoration plan. An undercapitalized institution may combine the plan with a capital restoration plan.

H. Provisions applicable to critically undercapitalized institutions

Subsection (h) governs critically undercapitalized insured depository institutions.

1. Activities restricted

Paragraph (1) of subsection (h) requires any critically undercapitalized institution to comply with restrictions prescribed by the appropriate Federal banking agency under subsection (i).

2. Payments on subordinated debt prohibited

Beginning 30 days after an institution becomes critically undercapitalized, paragraph (2) generally prohibits the institution from making any payment of principal or interest on the institution's subordinated debt. This prohibition affects the payment—but not the accrual—of interest; unpaid interest may continue to accrue under the terms of the debt to the extent otherwise permitted by law. A transition rule exempts from the prohibition until July 15, 1996, any subordinated debt outstanding on July 15, 1991, and not extended or otherwise renegotiated after that date.

The FDIC may make an exception to the prohibition for an institution if (1) the FDIC determines that the exception would further the purpose of section 37, and (2) the appropriate Federal banking agency has made the determination and taken the action required under paragraph (3)(A)(ii) (which, as discussed below, governs alternatives to appointing a conservator or receiver for a critically undercapitalized institution).

3. Conservatorship, receivership, or other action required

a. In general

Subparagraph (A) of paragraph (3) requires the appropriate Federal banking agency, within 30 days after an institution becomes critically undercapitalized, to take one of the following three steps: (1) appoint a receiver for the institution; (2) with the FDIC's concurrence, appoint a conservator for the institution; or (3) take such other action as the agency—with the FDIC's concurrence—determines would better achieve the purpose of section 37 than appointing a conservator or receiver, after documenting why the action would better achieve that purpose.

b. Review of other action

Under subparagraph (B), if a conservator or receiver is not appointed for the institution, the agency must review its action under subparagraph (A)(ii) at least every 90 days and determine (with the FDIC's concurrence) whether that action better achieves the purpose of section 37 than the appointment of a conservator or receiver.

c. Appointment of receiver required if other action fails to restore capital

Subparagraph (C) requires the appointment of a receiver for an institution that persistently remains critically undercapitalized unless the institution meets certain criteria of viability. Specifically, if the institution is critically undercapitalized on average during the calendar quarter beginning 270 days after the institution became critically undercapitalized, the appropriate Federal banking agency must appoint a receiver for the institution unless the institution meets a four-part test: (1) on average during the calendar quarter in question, the institution's tangible equity is at least 80 percent of that required to meet the critical capital level for the leverage limit; (2) the institution had significant operating earnings during that quarter and the preceding quarter; (3) the institution has made significant progress in correcting other deficiencies; and (4) the Corporation determines that appointing a receiver would not further the purpose of section 37.

An institution does not become critically undercapitalized until new section 37 becomes effective, which under section 205(f) of the bill occurs 270 days after enactment.

I. Restricting activities of critically undercapitalized institutions

Subsection (i) requires each appropriate Federal banking agency to impose whatever

restrictions on critically undercapitalized insured depository institutions are needed to carry out the purpose of section 37. The agency may impose these restrictions by regulation or order. The intent is that the agency, by regulation or order, impose restrictions (comparable to those in a stringent supervisory order or agreement) to minimize the potential for loss to the deposit insurance fund. The agency must, at a minimum, prohibit a critically undercapitalized institution from doing any of the following without the agency's prior written approval: (1) entering into any material transaction other than in the usual course of business; (2) extending credit for any highly leveraged transaction; (3) amending the institution's charter or bylaws, except as required by statute, regulation, or order; (4) making any material change in accounting methods; (5) engaging in any covered transaction, as defined in section 23A(b) of the Federal Reserve Act; (6) paying excessive compensation or bonuses; (7) paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds. These minimum requirements are not intended to be exhaustive; the agency is responsible for taking other appropriate steps to control the risks presented by the institution.

Restrictions imposed by order under subsection (i) may be enforced under section 18(i) of the Federal Deposit Insurance Act. 12 U.S.C. §1828(i).

J. Certain Government-controlled institutions exempted

Subsection (j) exempts certain Government-controlled insured depository institutions from the provisions of section 37 governing undercapitalized, significantly undercapitalized, and critically undercapitalized institutions—other than the restriction on asset growth by undercapitalized institutions. The exemption covers (1) any institution for which the FDIC or the Resolution Trust Corporation is conservator; and (2) any bridge bank of which the FDIC owns all the voting securities. The subsection does not refer to institutions for which the FDIC or RTC is receiver because such institutions are not "insured depository institutions," and thus are not covered by the provisions in question.

K. Review required when deposit insurance fund incurs material loss

Effective July 1, 1993, subsection (k) requires a review whenever an insured depository institution causes a material loss to the Bank Insurance Fund or Savings Association Insurance Fund. The inspector general of the appropriate Federal banking agency must make a written report to the agency regarding the agency's supervision of the institution, ascertaining why the institution's problems resulted in a material loss to the fund and making recommendations for preventing such losses in the future. The inspector general must provide the report to the Comptroller General of the United States, the FDIC, and any appropriate State banking supervisor, and (upon request) to any member of Congress. The report is due six months after the loss is incurred.

Under subsection (k), the insurance fund incurs a loss if the FDIC is appointed receiver of an institution and it becomes apparent that the present value of the insurance fund's outlays will exceed the present value of receivership dividends or other payments on claims held by the FDIC. The insurance fund also incurs a loss if the FDIC provides open-bank assistance to the institution and (1) repayment of the assistance within two years is not substantially certain, or (2) the institution ceases to repay the assistance in accordance with its terms.

A loss is generally material if it exceeds the greater of $25 million or 2 percent of the institution's total assets when the FDIC initiated assistance or was appointed receiver. However, a higher threshold of materiality applies until July 1, 1997: initially, 7 percent of the institution's assets; then diminishing year by year until that date.

The agency must disclose the report upon request under the Freedom of Information Act. 5 U.S.C. §552. The agency cannot use that Act's exemption for memoranda or letters to withhold any portion of the report, nor can the agency use the exemptions for commercial or financial information or examination reports to withhold information about the institution. But the agency need not disclose the name of any customer of the institution (other than an institution-affiliated party, as defined in section 3(u) of the Federal Deposit Insurance Act), or information from which such a person's identity could reasonably be ascertained.

The General Accounting Office must annually review the inspector general's reports (verifying the accuracy of at least one report) and recommend improvements in the supervision of insured depository institutions.

L. Implementation

Subsection (*l*) requires each Federal banking agency to prescribe such regulations (in consultation with the other Federal banking agencies) and take such other actions as are necessary to carry out section 37.

Subsection (*l*) also requires any determination (or concurrence) by a Federal banking agency under section 37 to be in writing.

M. Other authority not affected

Subsection (m) specifies that section 37 does not limit any authority of a Federal banking agency or a State to take action more stringent than, or otherwise supplementing, that required under section 37. But such authority can in no way be used to derogate from any provision of section 37.

N. Judicial review

Subsection (n) governs judicial review of agency action under section 37.

Paragraph (1) of subsection (n) permits a "person aggrieved" by an action of an appropriate Federal banking agency under section 37 to obtain review of that action by filing a petition—within 10 days after receiving notice of the agency action—in the United States Court of Appeals for the District of Columbia Circuit or the United States court of appeals for the circuit containing the home office of the insured depository institution whose condition is the basis for the agency action.

Under paragraph (2), "person aggrieved" means the institution or controlling company against which the agency has taken action under section 37, and any company having control of that institution or company. "Person aggrieved" also includes a person dismissed under subsection (f)(2)(F)(ii), which authorizes the agency to require a significantly undercapitalized institution to dismiss certain directors or senior executive officers.

Paragraph (3) allows agency action under section 37 to be modified, terminated, or set aside only if the court finds on the record on which the agency acted that the action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. But subsection (n) does not restrict judicial review of an order appointing a conservator or receiver: a person aggrieved may pursue such review *if* it is otherwise available.

Paragraph (4) requires the courts of appeals to expedite the review of petitions under subsection (n).

Paragraph (5) specifies that proceedings for judicial review under subsection (n) do not stay any action taken by the agency, and that no court has jurisdiction to stay, enjoin, or otherwise delay such action taken under section 37. Under paragraph (6), no court has jurisdiction over agency action under section 37 except as provided in subsection (n).

O. Transition rules for savings associations

1. RTC's role does not diminish care required of OTS

Various provisions of section 37 refer to avoiding or minimizing loss to a "deposit insurance fund," which section 3(y) of the Federal Deposit Insurance Act (added by section 101(c) of the bill) defines as the Bank Insurance Fund or the Savings Association Insurance Fund, as the case may be. Yet the Resolution Trust Corporation—rather than SAIF—bears any loss involved in resolving an institution formerly insured by the Federal Savings and Loan Insurance Corporation, for which a conservator or receiver is appointed before August 9, 1992. 12 U.S.C. §1441a(b)(3)(A). To avoid any implication of a lower standard of care for such an institution, subsection (o)(1) requires each Federal banking agency to exercise the same care in implementing section 37 as if SAIF, rather than the RTC, bore the cost of resolving such institutions' problems.

2. New capital plan not required for certain savings associations

Section 5(t) of the Home Owners' Loan Act, enacted in 1989, requires an undercapitalized savings association to submit a capital restoration plan and establishes transition rules for becoming adequately capitalized by July 1, 1994. 12 U.S.C. §1464(t). The standards for an acceptable capital restoration plan are more stringent under section 37(e)(2) than under section 5(t). To avoid requiring new plans for savings associations already implementing approved 5(t) plans, subsection (o)(2) of section 37 exempts such institutions from the plan requirement of subsection (e)(2), as well as from subsection (f), which provides sanctions for institutions failing to submit and implement plans under subsection (e)(2). The exemption applies to any savings association meeting the following three-part test: (1) before the bill becomes law, the savings association submitted a plan satisfying section 5(t)(6)(A)(ii), and the Director of the Office of Thrift Supervision accepted the plan; (2) the plan remains in effect; and (3) the savings association remains in compliance with the plan. The exemption expires July 1, 1994—the end of section 5(t)'s transition periods.

P. Deadline for regulations

Section 205(b) requires each Federal banking agency to issue regulations under new section 37, after notice and opportunity for comment, within 240 days after the bill becomes law. These regulations will take effect within 270 days after the bill becomes law.

Q. Other amendments to the Federal Deposit Insurance Act

1. Enforcement action based on unsatisfactory asset quality, management, earnings, or liquidity

Section 205(c)(1) adds a new section 8(b)(8) to the Federal Deposit Insurance Act, authorizing the appropriate Federal banking

agency to deem an insured depository institution to be engaging in an unsafe or unsound practice if the institution has received a less-than-satisfactory rating for asset quality, management, earnings, or liquidity in the institution's most recent report of examination, and has not corrected the deficiency. Section 8(b)(8) is discussed above in connection with new section 37(g) (added by section 205(a)).

2. Conforming amendments relating to Federal banking agencies' enforcement authority

Section 205(c)(2) amends section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. §1818(i)) to provide for judicial enforcement of new section 37 of that Act, and authorize civil money penalties for violating section 37.

R. Section 5(t)(7) of the Home Owners' Loan Act

Section 5(t)(7) of the Home Owners' Loan Act limits the sanctions the Director of the Office of Thrift Supervision may impose on certain savings associations that do not comply with capital standards prescribed under section 5(t)(1) of that Act. 12 U.S.C. §1464(t)(7). As new section 37 of the Federal Deposit Insurance Act applies in accordance with its terms—and is not restricted by section 5(t)(7)—section 205(d) of the bill clarifies that section 5(t)(7) only limits the Director's authority under the Home Owners' Loan Act.

S. Transition rule regarding current directors and senior executive officers

Section 205(e) provides transition rules for implementing two provisions of new section 37(f) of the Federal Deposit Insurance Act, applicable to significantly undercapitalized insured depository institutions and undercapitalized institutions that fail to submit and implement capital restoration plans. Under new section 37(f)(2)(F)(ii), the appropriate Federal banking agency may require such an institution to dismiss from office certain directors or senior executive officers. Section 37(f)(4) restricts such an institution from paying bonuses to or increasing the compensation of its senior executive officers.

Under section 205(e), these two provisions do not apply to any senior executive officer who accepted employment in his or her current position on or before the date the bill became law and whose employment contract has not been renewed or renegotiated after that date or (while the bill was pending) to evade either provision. Section 37(f)(2)(F)(ii) likewise does not apply to any director whose current term began on or before the date the bill became law and has not been extended after that date or to evade that provision.

T. Effective date

Section 205(f) makes the amendments made by section 205 take effect 270 days after the bill becomes law.

SECTION 206. STANDARDS FOR SAFETY AND SOUNDNESS

Section 206 adds a new section 38 to the Federal Deposit Insurance Act, requiring the Federal banking agencies to establish operational, managerial, asset quality, earnings, and stock valuation standards for all FDIC-insured depository institutions. These standards complement the capital and noncapital tripwires of new section 37 (added by section 205). The goal is to identify and resolve problems in their incipiency, or prevent them from arising in the first place.

A Operational and managerial standards

Subsection (a) of new section 38 requires each appropriate Federal banking agency to prescribe standards for insured depository institutions and depository institution holding companies relating to (1) internal controls, information systems, and internal audit systems, in accordance with new section 36 (added by section 203(b)); (2) loan documentation; (3) credit underwriting; (4) interest-rate exposure; and (5) asset growth. The agency must also prescribe such other operational and managerial standards as the agency determines to be appropriate.

B. Asset quality, earnings, and stock valuation standards

Subsection (b) requires each agency to prescribe standards for insured depository institutions and depository institution holding companies specifying (1) a maximum ratio of classified (i.e., problem) assets to capital; (2) a minimum earnings level sufficient to absorb losses without impairing capital; and (3) a minimum ratio of market value to book value for publicly traded shares of the institution or company. The agency must also prescribe such other standards relating to asset quality, earnings, and valuation as the agency determines to be appropriate.

C. Failure to meet standards

1. Plan required

Under subsection (d)(1), if the appropriate Federal banking agency determines that an insured depository institution or depository institution holding company fails to meet any standard prescribed under subsection (a) or (b), the agency must require the institution or company to submit an acceptable plan for correcting the deficiency. The plan must specify the steps the institution or company will take to correct the deficiency. If the institution is undercapitalized, the plan may be part of a capital restoration plan.

Subsection (d)(1)(C), like new section 37(e)(2) (governing capital restoration plans), requires the agency to establish deadlines by regulation for the submission and review of plans. The deadlines must give institutions and companies reasonable time to submit plans, and require the agency to act on plans expeditiously. The deadlines must generally require plan to be submitted within 30 days after the agency determines that an institution or company fails to meet a standard prescribed under subsection (a) or (b) and require the agency to act on a plan within 30 days after receiving the plan.

2. Order required if institution fails to submit or implement plan

If an insured depository institution or depository institution holding company fails to submit a timely and acceptable plan, or fails in any material respect to implement a plan accepted by the agency, subsection (d)(2) requires the agency to issue an order requiring the institution or company to correct the deficiency. The order may also (1) restrict asset growth by the institution or company, or prohibit such growth altogether; (2) require the institution or company to increase its ratio of tangible equity to assets; (3) restrict the interest rates the institution pays (or the company's subsidiary institutions pay) on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region; or (4) require the institution to take any other action that the agency determines will better carry out the purpose of section 37 than any of the first three actions.

3. Restrictions mandatory for certain institutions

Subsection (d)(3) requires the agency to take at least one of those first three actions if (1) the agency determines that the institution fails to meet any standard specifically required by subsection (a) or (b); (2) the institution has not corrected the deficiency; and (3) either (a) commenced operations or underwent a change in control during the preceding two years, or (b) underwent extraordinary growth, as defined by the agency, during the preceding 18 months. Such action is mandatory only for failing to meet a standard specifically required by subsection (a) or (b) (e.g., for loan documentation)—as distinguished from standards prescribed only because the agency determines them to be appropriate.

D. Regulations required; effective date

The agency must prescribe standards under subsections (a) and (b) by regulations. Regulations under section 38 must be promulgated by March 1, 1993.

Section 38 becomes effective on the earlier of July 1, 1993, or the date on which those regulations become effective.

SECTION 207. CONSERVATORSHIP AND RECEIVERSHIP AMENDMENTS TO FACILITATE PROMPT CORRECTIVE ACTION

Section 207 facilitates appointing the FDIC as conservator or receiver to carry out the system of prompt corrective action in section 205. Section 207 also makes the grounds for appointing a conservator or receiver generally consistent for all FDIC-insured depository institutions, whether banks or savings associations, federally chartered or State chartered.

A. Current law

Section 11(c)(5) of the Federal Deposit Insurance Act sets forth the grounds for appointing the FDIC as conservator or receiver of an insured State depository institution. 12 U.S.C. §1821(c)(5). These grounds (simplified in the interest of brevity) currently include (1) having liabilities that exceed assets; (2) substantially dissipating assets or earnings by violating the law or engaging an unsafe or unsound practice; (3) being in an unsafe or unsound condition; (4) willfully violating a cease-and-desist order; (5) concealing or withholding records; (6) likely inability to satisfy liabilities in the normal course of business; (7) substantially depleting capital without a reasonable prospect for replenishing it; and (8) violating a statute or regulation, or engaging in an unsafe or unsound practice that is likely to weaken the institution.

Section 203(a) of the Bank Conservation Act authorizes the Comptroller of the Currency to appoint a conservator for a national bank on grounds generally parallel those in section 11(c)(5) of the Federal Deposit Insurance Act. 12 U.S.C. §203(a). An 1876 statute authorizes the Comptroller to appoint a receiver for a national bank if, *inter alia*, the bank is insolvent. *Id.* §191.

Under section 5(d)(2) of the Home Owners' Loan Act, the Director of the Office of Thrift Supervision may appoint a conservator or receiver for an insured savings association on grounds generally parallel those in section 11(c)(5). 12 U.S.C. §1464(d)(2)(A)-(C). But the Director may appoint a conservator or receiver for a State savings association only (1) with the appropriate State supervisor's written consent, or (2) after 30 days written notice to that supervisor. *Id.* §1464(d)(2)(D).

Although the Director may appoint a conservator or receiver for a State savings association, the FDIC and the Federal Reserve Board currently cannot make such an appointment for the State banks they regulate—no matter how urgent the grounds—nor does the FDIC as deposit insurer have any independent authority to do so.

C. Additional grounds for appointing conservator or receiver

Section 207(a) amends section 11(c)(5) of the Federal Deposit Insurance Act, adding new grounds for the appointment of a conservator or receiver to facilitate prompt corrective action and promote consistency in the treatment of different types of insured depository institutions, and making minor revisions of pnrasing in the interest of clarity.

1. Promoting consistent standards for all insured depository institutions

New section 11(c)(5) applies to all insured depository institutions—thus providing consistent standards for appointing conservators and receivers. New subparagraphs (A) through (H) generally correspond to current subparagraphs (A) through (H).

New section 11(c)(5) also contain four subparagraphs not in the current section. New subparagraphs (I) and (J) reflect the law currently applicable to national banks and Federal savings associations. Section 203(c) of the Bank Conservation Act allows a conservator to be appointed for a national bank if (1) the bank consents to the appointment through its board of directors or shareholders; or (2) the FDIC terminates the bank's deposit insurance. 12 U.S.C. §203(c). Section 5(d)(2)(B) of the Home Owners' Loan Act sets forth similar grounds for appointing a conservator or receiver for a Federal savings association. *Id.* §1464(d)(2)(B). Subparagraphs (I) and (J) incorporate these grounds into section 11(c)(5).

2. Facilitating prompt corrective action

New subparagraphs (K) and (L) of section 11(c)(5) relate to prompt corrective action under new section 37. Under subparagraph (K), a conservator or receiver may be appointed for an undercapitalized institution that (1) has no reasonable prospect of becoming adequately capitalized; (2) fails to become adequately capitalized after the appropriate Federal banking agency has required the institution to recapitalize by selling shares or obligations; (3) fails to submit a timely and acceptable capital restoration plan; or (4) materially fails to implement a capital restoration plan. Subparagraph (L) authorizes appointment of a conservator or receiver for an institution that is critically undercapitalized or otherwise has substantially insufficient capital. The reference to "substantially insufficient capital" is drawn from current subparagraph (C).

C. Conforming amendments to promote consistent standards

By making new section 11(c)(5) apply to all insured depository institutions, section 207(a) renders redundant the parallel lists of grounds for appointing conservators and receivers in the Bank Conservation Act and Homeowner's Loan Act. Accordingly, section 205(c)-(d) replaces those lists with simple cross-references to section 11(c)(5).

Section 205(b) replaces the 1876 receivership statute's reference to insolvency with a similar cross-reference to section 11(c)(5), thus considerably broadening the Comptroller's authority to appoint receivers for national banks.

D. Appropriate federal banking agency's authority over insured state depository institutions

Section 205(e) adds a new paragraph (9) to section 11(c) of the Federal Deposit Insurance Act, authorizing the appropriate Federal banking agency to appoint the FDIC as sole conservator or receiver of any insured State bank or savings association if a two-part test is satisfied. First, one of the grounds for appointing a conservator or receiver under new subparagraphs (K) and (L) of section 11(c)(5) must apply. (Those grounds are discussed above in connection with section 207(a).) Second, the appointment must be necessary to carry out the purpose of new section 37—namely, to resolve the institution's problems with no loss or minimal loss to the deposit insurance fund, and to minimize any loss incurred.

The agency's board or head cannot delegate authority to appoint a conservator or receiver under new section 11(c)(9), nor can the agency exercise that authority without first consulting with the appropriate State supervisor. Moreover, under new section 11(c)(11)—also added by section 205(e)—the agency may use that authority to appoint a conservator (as opposed to a receiver) only (1) with the FDIC's consent, or (2) after giving the FDIC 48 hours notice of the intended appointment.

The main effect of new section 11(c)(9) is to give the appropriate Federal banking agency for a State bank limited authority to place the bank in conservatorship or receivership. The Director of the Office of Thrift Supervision—although also able to use section 11(c)(9)—would have broader authority under section 11(c)(5).

Section 205(f) makes a conforming amendment to section 11 of the Federal Reserve Act (12 U.S.C. §248), authorizing the Federal Reserve Board to appoint a conservator or receiver for a State member bank to the extent provider under section (c)(9).

E. FDIC's independent authority to appoint conservator or receiver

Section 205(e) adds a new section 11(c)(10) to the Federal Deposit Insurance Act, authorizing the FDIC's Board of Directors to appoint the FDIC as sole conservator or receiver of any insured depository institution if a two-part test is satisfied. First, one of the grounds for appointing a conservator or receiver under new section 11(c)(5) must apply. Second, the appointment must be necessary to reduce the risk that the deposit insurance fund would incur a loss or to reduce any such expected loss. The Board of Directors cannot delegate authority to appoint a conservator or receiver under section 11(c)(10), nor can the FDIC exercise that authority without first consulting with the appropriate Federal banking agency and the State supervisor (if any).

F. Other conservatorship and receivership reforms

Section 205(e) also adds new paragraphs (12) and (13) to section 11(c) of the Federal Deposit Insurance Act.

1. Directors of institution not liable for acquiescing in appointment of conservator or receiver

Under new section 11(c)(12), an insured depository institution's shareholders or creditors cannot hold the institution's directors liable for acquiescing in or consenting in good faith to the appointment of the FDIC or the RTC as conservator or receiver for the institution.

2. Additional powers of FDIC as conservator or receiver of State depository institution

A majority of the States have statutes giving depositors preference over other unsecured creditors in recovering on their claims against a failed or failing depository institution. These laws benefit the FDIC when it pays the claims of insured depositors and succeeds to their rights as creditors. New section 11(c)(13) is based on current section 11(c)(9), and enables the FDIC, as conservator or receiver for a State depository institution, to apply any depositor preference statute of the chartering State.

G. Effective date

Section 205(g) makes the amendments made by section 207 effective 270 days after the bill becomes law.

SECTION 208. BACK-UP ENFORCEMENT AUTHORITY OF FDIC

FIRREA gave the FDIC back-up enforcement authority over insured savings associations by adding section 8(t) to the Federal Deposit Insurance Act. (12 U.S.C. §1818(t). Section 208 amends section 8(t) to extend that authority to insured banks.

A. Recommendation; FDIC's authority to act

Under new section 8(t), the FDIC recommends that the appropriate Federal banking agency take an enforcement action against an insured depository institution or an institution-affiliated party. The other agency then has 60 days to take the recommended action or provide an acceptable plan for responding to the FDIC's concerns. If it fails to do so within that time, the FDIC may take the enforcement action itself if the FDIC's Board of Directors determines that (1) the institution is in an unsafe or unsound condition; (2) the institution is engaging in unsafe and unsound practices, and the recommended enforcement action would prevent the institution from continuing such practices; or (3) the institution's conduct or threatened conduct (including any acts or omissions) poses a risk of loss to the deposit insurance fund or may prejudice the interests of the institution's depositors.

B. Exigent circumstances

The FDIC's Board of Directors may, in exigent circumstances, dispense with the 60-day period after notifying the appropriate Federal banking agency. The FDIC and the other Federal banking agencies shall, by agreement, identify those exigent circumstances.

C. FDIC's powers; institution's duties

When the FDIC exercises its back-up enforcement authority, it has the same powers over the insured depository institution as the appropriate Federal banking agency, and the institution has the same duties to the Corporation as it has to the other agency.

D. Reporting requests for enforcement action

When a regional office or bank of a Federal banking agency requests a formal investigation of or civil enforcement action against an institution, it must also submit the request to the FDIC. Each Federal banking agency must report semiannually to the FDIC on the status of all such requests, including its reasons for approving or denying the requests.

SECTION 209. CAPITAL MAINTENANCE COMMITMENTS

Section 209 adds a new section 18(q) to the Federal Deposit Insurance Act. New section 18(q) provides that a commitment made to a Federal banking agency to maintain the capital of an FDIC-insured depository institution may be enforced under the Federal Deposit Insurance Act. The authority to enforce such a capital maintenance commitment is in addition to any other authority of the Federal banking agencies.

New section 18(q) does not apply retroactively, and does not carry any implication—any positive or negative—about current authority to enforce a capital maintenance commitment. The section is intended to clarify the law prospectively.

SECTION 210. PASS-THROUGH INSURANCE COVERAGE

Section 210 restricts certain forms of pass-through deposit insurance coverage.

A. Restricting certain pass-through insurance coverage

Section 210(a) makes technical and conforming amendments to section 3(m) of the Federal Deposit Insurance Act. 12 U.S.C. §1813(m)

B. Insurance of deposits

Section 210(b) amends section 11 of the Federal Deposit Insurance Act in several respects.

1. Insurance of deposits

Section 210(b)(1) amends section 11(a)(1) to restate that the Corporation shall insure the deposits in all insured depository institutions in accordance with the Federal Deposit Insurance Act, and provides that the net amount of any depositor's insured deposits at any insured depository institution shall be $100,000.

Section 210(b)(2) adds two new paragraphs to section 11(a). The new paragraphs clarify the eligibility of certain types of deposits and trusts for pass-through deposit insurance.

a. Pass-through insurance restricted to interest in tax-qualified retirement plans and certain irrevocable trusts

i. In general.—Subparagraph (A) of new section 11(a)(8) of the Federal Deposit Insurance Act establishes a general rule prohibiting deposit insurance on a pass-through, or pro-rata, basis except as specifically permitted in clauses (i) through (iv).

Clause (i) of subparagraph (A) permits the FDIC to insure deposits by three specific types of tax-qualified retirement plans on a pass-through basis, if they meet certain conditions. The three types of plans that may receive pass-through deposit insurance are: (1) plans meeting the requirements of section 401(a) of the Internal Revenue Code of 1986 that include a trust exempt from tax under section 501(a) of that Code; (2) plans meeting the requirements of section 403(b)(9) of the Internal Revenue Code of 1986 that include a trust exempt from tax under section 501(a) of that Code; and plans meeting the requirements of section 457 of the Internal Revenue Code of 1986. 26 U.S.C. §401(a), §403(b)(9), §457, §501(a). To qualify for pass-through deposit insurance, such a plan must have been eligible to receive deposit insurance coverage as of July 15, 1991, and the deposit must not arise under a so-called bank investment contract ("BIC")—i.e., a contract between an insured depository institution and an employee benefit plan that expressly permits benefit-responsive withdrawals or transfers. The phrase "eligible to receive," in this context, means that a given plan, or a plan substantially similar to a given plan, either was receiving pass-through deposit insurance coverage on July 15, 1991, or could have received pass-through coverage on that date by making an appropriate deposit in an insured depository institution.

A plan that receives pass-through insurance coverage under clause (i) is insured with respect to each plan participant in an amount equal to the lesser of the present value of the participant's vested accrued benefit or $100,000.

Clause (ii) of subparagraph (A) permits the FDIC to provide pass-through deposit insurance coverage for deposits of irrevocable trusts established pursuant to statute or written trust agreement, other than tax-qualified retirement plans or irrevocable trusts described in clause (i). Such deposits may be insured on a pass-through basis with respect to each known beneficiary of the trust whose interest in the trust is noncontingent in an amount equal to the lesser of the present value of the beneficiary's noncontingent interest or $100,000.

Clause (iii) of subparagraph (A) provides pass-through deposit insurance coverage for custodial accounts held on deposit at an insured depository institution if three conditions are satisfied. First, the principal or beneficiary of the account must not control where the funds are deposited. Second, the account must not be maintained for investment purposes. Finally, the account must not be maintained principally for the purpose of increasing insurance coverage. Custodial funds eligible for pass-through insurance coverage under clause (iii) may be insured in an amount up to $100,000 for each principal or beneficiary.

Clause (iv) of subparagraph (A) provides pass-through deposit insurance coverage for custodial accounts maintained by a deposit broker at an insured depository institution. Such accounts may receive deposit insurance coverage in an amount up to $100,000 for each principal or beneficiary represented in each capacity in which the principal or beneficiary places the deposit through the deposit broker.

ii. Special rules.—Subparagraph (B) of new section 11(a)(8) of the Federal Deposit Insurance Act provides aggregation rules for determining the net amount of insurance coverage for participants, principals, and beneficiaries of accounts insured on a pass-through basis. Specifically, subparagraph (B) requires deposits receiving pass-through deposit insurance coverage under clauses (i), (iii), and (iv) of subparagraph (A) to be disregarded in determining the net amount of any person's deposit insurance. "Net amount," in this context, means the deposit insurance liability of the FDIC to the person in the event of the failure of a depository institution at which the person maintains an insured deposit. Thus, for example, if a person maintained a deposit at an insured depository institution as an individual, and also participated in a plan receiving pass-through deposit insurance coverage under clause (i) of subparagraph (A) that maintained a deposit at the same depository institution, the amount of that person's interest in the plan would not be aggregated with the amount of the person's deposit in his or her own capacity in determining the FDIC's net deposit insurance liability to the person in the event of the depository institution's failure. Subparagraph (B) further requires that interests in deposits by certain irrevocable trusts described in clause (ii) of subparagraph (A) be taken into account in determining the net amount due to any beneficiary of such a trust.

iii. Definitions.—Subparagraph (C) of new section 11(a)(8) of the Federal Deposit Insurance Act defines important terms used in new paragraph (8).

The term "benefit-responsive withdrawals or transfer" means a withdrawal or transfer of funds deposited by an employee benefit plan at an insured depository institution that satisfies two conditions. First, the withdrawal or transfer must occur during a period for which the institution has guaranteed by contract to pay the plan one or more rates of interest. Second, the withdrawal or transfer must be made either to pay benefits provided by an employee benefit plan, or to permit a plan participant or beneficiary to redirect the investment of his or her account balance without substantial penalty or adjustment.

The term "employee benefit plan" has the same meaning as in section 3(3) of the Employee Retirement Income Security Act of 1974 and includes any plan described in section 401(d) of the Internal Revenue Code of 1986.

b. Restrictions on pass-through insurance for deposits of trusts.

New paragraph (9) of section 11(a) of the Federal Deposit Insurance Act creates certain exceptions to paragraph (8)(a)(ii). The purpose of these exceptions is to prevent expansion of the Federal government's deposit insurance liabilities through commercial exploitation of the (8)(a)(ii) exception to the general prohibition on pass-through deposit insurance coverage. Under paragraph (9), a deposit otherwise qualifying for pass-through deposit insurance coverage under paragraph (8)(a)(ii) is nonetheless ineligible if any of four conditions obtain. Specifically, the deposit may not be insured on a pass-through basis if the trustee or organizer of the trust solicits persons to transfer funds into the trust; if interests in the trust are sold to beneficiaries; if there are more than 10 settlors or grantors of the trust; or if other circumstances prescribed by the FDIC's Board of Directors exist.

C. Conforming amendment

Section 210(c) makes a conforming amendment to section 7(i) of the Federal Deposit Insurance Act.

D. Effective date

Under section 210(d), the amendments made by section 210 generally take effect on January 1, 1993. For time deposits made before July 15, 1991, however, those amendments take effect upon the stated maturity of the time deposit.

SECTION 211. BROKERED DEPOSITS

Section 211 restricts some insured depository institutions' eligibility to accept deposits from deposit brokers and imposes recordkeeping and notice requirements on deposit brokers.

A. In general

Current section 29 of the Federal Deposit Insurance Act generally permits any institution that meets its minimum capital requirements to accept brokered deposits without restriction. 12 U.S.C. §1831f. Any institution that does not meet its minimum capital requirements may accept brokered deposits if the FDIC waives the application of the general restriction to that institution.

1. Institutions eligible to accept brokered deposits without restriction

Section 211(a)(1) restricts the class of insured depository that may accept brokered deposits without restriction by replacing "troubled institution" in current section 29(a) with "insured depository institution that is not well-capitalized and does not have a CAMEL rating of 1 or 2." In this context, "well-capitalized" has the same meaning as in section 37(b)(1)(A) of the Federal Deposit Insurance Act (added by section 205 of the bill).

In effect, section 211(a)(1) significantly narrows the class of institutions that may accept brokered deposits without restriction under section 29. Whereas current section 29(a) permits any institution meeting its minimum capital requirements to accept brokered deposits without restriction, new section 29(a) would permit an institution to accept brokered deposits only if (1) its capital significantly exceeds required minimum

levels and (2) it has a CAMEL rating of 1 or 2.

2. Institutions eligible to accept brokered deposits upon FDIC waiver

Section 211(a)(2) restricts the class of depository institutions that may accept brokered deposits upon the FDIC's waiver of the general restriction in section 29(a). Specifically, section 211(a)(2) amends section 29(c) to permit the FDIC to waive the general rule only for adequately capitalized institutions. In this context, "adequately capitalized" has the same meaning as in section 37(b)(2)(B) of the Federal Deposit Insurance Act (added by section 205). In effect, section 211(a)(2) eliminates the FDIC's current authority to permit, by waiver, the acceptance of brokered deposits by undercapitalized institutions.

Paragraph (2) also allows waivers granted by the FDIC to adequately capitalized institutions to be effective for up to 90 days. This restriction affects the period during which an institution receiving such a waiver may accept brokered deposits, not the maturity of such deposits.

Finally, paragraph (2) *provides that* any application for renewal of a waiver for a successive 90-day period shall be deemed granted unless the FDIC denies the application within 15 days after receiving it. This presumption does not apply to the FDIC's review of an institution's initial application for a waiver, nor does it apply to an institution's application for a waiver to take effect beginning on a date before which no waiver was in effect, even if the institution has previously received such a waiver.

3. Acceptance of brokered deposits by institutions in conservatorship

Section 211(a)(3) amends section 29(d) to limit the FDIC's authority to waive restrictions on acceptance of brokered deposits by institutions that are in conservatorship. Current law permits the FDIC to waive restrictions on brokered deposits by institutions in conservatorship upon determining that acceptance of such deposits would not be an unsafe or unsound practice and is either (1) necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business, *or* (2) consistent with the conservator's fiduciary duty to minimize the institution's losses. 12 U.S.C. §1831f(d).

New section 29(d) requires the FDIC to make a three-part determination before allowing an institution in conservatorship to accept brokered deposits. As under current law, the FDIC must determine that acceptance of such deposits would not be an unsafe or unsound practice. The FDIC must also determine that acceptance of such deposits is necessary to enable the institution to meet its depositors' demands or pay its obligations in the ordinary course of business *and* is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Paragraph (3) further restricts the FDIC's authority to permit acceptance of brokered deposits by institutions in conservatorship by prohibiting such institutions from accepting brokered deposits under any circumstance more than 90 days after the date on which the institution entered conservatorship.

4. Restrictions on interest rates payable on brokered deposits

Paragraph (4) redesignates subsections (e) through (g) of current section 29 of the Federal Deposit Insurance Act as sections (f) through (h), respectively, and inserts a new subsection (e). The new subsection restricts the interest rates payable on brokered deposits by institutions that the FDIC permits to accept brokered deposits under subsection (c) or (d) of new section 29.

Specifically, new section 29(e) prohibits an institution accepting brokered deposits under subsection (c) or (d) from paying a rate significantly exceeding either (1) the rate paid on deposits of similar maturity in the institution's normal market area for deposits accepted in the institution's normal market area, or (2) for deposits accepted outside the institution's normal market area, the national rate paid on deposits of comparable maturity, as determined by the FDIC.

Subsection 29(e) does not define the term "significantly exceeds." Generally, with respect to deposits accepted in the institution's normal market area, the FDIC should carefully scrutinize a rate that is more than 105 percent of the rate paid on deposits of similar maturity in that market. With respect to deposits accepted outside the institution's normal market area, the FDIC should carefully scrutinize any rate that exceeds 105 percent of the rate payable on U.S. Treasury obligations of comparable maturity.

5. FDIC's authority to impose additional restrictions

Current section 29(e) permits the FDIC to impose additional restrictions on the acceptance of brokered deposits by "troubled institutions"—i.e., institutions that do not satisfy applicable minimum capital requirements. Section 211(a)(5) broadens the FDIC's authority to impose such restrictions by striking "troubled" from section 29(f) (as redesignated by paragraph (4)), thus authorizing the FDIC to impose by regulation or order such additional restrictions on *any* insured depository institution's acceptance of brokered deposits as the FDIC determines appropriate.

6. Conforming amendment

Section 211(a)(6) strikes the current definition of "troubled institution." Because section 29 no longer uses the term, the definition is no longer needed.

B. Notification and recordkeeping

Section 211(b) adds a new section 29A to the Federal Deposit Insurance Act, establishing certain notification and recordkeeping requirements for deposit brokers.

1. Notification

a. In general

Section 29A(a)(1) establishes a general rule prohibiting a deposit broker from soliciting or placing any deposit with an insured depository institution without first giving the FDIC written notice that it is a deposit broker.

b. Termination of deposit broker status

Paragraph (2) of section 29A(a) requires any deposit broker who ceases to broker deposits to give the FDIC written notice that it is no longer brokering deposits.

c. Form and content

Paragraph (3) of section 29A(a) authorizes the FDIC to prescribe the form and content of the notices required by paragraphs (1) and (2).

2. Records

Subsection (b) of new section 29A authorizes the FDIC to prescribe regulations requiring each deposit broker who has filed a notice under new section 29A(a)(1) to maintain separate records showing the total amounts and maturities of the deposits placed by the broker at each insured depository institution during specified time periods. The subsection authorizes the FDIC to prescribe the format of such records, the period for which such records must be preserved, and the time period within which a deposit broker must furnish copies of such records to the FDIC upon the FDIC's request.

3. Periodic reports

New section 29A(c)(1) authorizes the FDIC to prescribe regulations requiring each deposit broker that files a notice under section 29A(a)(1) to file with the FDIC separate quarterly reports describing the total amounts and maturities of the deposits placed by the broker at each depository institution during the quarter. The FDIC's regulations must specify the form and content of the reports.

Paragraph (2) of subsection (c) further authorizes the FDIC to designate another entity as its agent for the purpose of receiving and maintaining any reports required under paragraph (1). The FDIC may, through its agent, collect a fee from each deposit broker filing such reports sufficient to defray the FDIC's cost of retaining the agent. Any fees thus assessed should reflect each deposit broker's proportionate amount of the total amount of insured deposits placed by all deposit brokers during the quarter.

C. Deposit solicitation restricted

Section 211(c) adds a new section 29(h) to the Federal Deposit Insurance Act. New section 29(h) restricts money desk operations by undercapitalized institutions.

Specifically, new section 29(h) prohibits an undercapitalized depository institution from soliciting deposits by offering rates of interest significantly higher than the prevailing rates of interest on insured deposits in the institution's normal market area or, if the institution is soliciting deposits outside its normal market area, in the market area in which the institution is soliciting deposits. The term "significantly higher," as used in section 29(h), has the same meaning as the term "significantly exceed" used elsewhere in new section 29. "Undercapitalized" has the same meaning as in section 37(b)(1)(C) of the Federal Deposit Insurance Act (added by section 205).

D. Deadline for regulations

Section 211(d) requires the FDIC to promulgate regulations to carry out the amendments made by subsections (a), (b), and (c) within 150 days after the bill becomes law. The regulations thus promulgated must take effect within 180 days after the bill becomes law. In the case of a time deposit made before July 15, 1991, however, the regulations take effect upon the stated maturity of the deposit.

SECTION 212. RISK-BASED ASSESSMENTS

Section 212 requires the FDIC to establish a system of risk-based deposit insurance assessments and sets forth procedures for setting assessment levels and administering the assessment system.

A. Risk-based assessment system

Section 212(a) amends and recodifies section 7(b) of the Federal Deposit Insurance Act, as amended by section 102 of the bill.

1. Risk-based assessment system

a. Risk-based assessment system required

Subparagraph (A) of new section 7(b)(1) requires the FDIC's Board of Directors to establish a risk-based assessment system for insured depository institutions.

b. Private reinsurance authorized

Subparagraph (B) authorizes the FDIC to incorporate private reinsurance in its risk-based assessment system. Specifically, paragraph (1)(B) authorizes the FDIC to obtain

private reinsurance covering no more than 10 percent of any loss incurred by the FDIC with respect to an insured depository institution, and base that institution's semiannual assessment in whole or in part on the cost of the reinsurance.

c. Risk-based assessment system defined

Subparagraph (C) defines "risk-based assessment system" for purposes of paragraph (1). A risk-based assessment system is a system for calculating a depository institution's semiannual assessment that is based on three factors: first, the probability that the institution will cause a loss to the deposit insurance fund; second, the likely amount of any such loss; and third, the insurance fund's revenue needs.

In assessing the probability that a particular institution will cause a loss to the deposit insurance fund, subparagraph (C) directs the FDIC to consider three categories of risk. First, risks attributable to different categories and concentrations of assets. Second, risks attributable to different categories and concentrations of liabilities, including risks attributable to both insured and uninsured liabilities, on and off the balance sheet of the institution. Third, risks attributable to any other factors the FDIC determines are relevant to assessing the probability that the institution will cause a loss to the deposit insurance fund.

d. Separate assessment systems

Subparagraph (D) permits the FDIC's Board of Directors to establish separate risk-based assessment systems for large and small members of each deposit insurance fund.

e. Foreign deposits

Subparagraph (E) directs the FDIC, in establishing the risk-assessment system required by paragraph (1), to take into account the special assessment procedure for foreign deposits established under paragraph (6).

2. Setting assessments

Paragraph (2) of new section 7(b) details procedures for the FDIC to follow in determining the semiannual deposit insurance assessments to be paid by each member of each deposit insurance fund.

a. Achieving and maintaining designated reserve ratio

Clause (i) of paragraph (2)(A) sets forth the standard to be observed by the FDIC's Board of Directors in determining the total amount of revenue to be raised through semiannual assessments on behalf of a deposit insurance fund. This determination may, in turn, be reflected in each fund member's semiannual assessment under paragraph (1)(C)(iii).

Specifically, paragraph (2)(A)(i) establishes two different standards for assessing premiums depending on the condition of the deposit insurance fund. If the fund's reserve ratio equals or exceeds the designated reserve ratio, subclause (I) directs the Board to impose assessments sufficient in the aggregate to maintain the fund at the designated reserve ratio. If the fund's reserve ratio is below the designated reserve ratio, subclause (II) directs the Board to impose assessments sufficient in the aggregate to restore the fund to the designated reserve ratio in accordance with the system set forth in paragraph (3).

Clause (ii) of paragraph (2)(A) specifies the factors the Board may take into account in determining the aggregate amount of revenue to be raised through semiannual assessments on members of a fund: (1) the expected operating expenses of the fund; (2) the fund's case resolution expenditures and income; (3) the effect of assessments on members' earnings and capital; and (4) any other factors the Board may deem appropriate. In considering the effect of assessments on members' earnings and capital, the Board should particularly consider whether a proposed assessment level would have a sufficiently negative impact on the financial well-being of fund members so as to increase the fund's expected resolution expenses within the foreseeable future.

Clause (iii) of paragraph (2)(A) requires the semiannual assessment for each member of a deposit insurance fund to be at least $1,000, irrespective of the risk-based system established under paragraph (1).

Clause (iv) of paragraph (2)(A) consolidates and recodifies provisions of current section 7(b)(1)(B). Paragraph (2)(A)(iv) requires the designated reserve ratio of each fund to be 1.25 percent of estimated insured deposits or such higher ratio as the FDIC's Board of Directors determines is justified by circumstances raising a significant risk of substantial future losses to the fund.

b. Independent treatment of funds

Subparagraph (B) of paragraph (2) authorizes the FDIC to establish the semiannual assessments and designated reserve ratio for each fund separately from the assessments and reserve ratio of any other fund. Thus, subparagraph (B) permits, for example, the designated reserve ratio of the Bank Insurance Fund to differ from the designated reserve ratio of the Savings Association Insurance Fund, and members of the different funds to be assessed independently.

c. Notice of assessments

Subparagraph (C) requires the FDIC to notify each insured depository institution of that institution's semiannual assessment at least 60 days before the beginning of each semiannual period.

d. Priority of Financing Corporation and Funding Corporation assessments

Under subparagraph (D), amounts assessed against members of the Savings Association Insurance Fund by the Financing Corporation and the Resolution Funding Corporation under section 21 and 21B of the Federal Home Loan Bank Act must—notwithstanding any other provision of paragraph (2)—be subtracted from the amounts authorized to be assessed by the FDIC under paragraph (2).

e. Minimum assessment

Subparagraph (E) of paragraph (2) requires the FDIC to design the risk-based assessment system for each deposit insurance fund so as to ensure that, if the FDIC has outstanding borrowings on behalf of a deposit insurance fund under section 14 of the Federal Deposit Insurance Act, the total amount of assessment income raised by the FDIC through semiannual assessments on members of that fund does not fall below the amount that would have been raised under the deposit insurance system and deposit insurance assessment rates in effect under section 7(b) on July 15, 1991.

f. Transition rule for Savings Association Insurance Fund

Subparagraph (F) provides a transition rule for members of the Savings Association Insurance Fund. FIRREA established a system for capitalizing the Savings Association Insurance Fund. The purpose of subparagraph (F) is to bring members of the Savings Association Insurance Fund into the risk-based assessment system while leaving intact the system for capitalizing that fund established by FIRREA. Under subparagraph (F), identical standards for establishing aggregate assessment income will apply to both funds after December 31, 1997.

g. Special rule until the insurance funds achieve the designated reserve ratio

Subparagraph (G) authorizes the FDIC to set a floor on the maximum assessment on insured depository institutions under the risk-based assessment system established by paragraph (1). If the FDIC elects to exercise this authority, the floor shall be not less than 10 basis points above the average assessment on insured depository institutions under that system.

3. Special rule for recapitalizing undercapitalized funds

Paragraph (3) of new section 7(b) of the Federal Deposit Insurance Act reenacts and recodifies with minor amendments the special rule for recapitalizing undercapitalized funds set forth in section 102 of the bill. The differences between the rule as stated in section 102 and as stated in paragraph (3) make the special rule applicable to members of the Savings Association Insurance Fund (the rule stated in section 102 applied only to members of the Bank Insurance Fund) after the transition period set forth in paragraph (2)(F).

4. Semiannual period defined

Paragraph (4) recodifies current section 7(b)(2)(B). Paragraph (4) defines "semiannual period" as a 6-month period from January 1 through June 30, or from July 1 through December 31, of the same calendar year.

5. Records to be maintained

Paragraph (5) recodifies statutory text drawn from current section 7(b)(6), with amendments conforming that text to the risk-based deposit insurance system established under new section 7(b)(1). Paragraph (5) requires each insured depository institution to maintain for at least five years all records the FDIC may require for verifying the correctness of the institution's semiannual assessments. If a dispute exists between the FDIC and the institution over the amount of any assessment, the institution must retain such records until the dispute is conclusively resolved.

6. Special assessment to recover losses on foreign deposits

Paragraph (6) reenacts and recodifies without amendment section 7(b)(1)(C)(viii) of the Federal Deposit Insurance Act, as enacted by section 102 of the bill.

B. Certified statements and payment procedures

Subsection (b) of section 212 amends section 7(c) of the Federal Deposit Insurance Act. Current section 7(c) of the Federal Deposit Insurance Act sets forth procedures according to which insured depository institutions must certify to the FDIC the accuracy of the information upon which their semiannual deposit insurance assessments are based. Subsection (b) makes appropriate amendments to those procedures in light of the transition to a risk-based deposit insurance assessment system.

1. Certified statements required

Paragraph (1)(A) of new section 7(c) requires each insured depository institution to file with the FDIC a certified statement containing such information as the FDIC may require in order to determine the institution's semiannual assessment.

Paragraph (1)(B) of new section 7(c) specifies the form in which the certification required by paragraph (1) must be made. Specifically, clause (i) of paragraph (B) requires that the certification be in such form and set forth such supporting information as the

FDIC's Board of Directors may prescribe. Clause (ii) directs that the president of the depository institution or another officer designated by the institution's board of directors or trustees must certify, to the best of his or her information and belief, that the certification submitted under paragraph (1) is true, correct, complete and in accordance with the Federal Deposit Insurance Act and regulations issued thereunder.

2. Payments required

Paragraph (2) of new section 7(c) requires each insured depository institution to pay to the FDIC the semiannual assessment imposed under new section 7(b). The FDIC's Board of Directors must prescribe by regulation the manner of such payments and the time or times at which institutions must make such payments.

3. Newly insured institutions

Paragraph (3) permits the FDIC to waive the requirements of paragraphs (1) and (2) for the semiannual period in which a depository institution becomes an insured depository institution.

C. Regulations

Section 212(c) authorizes the FDIC to promulgate regulations implementing the risk-based assessment system required under new section 7(b). The FDIC must publish notice of proposed regulations in the Federal Register by December 31, 1992, must provide a comment period of at least 120 days, and must promulgate final regulations by July 1, 1993.

D. General authority for the FDIC to prescribe regulations and definitions

Section 212(d) adds a new section 10(f) to the Federal Deposit Insurance Act. New section 10(f) specifically authorizes the FDIC to prescribe regulations and define terms by regulation as necessary to carry out that Act.

E. Conforming amendments

Section 212(e) makes conforming amendments to various provisions of the Federal Deposit Insurance Act as appropriate in light of amendments to that Act contained in preceding subsections of section 212.

Section 212(e)(1) amends section 5(d)(3)(B) by deleting the term "average assessment base" and substituting in lieu thereof the term "deposits" and deleting clauses (i) and (ii) of subparagraph (B). Section 5(d)(3) sets forth rules for apportioning assessments on institutions resulting from the merger of a BIF-insured institution with a SAIF-insured institution. The amendments to subparagraph (B) delete references to the assessment base and assessment rate made obsolete by the transition to the risk-based system.

Section 212(e)(2) strikes certain language from section 7(a)(5), thus eliminating restrictions on the categories of time and savings deposits to be considered by the FDIC in computing deposit insurance assessments.

Section 212(e)(3) replaces current section 7(d) with a new section 7(d) recodifying current section 7(b)(9). The deleted text, providing for assessment credits to insured depository institutions when deposit insurance fund reserve ratios exceed designated reserve ratios, is obsolete in light of the standards for establishing assessments set forth in new section 7(b)(2)(A)(i). Under section 7(b)(2)(A)(i), funds that, under current section 7(d), would have been rebated to insured depository institutions through assessment credits will now be rebated through reduced assessments.

Section 212(e)(4) amends section 8(q) by changing a reference to "assessments upon" deposits to "assessments with respect to" deposits. The reference to "assessments upon" deposits represents obsolete terminology in light of the change to a risk-based assessment system.

F. Transition to new assessment system

Section 212(f) authorizes the FDIC to promulgate regulations governing the transition from the current assessment system to the risk-based assessment system.

G. Effective date of amendments

Under section 212(g), the amendments made by section 212 become effective on the earlier of January 1, 1994, or the date on which final regulations promulgated by the FDIC under section 212(c) become effective.

SECTION 213. RISK-BASED REINSURANCE

A. Risk-based reinsurance pilot program

Subsection (a) of section 213 creates a pilot program to explore the feasibility of using private reinsurance as a basis for pricing risk-based deposit insurance.

1. Establishment

Paragraph (1) of subsection (a) directs the FDIC to establish a pilot program to assess the viability of using reinsurance to assist the FDIC in setting risk-based assessment rates for deposit insurance.

2. Program description

Paragraph (2) describes the pilot program. Under the pilot program, the FDIC must obtain reinsurance from eligible reinsurers for up to 10 percent of the insured risks posed to the FDIC—i.e., the Bank Insurance Fund—by banks participating in the pilot program.

3. Program participation

Paragraph (3) describes how participants in the pilot program will be chosen. Under paragraph (3), the FDIC must select up to 50 bank holding companies with aggregate assets of at least $1 billion to participate in the pilot program. The FDIC may set additional criteria for participation as it deems appropriate.

4. Eligible reinsurers

Paragraph (4) sets forth eligibility criteria for reinsurers in the pilot program. To be eligible, a reinsurer must meet appropriate criteria prescribed by the FDIC, including capital standards that enure the reinsurer's ability to pay claims if called upon to do so. The reinsurers must offer terms reflecting risk-based pricing. A reinsurer may be an affiliate of a bank holding company or a savings and loan holding company but may not offer reinsurance coverage for an affiliated institution.

5. Reinsurance assessments

Paragraph (5) describes how reinsurance premiums will be paid under the reinsurance pilot program. Under paragraph (5), the FDIC shall be solely responsible for paying reinsurance charges to participating reinsurers from each bank's overall premium assessment.

6. Annual report to Congress

Paragraph (6) requires the FDIC to report annually to Congress on the progress of the pilot program.

7. Corporation's discretion to implement national reinsurance system

Paragraph (7) permits the FDIC's Board of Directors to institute a nationwide reinsurance system upon termination of the pilot program if the FDIC can make four determinations. Each determination must be reported in writing to the Congress. Any national reinsurance system adopted by the FDIC must accord with the requirements of new section 7A of the Federal Deposit Insurance Act (added by section 213(b) of the bill).

Subparagraphs (A) through (D) set forth the four determinations the FDIC must make before establishing a risk-based assessment system based on private reinsurance under section 7A.

Subparagraph (A) requires the FDIC to determine that a reinsurance system would be viable for insured institutions. "Viable," in this context, means that such a system could be successfully implemented without excessive costs to the insured institutions that would participate in the system.

Subparagraph (B) requires the FDIC to determine that assessment rates under a reinsurance system can be at least as effective in measuring the relative risks to the insurance funds—particularly the risks posed by profitable institutions that meet applicable capital standards—posed by the institutions such a system would cover as any risk-based assessment system that could be established under section 7(b) of the Federal Deposit Insurance Act (as amended by section 212 of the bill). In effect, this test requires that the national reinsurance system authorized by section 213(a)(7) be at least equal in quality to the best risk-based system authorized by section 212.

Subparagraph (C) requires the FDIC to determine that it can measure and monitor adequately the financial health of reinsurers. Adequate measurement and monitoring, in this context, is a degree of measurement and monitoring reasonably likely to avoid the imposition of costs on a deposit insurance fund by virtue of the failure of a participating reinsurer to meet its reinsurance obligations or the failure of a participating reinsurer, because of misplaced incentives arising from a precarious financial position, to price its reinsurance accurately, with resultant mispricing by and heightened risk to the deposit insurance fund.

Finally, subparagraph (D) requires the FDIC to determine that implementation of a national reinsurance system is in the public interest. In contrast to the first determination, which focuses on the effect of such a system on the well-being of participating insured depository institutions, this determination focuses on how such a system would affect the safety and soundness of the deposit insurance system, the contingent liabilities of America's taxpayers, and the vitality of the national economy.

8. Implementation date; duration

Paragraph (8) requires the FDIC to implement the pilot program *not later than* the effective date of the risk-based assessment system established under section 7(b) of the Federal Deposit Insurance Act (as amended by section 212 of the bill). The pilot program must terminate 3 years after that date.

B. Risk-based reinsurance of large institutions

1. In general

Section 213(b)(1) adds a new section 7A to the Federal Deposit Insurance Act. New section 7A establishes statutory requirements for any national reinsurance system adopted by the FDIC under section 213(a)(7).

a. Purpose

Section 7A(a) describes the purpose of new section 7A. That purpose is to establish a risk-based deposit insurance assessment system in which private reinsurance of a portion of the risk to the deposit insurance fund, not exceeding 10 percent, is used to price deposit insurance for large banks and savings associations.

b. Covered institutions

Subsection (b) defines "covered institution" as institutions to which the reinsur-

ance based system will apply. Specifically, covered institutions are depository institutions with total assets of over $1 billion on December 31, 1991; and depository institutions owned by a bank or savings and loan holding company with assets of over $1 billion on that date.

c. Risk-based assessments

Subsection (c)(2) provides a mechanism for establishing deposit insurance assessment during the transition period to universal reliance on private reinsurance for all covered institutions. During the transition period, each covered institution must pay an assessment equal to the assessment required under section 7(b) (as amended by section 212 of the bill), or an assessment determined by scaling up the premium established by a reinsurance agreement entered into under section 7A(g) and applying that scaled-up rate to the institution's average assessment base. Subsection (c) directs the FDIC to assess whichever of these two premiums, in its judgment, best reflects the risk the covered institution poses to the deposit insurance fund, subject to adjustments authorized by section 7A(d). "Scaling up," as used in subsection (c), means assessing a total deposit insurance premium that stands in the same proportion to the total risk posed by the failure of the institution as the reinsurance premium stands with respect to the percentage of risk reinsured.

Subsection (c)(2) provides a mechanism for setting risk-based assessments after the transition period ends. The transition period will end when the FDIC determines that a sufficient number of covered institutions have obtained reinsurance agreements and that the risk-based premium based on scaling up the assessments charged under a reinsurance agreement, subject to adjustments allowed under section 7A(d), provides risk assessments that differentiate between banks on the basis of risk at least as effectively as is possible under a risk-based system established pursuant to new section 7(b).

Once the FDIC makes these determinations, all covered institutions (except as provided in subsection (e)(1)) must pay deposit insurance assessments determined by scaling up the premium rate established under a reinsurance agreement entered into under subsection (g) and adjusting the rate in accordance with subsection (d). A covered institution that fails to obtain a reinsurance agreement under subsection (g) in a timely manner must pay an assessment determined under subsection (j)(1).

d. Bank Insurance Fund adjustments

Subsection (d) allows the FDIC to adjust the assessment rates of each institution upward or downward as necessary to ensure that the aggregate amount of assessment income to the FDIC suffices to maintain the deposit insurance fund at or above the reserve ratio required by section 7(b)(1)(B), or to restore the deposit insurance fund to the designated reserve ratio within a reasonable period of time.

e. Phase-in schedule and amount of reinsurance

Paragraph (1) of subsection (e) requires the FDIC to establish and publish a timetable to ensure that all qualified institutions have obtained reinsurance by the end of the phase-in period. The timetable must require some eligible institutions to obtain reinsurance within 1 year after the end of the reinsurance pilot program, if the FDIC recommends establishing a reinsurance system, and all qualifying institutions to obtain reinsurance contracts over a 5 to 10 year period, unless the FDIC determines that a different period would be in the public interest. The timetable should allow for the development of a competitive reinsurance market. The FDIC must give each institution at least 1 year's notice before requiring it to obtain reinsurance.

Paragraph (2) requires the FDIC to set a uniform reinsurance level between 3 and 10 percent of each covered institution's insured deposits.

Paragraph (3) specifies that the level of reinsurance coverage set under paragraph (2) must ensure that the assessment rates charged by the reinsurers can be accurately scaled up to reflect the total risk of failure presented by each institution. The level must also ensure there is enough reinsurance capacity available to support a competitive market.

Paragraph (4) requires the FDIC to phase-in reinsurance of the full reinsurance level established under paragraph (2). Reinsurers must provide the level of reinsurance established by the FDIC within 5 years after the phase in period begins. The FDIC must establish interim reinsurance levels during the 5-year transition period. If there has been a substantial change in an institution's circumstances hindering the institution from complying with the phase-in schedule, or if an institution cannot obtain reinsurance due to lack of market availability, the FDIC may permit variations from the phase-in schedules.

f. Eligible reinsurers and reinsurance contracts

Subsection (f) sets forth criteria delimiting eligibility to provide reinsurance under a national reinsurance program. Paragraph (1) defines the term "eligible reinsurer." To be an eligible reinsurer, an insurer must satisfy three criteria. First, the insurer must meet appropriate criteria prescribed by the FDIC for the qualification of reinsurers. These criteria must include capitalization requirements that, in the FDIC's judgment, ensure the reinsurer's ability to pay claims when called upon to do so. Second, the insurer must offer reinsurance terms that reflect a risk-based approach to pricing. Third, the insurer must meet any other criteria determined appropriate by the FDIC for the protection of the insurance funds and the public interest.

Paragraph (2) permits affiliates of bank holding companies or savings association holding companies to be eligible reinsurers. However, an eligible reinsurer may not offer reinsurance to an affiliated bank or savings association.

Paragraph (3) authorizes the FDIC to establish general terms and conditions for reinsurance contracts and requires the FDIC to approve all reinsurance agreements negotiated under subsection (g).

g. Reinsurance agreements

Subsection (g) describes the parameters of the reinsurance agreements to be negotiated between covered institutions and eligible reinsurers. Such agreements must establish both the price of reinsurance for the portion of the insured risk covered by the reinsurer and the reinsurer's rights to review documents maintained by the covered institution in order to assess risk and determine the price. An eligible reinsurer may also negotiate to provide insurance coverage for deposits that are not federally insured at any bank or savings association, even if such a depository institution is not a covered institution within the meaning of section 7A.

h. Reinsurance requirements

Subsection (h)(1) permits the FDIC to suspend the requirement that qualifying institutions obtain reinsurance for periods of 6 months if it finds a substantial shortage of private sector reinsurance capacity or if in the public interest because of a significant period of financial stress. During each six month period, the statutory risk-based assessment system shall apply. The FDIC shall report to the Senate and House Banking Committees each time it issues such a suspension.

Subsection (h)(2) requires that insurance premiums be assessed in accordance with the risk based section established under section 7(b) (as amended by section 212 of the bill), if the FDIC finds that the premium based on a reinsurance agreement is significantly less than would be charged under the section 7(b) system and the FDIC believes the premium based on the reinsurance agreement does not accurately reflect the insured risks of the institution. If the FDIC makes a subsequent finding that the original finding and belief no longer obtain, it must restore the premium based on the reinsurance agreement. The FDIC must give the institution and its reinsurer an opportunity to comment at least 30 days before changing the assessment from the premium based on the reinsurance agreement.

i. Premiums

Subsection (i) sets forth the mechanism for payment of reinsurance premiums under section 7A. Under subsection (i), covered institutions will pay all insurance premiums directly to the FDIC. The FDIC will then forward the reinsurance premium to the reinsurer. Subsection (i) requires the FDIC to establish a schedule for payments to reinsurers of premiums negotiated between reinsurers and covered institutions. The schedule must require covered institutions to promptly pay the FDIC, and the FDIC to promptly pay the reinsurers, any premium increase that occur during the term of the reinsurance agreement.

j. Failure to obtain reinsurance

Subsection (j) sets forth the consequences for a covered institution's failure to obtain reinsurance otherwise required by section 7A.

Under subsection (j)(1), if an institution fails to obtain or renew reinsurance coverage, the FDIC must assess the institution either (1) a premium 8 basis points higher than the institution would be required to pay under the risk-based system established pursuant to new section 7(b); or (2) a premium based on the highest rate assessed any reinsured institution with the same CAMEL rating, adjusted for the size of the noncomplying institution. Subsection (j)(1) requires the FDIC to choose whichever of the two alternative premiums results in the highest assessment for the noncomplying institution.

Paragraph (j)(2) requires the FDIC to conduct an immediate full-scope examination of any covered institution failing to obtain reinsurance in accordance with the requirements of section 7A and make any appropriate adjustments of the institution's CAMEL rating.

Paragraph (3) of subsection (j) forbids the FDIC to provide deposit insurance to any institution unable to obtain reinsurance for more than 2 consecutive years.

k. Effective date

Subsection (k) makes section 7A effective on the date the FDIC reports to Congress that it is prepared to begin implementing a national reinsurance system.

2. Amendments to the Bank Holding Company Act

Section 213(b)(2) amends section 4(c) of the Bank Holding Company Act by inserting a new paragraph (9) and appropriately redesignating succeeding paragraphs of current section 4(c). The new paragraph (9) adds to the list of activities permitted for bank holding companies under section 4(c) the ownership of shares of any company whose activities are limited solely to providing reinsurance in accordance with the requirements of section 7A of the Federal Deposit Insurance Act.

SECTION 214. REAL ESTATE LENDING STANDARDS

1. Uniform regulations required

Section 214 adds a new section 18(u) to the Federal Deposit Insurance Act, requiring the Federal banking agencies to adopt uniform regulations for real-estate lending. The objective is to restrain imprudent lending and make regulatory standards more clear and certain.

The Federal banking agencies' regulations must prescribe standards for extensions of credit (1) secured by liens on interests in real estate, or (2) made to finance the construction of a building or other improvements to real estate. In prescribing those standards, the agencies must consider the risk such extensions of credit pose to the deposit insurance fund, the need for safe and sound operation of insured depository institutions, and the availability of credit. The agencies may differentiate among types of loans as required by Federal statute and as may be warranted based on the condition of the institution making the loan and the risk such loans pose to the deposit insurance fund. The agencies must adopt uniform regulations within 9 months after the bill becomes law, and those regulations will become effective within 15 months after the bill becomes law. The regulations will continue in effect except to the extent that the agencies, acting in concert, adopt uniform amendments.

2. Back-up statutory loan-to-value restrictions

If the Federal banking agencies failed to adopt uniform regulations within 9 months after the bill becomes law, statutory loan-to-value restrictions would become effective 15 months after the bill becomes law. These restrictions would prohibit an insured depository institution from extending credit secured by real property if the extension of credit would exceed the specified percentage of the property's appraised value: 95 percent, if the extension of credit is to finance the purchase of, or refinance outstanding indebtedness on, property improved by a completed one- to four-family dwelling; 80 percent, if the property is improved by at least one completed structures, but the structure or the extension of credit fail to qualify under the 95-percent rule; 70 percent, if the property is improved but has no completed structure; and 65 percent, if the property is undeveloped (unless the extension of credit is to an active farming operation and secured by agricultural land). The agencies should prescribe regulations to clarify, and prevent evasions of, these restrictions.

The restrictions do not apply to any extension of credit on which the principal and interest are insured or guaranteed by a Federal agency, a federally related entity, or a State or local housing finance agency.

A Federal banking agency may loosen a restriction that is unreasonable and limits safe and sound extensions of credit, and tighten a restriction that does not sufficiently curtail unsafe or unsound practices.

3. Conforming amendment to the Federal Reserve Act

Section 24(a) of the Federal Reserve Act allows national banks to extend credit secured by real estate subject to such restrictions and requirements as the Comptroller of the Currency may prescribe. 12 U.S.C. §371(a). Section 214(b) amends section 24(a) to require that such extensions of credit also comply with new section 18(u) of the Federal Deposit Insurance Act.

SECTION 215. RESTRICTING RISKY BANK ACTIVITIES

Section 215(a) adds a new section 24 to the Federal Deposit Insurance Act, relating to the activities of FDIC-insured banks. Section 24 has four key provisions: (1) authority for the FDIC to restrict any activity of any insured bank that poses a significant risk of loss to the deposit insurance fund; (2) a general rule limiting State-authorized activities that are not permissible for a national bank; (3) a prohibition on making equity investments not permissible for a national bank; and (4) a prohibition on investing in corporate debt securities not of investment grade.

A. FDIC's authority to restrict Risky activities of any bank

Subsection (a) of new section 24 authorizes the FDIC (1) to restrict any activity of an insured bank that poses a significant risk of loss to the deposit insurance fund; (2) require that activities not prohibited under section 24 be conducted through a subsidiary, including a separately capitalized subsidiary; and (3) impose such other restrictions and requirements as the FDIC determines to be necessary to prevent a significant risk of loss to the deposit insurance fund. "Significant risk" relates not to the relative or absolute size of potential losses to the insurance fund if the institution engages in an activity, but to the likelihood that permitting the institution to conduct the activity may result in any loss to the fund. The FDIC's authority to "restrict" an activity includes authority to prohibit the activity. Subsection (a) applies to any insured bank, whether national or State.

B. General safeguards on State-authorized powers exceeding the powers of a national bank

1. In general

Effective two years after the bill becomes law, subsection (b)(1) generally prohibits an insured State bank from engaging, directly or indirectly, as principal in any activity not permissible for a national bank unless a two-part test is satisfied. First, the State bank must be adequately capitalized, as defined in new section 37 of the Federal Deposit Insurance Act (added by section 205). Second, the FDIC must have determined, by regulation or order, that engaging in the activity (1) would pose no significant risk of loss to the deposit insurance fund; and (2) would be consistent with the purposes of the Federal Deposit Insurance Act. Subsection (b)(1) applies to any activity in which a bank acts as principal—i.e., not as its customer's agent.

2. Exception for well-capitalized banks

Subsection (b)(2) exempts from subsection (b)(1) a State bank that is well-capitalized as defined in new section 37 of the Federal Deposit Insurance Act (added by section 205 of the bill)—i.e., has capital significantly exceeding the required minimum level for each relevant capital measure. Such a bank may—insofar as new section 24(b) is concerned—engage as principal in an activity not permissible for a national bank if the bank has filed a notice with the FDIC describing the activity, and the FDIC has not disapproved the activity within 90 days. The standard for disapproval is that engaging in the activity would (1) pose a significant risk of loss to the deposit insurance fund, or would be inconsistent with the purposes of the Federal Deposit Insurance Act. Failure to disapprove a notice does not constitute a determination that the activity in question poses no significant risk or is consistent with the purposes of the Act, nor does it preclude the FDIC from later prohibiting or restricting the activity under subsection (a).

3. Exception for subsidiaries

Subsection (b)(3) states a rule for subsidiaries of State banks parallel to the general rule under subsection (b)(1). Thus such a subsidiary may engage in an activity not permissible for a national bank if its parent bank is adequately capitalized, and the FDIC has determined that engaging in the activity in a bank or subsidiary would pose no significant risk of loss to the deposit insurance fund and would be consistent with the purposes of the Federal Deposit Insurance Act.

C. Equity investments by State banks

1. In general

Effective two years after the bill becomes law, subsection (c)(1) prohibits an insured State bank from directly or indirectly acquiring or retaining any equity investment of a type or in an amount not permissible for a national bank.

2. Exceptions

Subsection (c)(2) makes exceptions to the categorical prohibition of subsection (c)(1) for community development investments by subsidiaries, investments through separately capitalized subsidiaries, and certain investments related to risk-retention and savings bank life insurance. These activities must still comply with other applicable law, including subsection (b).

a. Community development investments by subsidiaries

Subparagraph (A) of subsection (c)(2) applies to shares of a subsidiary engaged primarily in the promotion of community welfare (such as the economic rehabilitation and development of low-income areas by providing housing, services, or jobs for residents). This exception is drawn from section 225.25(b)(6) of the Federal Reserve Board's regulation Y. 12 C.F.R. §225.25(b)(6).

b. Investments through separately capitalized subsidiaries

Subparagraph (B) applies to equity investments through a separately capitalized subsidiary—i.e., where the parent bank has deducted from its capital all of its investments in and extensions of credit to the subsidiary. The bank must be adequately capitalized after the capital deduction to satisfy subsection (b)(1)(A)—the general rule requiring a State bank to be adequately capitalized before engaging as principal in activities not permissible for a national bank.

c. Risk retention

Subparagraph (C) applies to ownership of up to 10 percent of a corporation that engages only in providing directors', trustees', and officers' liability insurance coverage, or bankers' blanket bond group insurance coverage for insured depository institutions, or reinsuring such policies.

d. Savings bank life insurance

Subparagraph (D) applies to shares of a savings bank life insurance company, if the State bank is chartered in Connecticut, Massachusetts, or New York.

3. Transition rule

Under subsection (c)(3), equity investments impermissible under subsection (c) must be divested as quickly as can be prudently done, and in any event by August 1, 1996.

D. Corporate debt securities not of investment grade

Subsection (d) prohibits an insured bank from directly or indirectly acquiring any corporate debt security not of investment grade, as defined in section 28(d)(4) of the Federal Deposit Insurance Act (which governs such investments by insured savings associations). Any bank retaining such a security shall account for it as if it were held for sale, which under generally accepted accounting principles means that the bank must carry the security on its books at the lower of cost or current market value.

E. Other authority not affected

New section 24 does not limit any authority of a Federal banking agency or a State to impose more stringent restrictions.

F. Effective date

Section 215(b) makes new section 24 of the Federal Deposit Insurance Act effective when the bill becomes law—except for subsections (b) and (c), which will become effective 2 years thereafter.

G. Transition rule for investments in corporate equity securities

1. In general

Section 215(c) provides for gradually phasing out investments in corporate equity securities and securities indexes from the portfolios of insured State banks and their subsidiaries.

During the two years between the date the bill becomes law and the effective date of new section 24(c), a bank or subsidiary may acquire or retain corporate equity securities to the extent permitted by State law on May 14, 1991. During each of the three years following that effective date, each bank and subsidiary must reduce by at least one-third the otherwise-impermissible corporate equity securities that it held on that effective date. The cost of securities may be used (instead of current market value) in calculating compliance with the one-third requirement.

Section 215(c) also permits a State bank to acquire or retain investments in publicly traded indexes of corporate equity securities to the extent permitted by State law on May 14, 1991, during the seven years after the bill becomes law.

2. Study and report required

Section 215(c) requires the Comptroller General to study and report on investments in corporate equity securities by insured State banks and their subsidiaries, including the extent to which such banks and subsidiaries have invested in those securities, the risks and returns on such investments, their contribution to profitability, the extent to which States limit the types and amounts of such investments, and whether such investments are consistent with the purposes of Federal deposit insurance.

SECTION 216. SAFEGUARDS AGAINST INSIDER ABUSE

Section 22(h) of the Federal Reserve Act restricts insider lending by banks that are members of the Federal Reserve System—i.e., national banks and State member banks. 12 U.S.C. §375b. Through section 11(b)(1) of the Home Owners' Loan Act and section 18(j)(2) of the Federal Deposit Insurance Act, section 22(h) applies to all other FDIC-insured depository institutions. 12 U.S.C. §§ 1468(b)(1) (savings associations), 1828(j)(2) (State nonmember banks).

Under section 22(h), a member bank may extend credit to one of its executive officers, directors, or principal shareholders—or to any related interest of such a person (e.g., a company controlled by that person)—only if the extension of credit (1) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with outsiders; and (2) does not involve more than the normal risk of repayment or have other unfavorable features. Extensions of credit require the prior approval of the bank's board of directors if they would exceed a threshold set by the appropriate Federal banking agency (e.g, a specified dollar amount or percentage of the bank's capital).

A bank's extensions of credit to an executive officer or principal shareholder and such a person's related interests cannot exceed the limit on loans by a national bank to a single borrower—generally 15 percent of the bank's capital. 12 U.S.C. §84(a)(1). Nor can the bank pay an overdraft of an executive officer or director except through a written, preauthorized funds transfer or line of credit.

Section 216 of the bill recodifies and strengthens section 22(h), as well as strengthening related statutes.

A. Recodification of current law restricting extensions of credit to insiders

Section 216(a) recodifies current section 22(h) in the interest of clarity, drawing on the current statutory language and the Federal Reserve Board's regulation O. 12 C.F.R. pt. 215.

In the recodification, "[Reserved]" is a placeholder for new material to be added by subsequent subsections of section 216.

B. Requiring depository institutions to follow normal credit underwriting procedures when extending credit to insiders

Section 216(b) allows member banks to extend credit to an executive officer, director, or principal shareholder (or a related interest of such a person), only if the bank has followed credit underwriting procedures at least as stringent as those applicable to comparable transactions by the bank with outsiders.

C. Applying to directors the limit on loans to one borrower

Section 22(h) currently applies the national-bank limit on loans to one borrower to executive officers and principal shareholders, but not to directors. Section 216(c) extends the limit to directors.

D. Limiting depository institution's aggregate extensions of credit to insiders

Section 22(h) does not currently limit a member bank's aggregate extensions of credit to insiders. It limits only the amount of credit the bank may extend to a particular executive officer, director, or principal shareholder (and such a person's related interests).

Section 216(d) generally prohibits a member bank's aggregate extensions of credit to all executive officers, directors, and principal shareholders (and their related interests) from exceeding the bank's capital. The Federal Reserve Board may prescribe a more stringent limit. The Board may also make exceptions for banks with less than $100 million in deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks—but in no case can a bank's aggregate extensions of credit to all such insiders be more than twice the bank's capital.

E. Prohibiting insiders from accepting unauthorized extensions of credit

Section 22(h) prohibits a member bank from making an unauthorized extension of credit to an insider, but does not currently prohibit the insider from receiving such an extension of credit. Section 216(e) prohibits an executive officer, director, or principal shareholder of a bank from knowingly receiving from the bank (or knowingly permitting any of that person's related interests to receive) any extension of credit not authorized under section 22(h).

F. Applying uniform rules to all companies controlling depository institutions

If a member bank is a subsidiary of a bank holding company, section 22(h) currently treats any executive officer, director, or principal shareholder of the parent bank holding company—or any other subsidiary of that bank holding company—as an executive officer, director, or principal shareholder (as the case may be) of the member bank. Section 216(f) extends this rule to any company having control of the member bank, even if that company is not a "bank holding company" for purposes of the Bank Holding Company Act.

G. Applying safeguards to insider transactions with depository institution's subsidiaries

Section 216(g) applies section 22(h) to subsidiaries of member banks—thus preventing banks from using their subsidiaries as conduits for extensions of credit prohibited under section 22(h).

H. Applying uniform rules to all principal shareholders

Section 22(h) generally defines as a principal shareholder any person who owns, controls, or has the power to vote more than 10 percent of any class of the member bank's voting securities, but makes the threshold 18 percent (rather than 10 percent) if the bank is "located in" a city, town, or village with a population of less than 30,000. Section 216(h) eliminates that exception, and thus establishes a uniform 10-percent rule.

I. Limiting savings associations' extensions of credit to executive officers

Section 22(g) of the Federal Reserve Act requires the appropriate Federal banking agencies to limit member banks' extensions of credit to their executive officers—and the agencies have imposed limits considerably lower than the national-bank limit on loans to one borrower applicable under section 22(h). 12 U.S.C. §375a; 12 C.F.R. §§31.2, 215.5. Section 22(g) does not currently apply to savings associations or State nonmember banks. Section 216(i) applies section 22(g) to insured savings associations (and section 216(k) applies it to insured State nonmember banks).

J. Preventing savings associations from making preferential extensions of credit through correspondent institutions

Section 106(b)(2)(A) of the Bank Holding Company Act Amendments of 1970 prohibits banks from extending credit on preferential terms to an executive officer, director, or principal shareholder of a correspondent bank. 12 U.S.C. §1972(2)(A). Section 216(j) applies this prohibition to savings associations by broadening the definition of "bank" in section 106(b)(2)(H)(i) to include a savings association. Thus neither a bank nor a savings association may make preferential extensions of credit to an executive officer, director, or principal shareholder of a correspondent bank or savings association.

K. Limiting State nonmember bank's extensions of credit to executive officers; clarifying the prohibition on preferential extensions of credit to insiders

Section 18(j) of the Federal Deposit Insurance Act currently applies sections 22(h), 23A, and 23B of the Federal Reserve Act to insured State nonmember banks, but not section 22(g) (discussed above in connection with section 216(i)). Section 216(k) applies section 22(g) to insured State nonmember banks. It also rephrases section 18(j) to clarify it and eliminate several drafting problems in the current provision. Section 18(j) currently contains a sketchy paraphrase of section 22(h) that does not mention the prohibition on preferential lending to insiders. The evident intent of Congress was nonetheless to make section 22(h) fully applicable, and the FDIC has so construed section 18(j). See 47 Fed. Reg. 47,002 (1982). Section 216(k) avoids the problem by eliminating the paraphrase (and with it much needless verbiage) and simply incorporating section 22(h) by reference.

L. Effective date

Section 216(l) makes section 216's amendments effective on the earlier of (1) 150 days after the bill becomes law, or (2) the date on which the Federal Reserve Board's final regulations under section 216(m) become effective.

M. Regulations

Section 216(m) generally requires the Federal Reserve Board to promulgate final regulations within 120 days after the bill becomes law to implement the amendments made by section 216. But in the case of subsections (i) and (k), the implementing regulations must be promulgated by the Director of the Office of Thrift Supervision and the FDIC.

N. Existing transactions not affected

Section 216(n) specifies that the amendments made by section 216 do not affect the validity of any extension of credit or other transaction lawfully entered into before those amendments became effective.

SECTION 217. PROTECTING DEPOSITORY INSTITUTIONS FROM ABUSIVE TRANSACTIONS WITH AFFILIATES

A. Background

Section 23A of the Federal Reserve Act restricts transactions between a member bank and its affiliates. 12 U.S.C. §371c. Although section 23A refers only to "member banks," it applies to all FDIC-insured depository institutions. Id. §§ 1468(a)(1) (savings associations), 1828(j)(1) (State nonmember banks).

Section 23A permits a member bank and its subsidiaries to engage in a "covered transaction" with an affiliate only if (1) the aggregate amount of covered transactions with that affiliate will not exceed 10 percent of the bank's capital, and (2) the aggregate amount of covered transactions with all affiliates will not exceed 20 percent of the bank's capital. 12 U.S.C. §371c(a)(1). A bank or subsidiary engages in a "covered transaction" with an affiliate by extending credit to the affiliate, purchasing assets from the affiliate, purchasing or investing in securities issued by the affiliate, accepting such securities as collateral for an extension of credit, or issuing a guarantee, acceptance, or letter of credit on behalf of the affiliate. Id. §371c(b)(7).

Section 23A generally prohibits a member bank from purchasing a low-quality asset from an affiliate, and requires a member bank's transactions with affiliates to be consistent with safe and sound banking practices. 12 U.S.C. §371c(a)(3)-(4).

Section 217 of the bill amends section 23A to require prior notice of large covered transactions, broaden the definitions of "affiliate" and "covered transaction," strengthen the requirement that covered transactions be fully secured, and narrow certain exemptions.

B. Prior notice of major transactions with affiliates

Section 217(a)(2) requires a bank holding company to give five days notice to the Federal Reserve Board and the appropriate Federal banking agency before allowing a subsidiary insured depository institution to engage in any covered transaction exceeding 5 percent of the institution's capital.

C. Broadening definition of affiliate

Section 23A currently defines a member bank's "affiliates" as including any company that controls or is under common control with the bank; any bank controlled by the bank; any company sponsored and advised by the bank or any of its affiliates; any investment company for which the bank or any of its affiliates is investment adviser. Excluded from section 23A's definition of "affiliate" are, *inter alia*, any nonbank subsidiary of the bank (although the Federal Reserve Board has discretion to reclassify such a subsidiary as an affiliate), and any company engaged solely in holding the bank's premises, conducting a safe-deposit business, or holding U.S. Government and agency securities. 12 U.S.C. §371c(b)(1)-(2).

1. Investment adviser or commodity trading adviser

Section 217(a)(3) broadens the definition of "affiliate" to include a commodity pool for which the member bank or any affiliate acts as commodity trading adviser, and any company engaged in substantially the same activities as an investment company or commodity pool for which the bank or any affiliate performs activities substantially similar to those of an investment adviser or commodity trading adviser.

2. Subsidiary

Section 217(a)(4) narrows the exclusion of a bank's subsidiaries from the definition of "affiliate"—allowing a subsidiary to qualify for the exclusion only if the bank owns at least 80 percent of the subsidiary's voting stock.

D. Broadening definition of covered transaction

Section 217(a)(6) broadens the definition of a member bank's "covered transactions" to include three new classes of transactions: (1) assuming any liability of an affiliate, whether directly or by letting the affiliate be transferred to the member bank; (2) enhancing the marketability of securities underwritten by an affiliate, as described below; and (3) entering into any other financial arrangement that the Federal Reserve Board, by regulation, determines to be equivalent to any transaction specifically listed in the definition of "covered transaction."

The second new class of transactions involves enhancing the marketability of securities underwritten by an affiliate (e.g., by extending credit or issuing a guarantee or other facility to the issuer), except to the extent permitted under new section 10(f)(2)(C) of the Bank Holding Act (added by section 715 of the bill). Section 10(f)(2)(C) gives the Federal Reserve Board discretion, within narrow limits, to permit such credit-enhancement of securities underwritten by a securities affiliate. But to the extent that section 10(f)(2)(C) does not permit such transactions (e.g., because they exceed maximum amount permissible or involve securities underwritten by a non-securities affiliate), the transactions are covered transactions.

E. Strengthening collateral requirement for covered transactions

Section 23A currently requires that a member bank's extensions of credit to an affiliate be fully secured "at the time of the transaction" by acceptable collateral, and specifies that securities issued by an affiliate are not acceptable collateral. 12 U.S.C. §371c(c) (1), (4). Section 217(a)(7) deletes "at the time of the transaction" to clarify that extensions of credit must be fully secured by adequate collateral at all times. Section 217(a)(8) provides that securities issued by the member bank are not acceptable collateral.

F. Narrowing definition of trust company

Section 23A currently defines "bank" to include a trust company. 12 U.S.C. §371c(b)(5). This definition can, under certain circumstances, exempt a member bank's transactions with an affiliated trust company from section 23A's percentage-of-capital restrictions, collateral requirement, and prohibition against purchasing low-quality assets. See id. §371c(d)(1). To reduce the potential for abuse of that exemption, section 217(a)(5) allows only a trust company principally engaged in deposit-taking or lending to qualify as a "bank."

G. Narrowing exemption for purchasing affiliated companies' securities

Section 23A's percentage-of-capital restrictions, collateral requirements, and low-quality asset prohibition do not currently apply to purchasing securities issued by a company solely engaged in holding or operating property for a bank, conducting a safe deposit business, performing services for a bank or bank holding company, or liquidating assets acquired from a bank or bank holding company. 12 U.S.C. §371c(d)(5); see id. §1843(c)(1). Section 217(a)(9) specifies that the company in question must provide such services only to affiliated member banks.

H. Section 23B of the Federal Reserve Act

Section 23B(b)(1)(B) of the Federal Reserve Act prohibits a member bank or any subsidiary from knowingly purchasing or otherwise acquiring any security during the existence of any underwriting or selling syndicate of which any affiliate of the bank is a member, and section 715(e) of the bill makes the prohibition apply for 30 days after the syndicate ends. Section 23B(b)(2) makes an exception to section 23B(b)(1)(B) "if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof." Section 217(b) of the bill amends section 23B(b)(1)(B) to clarify that the directors in question cannot be officers, directors, or employees of the affiliate.

SECTION 218. INTERBANK LIABILITIES

Section 218 adds a new section 23 to the Federal Reserve Act, aimed at reducing the systemic risks posed by the failure or near-failure of a large depository institution.

A. Purpose

Subsection (a) of new section 23 states the purpose of the section: to limit the risks that the failure of a large depository institution, whether or not FDIC-insured, would pose to FDIC-insured depository institutions.

B. Aggregate limits on insured depository institutions' exposure to other depository institutions

Subsection (b) requires the Federal Reserve Board to prescribe standards (by regu-

lation or order) that have the effect of limiting the risks posed by an insured depository institution's "exposure" to any other depository institution.

The concern is with exposure to any depository institution—whether or not the institution is FDIC-insured—including any "depository institution" as defined in section 19(b)(1) of the Federal Reserve Act, any Edge or agreement corporation, and any foreign bank.

C. Exposure defined

Subsection (c)(1) broadly defines an insured depository institution's "exposure" to another depository institution as (1) all extensions of credit to the other depository institution, regardless of name or description, including (a) all deposits at the other depository institution, (b) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase, and (c) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution; (2) all purchases of or investments in securities issued by the other depository institution; (3) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and (4) all similar transactions that the Board by regulation determines to be "exposure" for purposes of section 23.

Subsection (c)(2) permits the Board to exempt transactions from the definition of "exposure" if it finds the exemptions to be in the public interest and consistent with the purpose of section 23. Exemptions may be by regulation or order.

Subsection (c)(3) provides an anti-evasion rule parallel to that in sections 23A(a)(2) and 23B(a)(3) of the Federal Reserve Act: a transaction is considered to be with another depository institution (and thus possible "exposure" to that institution) to the extent that the proceeds are used for the benefit of, or transferred to, that other depository institution. See 12 U.S.C. §§371c(a)(2), 371c-1(a)(3).

D. Rulemaking authority; enforcement

Subsection (e) authorizes the Board to issue such regulations and orders as may be necessary to administer and carry out the purpose of section 23. The appropriate Federal banking agency will enforce compliance with the Board's regulations.

E. Effective date; transition rules

Under section 218(c), new section 23A becomes effective one year after the bill becomes law.

Section 218(b) requires the Board to prescribe reasonable transition rules to facilitate compliance with new section 23—so as to provide a smooth, orderly transition to full compliance.

SECTION 219. REDUCING RISK TO PAYMENT SYSTEM

Section 219 is intended to ensure the enforceability of netting contracts. Such a contract provides for comparing a party's right to receive payments from another party with its obligation to make payments to that party, with each party then being required to pay or entitled to receive (as the case may be) only the difference between the two:

"Thus, in a bilateral netting contract—i.e., a netting contract involving only two parties—one party makes a single, net payment to the other party. In a multilateral netting contract—i.e., a netting contract involving a number of parties—each party in a net debtor position makes a single payment and each party in a net creditor position receives a single payment."

Testimony by Oliver Ireland, Associate General Counsel, Board of Governors of the Federal Reserve System, Before the Committee on Agriculture, United States House of Representatives, Sept. 11, 1991.

Netting reduces the systemic risk posed by the failure of a large financial institution. By treating the underlying transactions as final—and leaving only the net payment outstanding—netting sharply curtails uncertainty about transactions with a failed institution. Without netting, the institution's receiver or bankruptcy trustee might seek to unwind transactions involving billions of dollars: reversing any payments by the institution but treating payments to the institution as final. Such unwinding could severely disrupt the payment system and endanger the other parties to those transactions. These risks have been an argument for treating some institutions as too big to fail.

Netting reduces systemic risk not only by lessening uncertainty but by minimizing other parties' exposure to the failed institution:

"Because individual net payments are far smaller than the gross value of the payment obligations to be settled among the parties, the effect of the failure of one of the parties in a net debtor position to settle its payment obligation is far smaller than the effect of unwinding all of the underlying transactions. Further, the amount of any failed net payment can often be covered by margin or other collateral requirements, or by coinsurance or other arrangements to insure that underlying transactions are settled with the minimum of systemic risk to the financial markets."

Id.

Accordingly, section 219 upholds bilateral netting between financial institutions and multilateral netting among members of a clearing organization, and bars judicial or other interference with netting contracts.

A. Findings and purpose

Section 219(a) recognizes that netting is efficient, reduces systemic risk, and must be legally binding even if a participating institution fails.

B. Bilateral netting

Section 219(b) provides for netting the covered contractual payment obligations and covered contractual payment entitlements of any two financial institutions under any applicable netting contract. A financial institution's only obligation to make payment to another institution with respect to covered contractual payment obligations arising under a single netting contract is the institution's net obligation under that contract to the other institution. No obligation to pay exists if there is no net obligation. Similarly, a financial institution's only right to receive payment from another institution with respect to covered contractual payment entitlements arising under a single netting contract is the institution's net entitlement under that contract from the other institution. No right to receive payment exists if there is no net entitlement. Any net entitlement of a failed financial institution shall be paid to the institution under the applicable netting contract.

C. Clearing organization netting

If a clearing organization has an applicable netting contract, subsection (c) provides for netting, under the contract, a member's covered contractual payment obligations to all other members with the member's covered contractual payment entitlements from all other members. A member's only obligation to make payment to another member with respect to covered contractual payment obligations arising under a single netting contract is the member's net obligation under that contract. Similarly, a member's only right to receive payments from another member with respect to covered contractual payment entitlements arising under a single netting contract is the member's net entitlement under that contract. Any net entitlement of a failed member shall be paid to the member under the applicable netting contract. A failed member has no recognizable claim against any other member for any amount based on covered contractual payment entitlements other than its net entitlement.

D. Preemption

Section 219(d) prevents any stay, injunction, avoidance, moratorium, similar proceeding or order (judicial, administrative, or other)—or any provision of Federal or State law—from limiting or delaying application of the netting provisions of an otherwise-enforceable netting contract, whether between two institutions under section 219(b) or within a clearing organization under section 219(c).

E. Definitions

Section 219(e) defines various terms used in section 219. "Clearing organization" is a clearinghouse, clearing association, clearing corporation, or similar organization that (1) provides clearing, netting, or settlement services for its members, and (2) is registered as a clearing agency under the Securities Exchange Act, performs clearing functions for a contract market designated under the Commodities Exchange Act, or in which all members are financial institutions or other clearing organizations.

"Covered contractual payment entitlement" means an entitlement of a financial institution or member of a clearing organization to receive a payment from another institution or member subject to a netting contract. "Covered contractual payment obligation" means an obligation of a financial institution or member of a clearing organization to make payment to another institution or member subject to a netting contract.

"Netting contract" means an agreement, including the rules of a clearing organization, between two or more financial institutions or members that provides for netting present or future payment obligations or payment entitlements among the parties. It includes the rules of a clearing organization, but excludes any agreement precluded by Federal banking, securities, or commodities statutes or regulations. For example, the Commodity Exchange Act precludes setting off a futures commission merchant's proprietary obligations against its customer obligations. Federal "commodities laws" include, in addition to the Commodity Exchange Act and the regulations prescribed under that Act, the provisions of the Bankruptcy Code specific to commodity brokers and commodity interests subject to the Commodity Exchange Act. *E.g.*, 11 U.S.C. §763 (deeming a member of a clearing organization to hold its proprietary accounts in a separate capacity from its customer's accounts).

F. Other payment systems not affected

Section 219(f) specifies that section 219 does not affect the enforceability of a netting arrangement of any payment system not subject to section 219.

SECTION 220. LEAST-COST RESOLUTION

Section 20 adds a new section 13(*l*) to the Federal Deposit Insurance Act, permitting the FDIC to draw on a deposit insurance fund's resources (other than for examination, supervision, and administration) only to satisfy the FDIC's obligations to an insured depository institution's depositors at the least-possible long-term cost to the insurance fund. New section 13(*l*) also guides the FDIC in determining least cost; provides a systemic-risk exception; avoids unintended amendment by implication; and requires expedited settlement of uninsured claims.

A. Least-cost resolution required

Paragraph (1) of new section 13(*l*) prohibits the FDIC from directly or indirectly taking certain actions with respect to any insured depository institution except to satisfy the FDIC's obligations to that institution's insured depositors at the least possible long-term cost to the deposit insurance fund. This rule applies to (1) taking any action under certain provisions of the Federal Deposit Insurance Act—section 11(f)(1) (paying insured deposits), (i)(3) (net worth certificates), (m) (new bank), or (n) (bridge bank), or section 13(c) (general assistance authority) or (k) (emergency acquisition); (2) expending any money from a deposit insurance fund, other than to pay for examination, supervision, and administration costs; and (3) assuming or guaranteeing any liability. The rule is thus intended to apply to every means by which the FDIC might use the resources of a deposit insurance fund to protect an insured depository institution's uninsured deposits or nondeposit liabilities.

In referring to "least-possible long-term cost" to the deposit insurance fund, paragraph (1) calls for the FDIC to evaluate the particular transaction, together with its likely future effects. For example, if an unhealthy institution offers the most favorable terms for a failing institution, the FDIC must consider the risk that the prospective acquirer would later fail and cause a loss to the insurance fund. If a failing institution is in a saturated market, the FDIC must consider the effect of consolidating—or failing to consolidate—the institution with another market participant on the likelihood that competing institutions would fail and cause a loss to the insurance fund.

B. Determining least-costly approach

Paragraph (2) establishes several rules relating to determining how to satisfy the FDIC's obligations to an institution's insured depositors at the least possible long-term cost to the deposit insurance fund. The FDIC must evaluate alternatives on a present-value basis, using a realistic discount rate; document that evaluation; and retain the documentation for at least five years. The FDIC can consider how the transaction would affect economic conditions or financial stability only insofar as the effects would result in quantifiable costs to the deposit insurance fund. Requiring a realistic discount rate is intended to avoid manipulation of the result through failure to discount or use of an excessively high or low discount rate. The quantifiable-cost requirement regarding economic conditions and financial stability is intended to prevent unfocused thinking about such issues from distorting the determination of least cost, and force systemic-risk determinations into paragraph (3). The overall objective is the most accurate possible comparison of resolution alternatives.

Paragraph (5) requires the FDIC to disclose the documentation for its cost analysis upon request under the Freedom of Information Act. 5 U.S.C. §552. The FDIC cannot use that Act's exemption for memoranda or letters to withhold any portion of those documents, nor can the FDIC use the exemptions for commercial or financial information or examination reports to withhold information about the institution. But the FDIC need not disclose the name of any customer of the institution (other than an institution-affiliated party), or information from which such a person's identity could reasonably be ascertained.

C. Systemic risk

1. Emergency advances by the Treasury

Paragraph (3)(A) provides a narrow exception to least-cost resolution for those rare instances in which an institution's failure could threaten the entire financial system. The exception requires the concurrence of the Federal Reserve Board and the Secretary of the Treasury, in consultation with the President. The Federal Reserve Board must first make a written recommendation to the Secretary of the Treasury, supported by two-thirds of the Board's members, explaining how (1) the FDIC's compliance with least-cost resolution in the case of a specific, named institution would have serious adverse effects on economic conditions or financial stability, and (2) an advance from the Treasury under paragraph (3)(A) ("emergency advance") would avoid or mitigate those adverse effects. The Secretary must then—in consultation with the President—make a written determination to the same effect: (1) that the FDIC's compliance with least-cost resolution in the case of that institution would have serious adverse effects on economic conditions or financial stability, and (2) that an emergency advance would avoid or mitigate those adverse effects. The Secretary may then advance to the FDIC the amount necessary to avoid or mitigate those adverse effects.

2. Repayment of advances

Paragraph (3)(C) requires the FDIC to repay emergency advances expeditiously from special assessments on the members of the deposit insurance fund of which the institution is a member. The special assessments will apply to each member's average total assets, minus (1) the member's average total tangible equity; (2) the member's average total subordinated debt; and (3) the member's average total foreign deposits. Under paragraph (3)(D), emergency advances bear interest at a rate to be determined by the Secretary of the Treasury.

3. Documentation required; GAO review

Paragraph (3)(E) requires the Secretary of the Treasury to document any determination under paragraph (3)(A); and retain the documentation for review under paragraph (3)(F).

Paragraph (3)(F) requires the Comptroller General of the United States to review and report to Congress on any determination under paragraph (3)(A), including the basis for the determination; the purpose for which the advance was used; and the likely effect of the determination and advance on the incentives and conduct of insured depository institutions and uninsured depositors. The report is intended to facilitate proper oversight and accountability.

4. Notice to Congress

Paragraph (3)(G) requires the Secretary of the Treasury to give prompt written notice of any determination under paragraph (3)(A) to the Senate and House Banking Committees, describing the basis for the determination.

5. Emergency requirement

Under paragraph (3)(H), Congress and the President are deemed to have designated any emergency advance under paragraph (3)(A) as emergency requirements.

D. Rule of construction against amendment by implication

Under paragraph (4), no provision of law may be construed as permitting the FDIC to do anything prohibited by paragraph (1) or (2), unless the provision of law expressly amends section 13(*l*). The policy expressed in paragraphs (1) and (2) is a strong one—intended to limit and channel agency discretion—and should not be undercut by creative interpretation. Paragraph (4) is intended to foreclose any argument that Congress amended paragraphs (1) and (2) by implication—when in fact Congress intended nothing of the sort.

E. Claims settlement procedures

Paragraph (6) requires the FDIC, in consultation with the other Federal banking agencies, to establish procedures for resolving the claims of uninsured depositors and nondepositor creditors against a depository institution for which the FDIC has been appointed receiver. Those procedures are to (1) ensure that insured depositors will have access to all insured funds as expeditiously as possible; (2) give uninsured depositors and nondepositor creditors early access to up to 90 percent of the value of that portion of their claims that the FDIC determines is supported by the institution's assets; (3) maintain the safety and effectiveness of the payment system; and (4) protect the stability of the deposit insurance system.

SECTION 221. EARLY RESOLUTION

Section 221 expresses the sense of the Senate stating that the Federal banking agencies should facilitate early resolution of troubled FDIC-insured institutions under section 13(c) of the Federal Deposit Insurance Act (generally known as "open-bank assistance") whenever feasible if—but only if—early resolution would have the least possible long-term cost to the deposit insurance fund, consistent with section 13(*l*) of the Federal Deposit Insurance Act (as added by section 220). Thus early resolution must fully comply with section 13(*l*), and section 221 is not intended as a guide for interpreting section 13(*l*).

Section 221 contemplates that any resolution transaction observe eight general principles. First, the transaction should be negotiated competitively. In determining how broadly to seek bids, the agencies should weigh the potential benefits of additional bids against the potential costs of delay attendant on obtaining such bids. Second, any insured depository institution created or assisted in the transaction (the "resulting institution") and any institution acquiring the troubled institution should be adequately capitalized. Third, the transaction should involve substantial private investment. Fourth, the transaction should involve consolidating the troubled institution with a healthy insured depository institution to the maximum extent consistent with least-cost resolution. Fifth, preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions. Sixth, the resulting institution's directors and senior management should be qualified to perform their duties, and should not include individuals substantially responsible for the troubled institution's problems. Seventh, the transaction should give the FDIC an opportunity to participate in the success of the resulting insti-

tution (e.g., in any dividends or appreciation). Finally, the transaction should, insofar as practical, be structured so that new investors share risk with the FDIC, and the FDIC (a) does not acquire a significant proportion of the troubled institution's problem assets, (b) succeeds to the interests of the troubled institution's preexisting owners and debtholders in proportion to the assistance it provides, and (c) limits the duration and amount of that assistance.

Two years after the bill becomes law, the FDIC must submit a report to Congress analyzing the effect of early resolution on the insurance funds.

SECTION 222. FEDERAL RESERVE DISCOUNT WINDOW ADVANCES

1. In general

Section 10(b) of the Federal Reserve Act currently authorizes any Federal Reserve bank to make advances to any member bank on its time or demand notes having maturities of not more than four months that are secured to the satisfaction of the Federal Reserve bank. 12 U.S.C. §347b. Section 222 redesignates section 10(b) as section 10B, and amends it to establish a general rule that a Federal Reserve bank may not have advances to an undercapitalized depository institution outstanding for more than 60 days in any 120-day period. If the appropriate Federal banking agency or the Chairman of the Federal Reserve Board certifies in writing to the Federal Reserve bank that the institution is "viable," the limitation will not apply for the subsequent 60-day period—or for additional 60-day periods, as long as the Federal Reserve bank receives a written certificate for each period. An institution is "viable" if the appropriate Federal banking agency or Federal Reserve Board determines that the institution has capital exceeding the critical capital level and is not expected to become critically undercapitalized or be placed in conservatorship or receivership.

If an institution lacks a certificate of viability, a Federal Reserve bank may make advances to it for more than 60 days in any 120-day period only under the rules applicable to critically undercapitalized institutions.

2. Critically undercapitalized institutions

If a Federal Reserve bank has advances outstanding to an institution 5 days after the institution becomes critically undercapitalized, or makes new advances after that 5-day period, the Federal Reserve Board must bear a portion of any loss exceeding the loss that the FDIC would have incurred had it liquidated the institution as of the end of that period. The Board's liability is limited to the lesser of (1) the loss the Federal Reserve would have realized had its new advances been unsecured, and (2) the interest it received on the new advances made after the 5-day period.

The Board must report to Congress within 6 months any liability it incurs for excess costs as a result of advances and the reasons for them. For each institution that caused such liabilities, the report should include the date, amount and duration of each discount window advance during the previous year. The report must include the timing and size of the inflows and outflows of foreign deposits, other uninsured deposits, insured deposits, and non-deposit liabilities.

Under section 222(d), the amendments made by section 222(a) will become effective two years after the bill becomes law.

3. Board's examination authority

Section 222(b) amends section 11 of the Federal Reserve Act to authorize the Federal Reserve Board to examine any depository institution in connection with any advance to or discount of any instrument for the institution or any request for an advance or discount.

SECTION 223. CROSS-GUARANTEE LIABILITY

A. Current law

Under section 5(e) of the Federal Deposit Insurance Act, an FDIC-insured depository institution is liable to the FDIC for any loss the FDIC incurs if a "commonly controlled" FDIC-insured depository institution (for simplicity, the "failed institution") fails or receives emergency FDIC assistance. 12 U.S.C. §1815(e)(1)(A). This liability is commonly known as "cross-guarantee liability." Institutions are "commonly controlled" if they are controlled by the same depository institution holding company, or if one institution controls the other.

Section 223 amends section 5(e) to extend limited cross-guarantee liability to companies having control of a failed institution and subsidiaries of an insured depository institution, preclude cross-guarantee liability from receiving priority in bankruptcy as a capital-maintenance commitment, and reinforce safeguards against evasion.

B. Subsidiaries and controlling companies liable

1. In general

Section 223(a)(2) broadens cross-guarantee liability to include any company controlling an insured depository institution and any subsidiary of an insured depository institution.

2. Limits on liability

Section 223(a)(3) limits the aggregate cross-guarantee liability of all controlling companies to 5 percent of the failed institution's total assets at the time of failure or assistance. (But, as under current law, there is no limit on the liability of a controlling company that is itself an insured depository institution or a subsidiary of such an institution.)

Section 223(a)(3) also specifies that only the following entities are directly or indirectly liable under section 5(e): (1) any company controlling the failed institution; (2) any commonly controlled depository institution; (3) any subsidiary of such an institution.

C. Liability not capital maintenance commitment under Bankruptcy Code

Section 223(a)(3) precludes cross-guarantee liability from being deemed a capital-maintenance commitment for purposes of the Bankruptcy Code.

D. Anti-evasion rule

Section 223(a)(3) also creates a rebuttable presumption that if any company controlling a failed institution transferred assets (directly or indirectly) to an affiliate (other than an insured depository institution) during the year before the failed institution failed or received assistance, the transfer was an attempt to evade cross-guarantee liability, and is invalid. The controlling company may rebut the presumption by showing that the transfer would have satisfied section 23B of the Federal Reserve Act, which sets forth standards for arm's-length dealing. 12 U.S.C. §371c-1.

E. Conforming amendments

Section 223(b) conforms various provisions of section 5(e) with the amendments made by section 223(a).

F. Existing liability not affected

Section 223(c) specifies that section 223 does not affect any liability to the FDIC under section 5(e) as in effect on the day before the bill becomes law.

SECTION 224. GRANTING DEPOSIT INSURANCE

Section 4(b) of the Federal Deposit Insurance Act currently grants deposit insurance automatically to a national bank that is, or to a State or national bank that becomes, a member of the Federal Reserve System—if the bank is engaged in the business of receiving deposits (and, in the case of a national bank, is authorized to conduct the business of banking). 12 U.S.C. §1814(b). The appropriate Federal banking agency certifies to the FDIC that the bank meets the requirements of section 4(b) and that the agency has considered the criteria for receiving deposit insurance enumerated in section 6 of the Federal Deposit Insurance Act: the institution's financial history and condition, capital adequacy, earnings prospects, and management; the risk the institution poses to the deposit insurance fund; the convenience and needs of the community; and whether the institution's powers are consistent with the purposes of the Federal Deposit Insurance Act. Id. §1816.

By contrast, section 5(a) of the Federal Deposit Insurance Act requires a Federal savings association to file an application with the FDIC. The savings association must also obtain a certificate from the Director of the Office of Thrift Supervision, as under section 4(b), but the savings association does not receive deposit insurance if the FDIC's Board of Directors (by a three-fourths vote of members other than the Director) denies the application. In reviewing the certificate and application, the Board of Directors must consider all but the last two factors in section 6. 12 U.S.C. §1815(a)(2), (4)-(7). An interim Federal savings association that will not open for business—but is merely a vehicle for a merger, consolidation, or the like—receives deposit insurance automatically, without applying to the FDIC. Id. §1815(a)(3).

Section 224 of the bill makes the rules for national and State member banks under section 4(b) parallel to those for Federal savings associations under section 5(a). Thus such a bank must file an application with the FDIC, as well as obtain a certificate from the appropriate Federal banking agency. The bank does not receive insurance if the FDIC's Board of Directors denies by a vote of at least three members. The Board of Directors must consider all of the factors in section 6 other than convenience and needs, including whether the bank's powers are consistent with the purposes of the Federal Deposit Insurance Act. An interim national bank that will not open for business receives insurance automatically.

SECTION 225. DISCLOSURE BY INSURED DEPOSITORY INSTITUTIONS AND THE FEDERAL BANKING AGENCIES

Section 225 provides for improved disclosure by FDIC-insured depository institutions and the Federal banking agencies.

A. Reports of financial condition by insured depository institutions

1. Improving call reports

Section 7(a)(3) of the Federal Deposit Insurance Act currently requires each insured depository institution to file a quarterly report of condition with the appropriate Federal banking agency. 12 U.S.C. §1817(a)(3). Reports of condition are commonly known as "call reports." Section 225(a) requires call reports from banks with total assets of more than $1 billion to contain, to the extent feasible, estimates of the aggregate market value of assets and liabilities, the resulting estimated net worth, and the supporting data and assumptions used in preparing those estimates. Those reports must also

contain disaggregated reports of assets, including participation in highly-leveraged transactions, holdings of noninvestment grade securities, commercial and industrial loans by sector, and other assets as specified by the appropriate Federal banking agency. The intent is to provide more detailed and more meaningful information than current call reports.

Concurrently with the quarterly report, each insured institution must submit a report listing any holder of more than 5 percent of the institution's equity securities and the maximum amount of securities held by each such holder during the preceding quarter. The report must also describe any activities of the institution and its subsidiaries not permissible for national banks, with data on the magnitude of each such activity.

Each appropriate Federal banking agency must issue final regulations requiring insured institutions to submit quarterly reports containing the additional information effective for the quarter ended March 31, 1993.

2. Expediting release of call-report data

Section 225(a) is also intended to ensure that the Federal banking agencies process call reports—and make call report data available—promptly. Each agency must make call report data available to the public upon request under the Freedom of Information Act. Call report data should, in any event, be made available within 75 days after the reporting date. ("Reporting date" refers not to the date on which reports are due but to the date as of which institutions must report their condition—e.g., December 31, in the case of a report for the last quarter of the calendar year.) After the 75-day deadline, the agency must respond to requests for call-report information within 5 business days (rather than the usual 10), and extensions are not permissible.

3. Disclosure guidelines

Section 225(b) requires the Federal Financial Institutions Coordination Council, in consultation with the Securities and Exchange Commission, to facilitate the development of disclosure guidelines to carry out the expanded disclosure requirements provided by section 225(a).

B. Reports by Federal banking agencies

Section 225(c) requires each Federal banking agency to submit an annual report to Congress. The report—covering institutions for which the agency is the primary Federal regulator—must (1) estimate the number and aggregate assets of institutions likely to fail during the following two years, the costs to the insurance funds of such failures, and supporting data and estimates; (2) discuss the conduct of activities not permitted for national banks or for bank holding companies; (3) list cease-and-desist orders, supervisory agreements, and capital restoration plans entered into during the year, analyzing the extent of compliance; and (4) provide the number and aggregate assets of insured institutions that are critically undercapitalized, significantly undercapitalized, adequately capitalized, and well-capitalized.

C. Insurance fund reports

Section 17(a)(1) of the Federal Deposit Insurance Act currently requires the FDIC to submit an annual report of its operations and activities, including information about the Bank Insurance Fund, Savings Association Insurance Fund, and FSLIC Resolution Fund. 12 U.S.C. §1827(a)(1).

Section 225(d) requires the FDIC's annual report to include four additional classes of information. First, information pertaining to insured depository institutions that failed during the preceding year (including institutions receiving open-bank assistance), including (1) each institution's name and total assets, and the actual or estimated cost of resolution or assistance; (2) the State in which each failed institution was located, whether the institution was State-chartered or federally chartered, and—in the case of a State bank—whether the institution was a member of the Federal Reserve System; (3) a breakdown of the number and aggregate assets of all failed institutions by region, charter, and Federal Reserve membership, and (4) a description of failed institution's concentrations of liabilities and assets, including a breakdown by charter. Second, the number and aggregate assets of institutions on the problem institution list, by charter and Federal Reserve membership. Third, an estimate of the number and aggregate assets of institutions likely to be included on the problem institution list in the following two years, broken down by charter and Federal Reserve membership, along with supporting data and assumptions. Fourth, the estimated resolution and assistance costs likely to be incurred in the following two years. The report must explain the data and assumptions used in developing required estimates.

D. Review by General Accounting Office and Congressional Budget Office

Section 225(e) adds a new section 39 to the Federal Deposit Insurance Act.

1. Reviewing agencies' estimates

New section 39(a) requires the Comptroller General and the Congressional Budget Office to review (1) the appropriate Federal banking agencies' estimates of the number and aggregate assets of insured depository institutions likely to fail during the next two years, and the likely costs to the deposit insurance funds; and (2) the FDIC's two-year estimates of the number and aggregate assets of institutions likely to be included on the problem institution list, and the costs of resolution or assistance.

2. Confidential access to information

The Agency Audit Act ensures the Comptroller General's access to information held by the Federal banking agencies and penalizes unauthorized disclosure of information by GAO employees.

To facilitate the review required by subsection (a) of new section 39, subsection (b) applies similar rules to the Congressional Budget Office ("CBO"). Each Federal banking agency must, upon request, provide the Director of the CBO with the agency's internal rating system, each institution's rating, and a list of the institutions the agency believes may fail (or otherwise require assistance or resolution) in the foreseeable future.

New section 39(c) protects any such information by applying to the CBO the safeguards against disclosure applicable to GAO employees under section 714 (c) and (d) of title 31, United States Code. Moreover, section 225(e)(2) provides criminal penalties for any CBO employee who discloses such information.

Section 225(e)(3) requires the Comptroller General to review the Federal banking agencies' oversight of insured depository institutions to determine whether the information ascertained through call reports reasonably reflects the condition of such institutions. The Comptroller General must include the results of that review—and any recommendations for improving call reports—in the report on each annual audit of the FDIC. The report must also contain an audit of the agency estimates reviewed under new section 39(a).

E. Thrift call reports

Section 5(v)(2) of the Home Owners' Loan Act generally requires the Director of the Office of Thrift Supervision to make savings associations' call reports available to the public upon request, but gives the Director some discretion to withhold information. 12 U.S.C. §1464(v). Section 225(f) amends section 5(v)(2) to eliminate the Director's discretion to withhold information.

F. Annual audit of FDIC

Section 17(d) of the Federal Deposit Insurance Act currently requires the Comptroller General to audit annually the financial transactions of the FDIC, Bank Insurance Fund, Savings Association Insurance Fund, and FSLIC Resolution Fund. 12 U.S.C. §1827(d). Section 17(e) requires the General Accounting Office to audit the FDIC's financial transactions at least once every three years. Section 17(f) requires the Comptroller General to make a report on each audit to Congress within six and one-half months after the end of the last year covered by such audit. Section 17(g) authorizes Comptroller General (with the FDIC's concurrence) to retain certified public accounting firms for temporary periods or for special purposes.

Section 225(g) amends section 17 by deleting sections 17(d) through 17(f). New section 17(e) requires that an annual audit of the financial transactions of the Bank Insurance Fund, Savings Association Insurance Fund, and FSLIC Resolution Fund be conducted—and reports on such audits issued—in accordance with sections 9105 and 9106 of title 31, United States Code. That audit must include an audit of the FDIC's compliance with any insurance fund recapitalization schedule then in effect. Under new section 17(f), a copy of the audit report must be provided to the House and Senate Banking Committees at the same time it is provided to the FDIC.

G. RTC audit costs

Section 21A(k)(1)(A) of the Federal Home Loan Bank Act generally provides for the Comptroller General to audit the Resolution Trust Corporation's financial statements annually. 12 U.S.C. §1441(k)(1)(A). Section 225(i) amends section 21A(k)(1)(A) to require the RTC to reimburse the Comptroller General for the full cost of any audit conducted. The Comptroller General must deposit any reimbursement received in the Treasury as miscellaneous receipts.

H. Resolution funding corporation audit

Section 21B(i)(2)(C) of the Federal Home Loan Bank Act requires the RTC Oversight Board to make an annual report on the Resolution Funding Corporation's operations, activities, and expenditures, which must include the results of an annual audit by the Comptroller General. 12 U.S.C. §1441b(i)(2)(C). Section 225(j) amends section 21B(i)(2)(C) to permit an independent external auditor to conduct that audit.

SECTION 226. CONSENT TO BE BOUND BY FEDERAL DEPOSIT INSURANCE ACT

Section 226 codifies the well-established rule that insured depository institutions—by becoming or remaining insured under the Federal Deposit Insurance Act—consent to be bound by that Act and other Federal statutes relating to the safety and soundness of insured depository institutions. Section 226 is intended to make explicit that depository institutions cannot accept the benefits of Federal insurance while rejecting the safeguards Congress has enacted to protect the insurance funds.

SECTION 227. DISCLOSURE BY UNINSURED DEPOSITORY INSTITUTIONS

A. In general

Section 227(a) adds a new section 40 to the Federal Deposit Insurance Act, requiring any depository institution whose deposits are not insured by the FDIC or the National Credit Union Share Insurance Fund ("uninsured depository institution") to make certain disclosures to its customers. Such an institution must include in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument a conspicuous notice that the institution is not federally insured and that the Federal Government does not guarantee that the customer will be able to get back any money if the institution fails. The institution must include in all advertising and at each place where it normally receives deposits a conspicuous notice that the institution is not federally insured. The institution may receive a customer's deposits only if the customer has signed an acknowledgment of risk stating that the customer has been warned that the institution is not federally insured, and understands that the Federal Government does not guarantee the customer will get back any of his or her money if the institution fails.

B. Manner and content of disclosure

The FDIC must, by regulation or order, prescribe the manner and content of the required disclosure. The goal is to ensure that an uninsured depository institution's current and prospective customers actually *understand* the risks involved in foregoing Federal deposit insurance. Thus, if many of the institution's customers speak a language other than English and are not proficient in English, the institution must provide disclosure in the other language. The relevant standard is effective comprehension by the members of the institution's actual customer base—not by some hypothetical reasonable person.

C. Exceptions for institutions not receiving retail deposits

The FDIC may, by regulation or order, exempt from the disclosure requirements any institution that does not receive initial deposits of less than $100,000 in the United States from United States citizens or residents other than in connection with transmitting money.

D. Application to unlicensed depository institutions

New section 40 is intended to apply to all uninsured depository institutions, whether licensed or unlicensed. It encompasses any bank, savings association, or credit union. See 12 U.S.C. §§3(c)(1), 461(b)(1)(A)(iv). It also applies to any entity that the FDIC determines is engaged in the business of receiving deposits and could reasonably be mistaken for a depository institution.

E. Enforcement authority

The FDIC may enforce compliance with section 40 under section 8 of the Federal Deposit Insurance Act as if the institution were an insured State nonmember bank.

Section 227(c) gives the National Credit Union Administration concurrent authority to enforce compliance by an uninsured credit union with new section 40 of the Federal Deposit Insurance Act and the FDIC's implementing regulations.

F. Conforming amendment

New section 40 supersedes—and section 227(b) repeals—section 28(h) of the Federal Deposit Insurance Act, which currently requires an uninsured savings association to disclose that the savings association's deposits are not federally insured.

G. Effective date

Under section 227(d), the amendments made by section 227 become effective 120 days after the bill becomes law.

SECTION 228. UNINSURED WHOLESALE BANKS

A. Voluntary termination of insured status by certain institutions

Section 228(a) adds a new section 8A to the Federal Deposit Insurance Act. This new section allows an insured State bank or national bank to terminate voluntarily its insured status if it provides written notice of its intent to the FDIC and its depositors at least 6 months before the effective date of such termination. The notice to the FDIC will be in the form required by the FDIC. The notice to depositors shall be at each depositor's last address and in such manner as the FDIC finds necessary and appropriate.

The option to terminate insured status is not available to insured savings associations, insured foreign branches, or entities excluded from the definition of "bank" under the Bank Holding Company Act of 1956. An institution that voluntarily terminates its insured status may not accept any deposits unless it becomes an uninsured State member bank and will not receive insurance of any of its deposits. The FDIC shall prescribe an exit fee for institutions voluntarily terminating their insured status sufficient to account for their pro rata share of contingent and other liabilities of the insurance fund.

Deposits that were insured on the effective date of the termination of insurance shall continue to be insured, less all subsequent withdrawals, for a period between 6 months and two years in the FDIC's discretion. No additions to those deposits and no new deposits will be insured. No early withdrawal penalties will be charged on insured deposits with a term exceeding the transition period determined by the FDIC.

During this transition period, the institution will continue to pay insurance assessments as if it were an insured institution. It will continue to be subject to the FDIC's authority and the FDIC will have the same powers and rights with respect to it as with respect to an insured institution.

An institution that terminates its insured status will not hold itself out as having insured deposits. It may advertise the temporary insurance of existing deposits if it states with equal prominence that additions to deposits and new deposits are not insured. Any certificate of deposit or other security issued by the institution after the termination of insurance must be accompanied by a conspicuous notice that it is not insured.

B. Bank Holding Company Act amendments

Section 228(b) adds a new section 4(j) to the Bank Holding Company Act. New section 4(j) allows a bank holding company that owns only uninsured State member banks to acquire and retain shares of securities firms, of firms whose activities are closely related to banking under section 4(c)(8), or of firms whose activities are of a financial nature and appropriate for such a bank holding company as determined by the Federal Reserve Board. This exemption is not available to a bank holding company until all the deposits of its subsidiary institution cease to be insured in accordance with the transition period. No such acquisition may be made unless the company has provided the Federal Reserve Board with at least 60 days prior written notice and the Board does not disapprove of the acquisition during that period. The Board may extend the disapproval period by up to 90 additional days in a case involving an activity for which it has not yet made a determination. A bank holding company that owns only uninsured State member banks may also acquire or hold shares of firms described in the other paragraphs of section 4(c). The Federal Reserve Board must approve or review any such acquisition or holding of shares, as applicable.

An uninsured State member bank may not be affiliated with a bank other than an uninsured State member bank or with a savings association. It may not be affiliated with entities excluded from the definition of "bank" under the Bank Holding Company Act. It further may not be affiliated with any institution that accepts initial deposits of $100,000 or less, unless such deposits are accepted on an incidental basis, are not insured, and do not represent more than 5 percent of the institution's total deposits.

C. Exemptions for noninsured banks and their affiliates

The McFadden Act currently governs branching by national banks. 12 U.S.C. §36(h). Section 228(c)(1) excludes banks that have voluntarily terminated their insured status from the provisions of the McFadden Act effective upon termination.

Section 228(c)(2) exempts banks that have voluntarily terminated their insured status from section 32 of the Glass-Steagall Act, which prohibits a member bank and a securities firm from sharing officers, directors or employees. 12 U.S.C. §78.

Section 3(e) of the Bank Holding Company Act currently requires all banks that are holding companies and all subsidiary banks to be insured. Section 228(c)(3) exempts uninsured State member banks that are owned by holding companies that own only uninsured State member banks.

D. Uninsured State member banks

Section 228(d) adds a new section 9B to the Federal Reserve Act. The new section authorizes State banks to apply to the Federal Reserve Board to become uninsured State member banks. No bank may become an uninsured State member bank unless the Board has approved an application under such rules as it may prescribe and the bank has met all the requirements for termination of deposit insurance.

Uninsured State member banks shall be subject to the Federal Reserve Act to the same extent as insured State member banks, except that an uninsured State member bank may terminate its membership only with the prior written approval of the Board on terms and conditions that the Board determines are appropriate. Uninsured State member banks will generally be treated as insured State member banks for the purposes of the prompt corrective action system of section 37 of the Federal Deposit Insurance Act (added by section 205 of the bill). The provisions applicable to well-capitalized institutions will not apply to uninsured State member banks. In place of the provisions regarding receivership of institutions, the Federal Reserve Board is authorized or required, as the case may be, to terminate the institution's Federal Reserve membership. Where required, the Board may place the bank into conservatorship and terminate its membership.

The Board will exercise all powers assigned in section 37 to the appropriate Federal banking agency or the FDIC. The enforcement authority applicable to insured State member banks will apply in the same man-

ner to uninsured State member banks. The International Lending Supervision Act and the Bank Merger Act will also apply to uninsured State member banks in the same manner as to insured State member banks.

No uninsured State bank shall receive initial deposits of $100,000 or less, other than on an incidental basis and where such deposits do not represent more than 5 percent of its total deposits. No deposits held by such a bank will be insured. The Federal Reserve Board shall prescribe regulations so that each depositor is notified that deposits at such a bank are not insured.

The Federal Reserve Board will adopt capital requirements for uninsured State member banks. The capital levels will be sufficiently higher than for insured State member banks to account for their uninsured status and to provide for the safe and sound operation of the institution without undue risk to persons engaging in transactions with that institution. The relevant capital measures described in new section 37 of the Federal Deposit Insurance Act will be the relevant capital measures for uninsured State member banks, except that the Federal Reserve Board may specify different relevant capital measures as it deems appropriate. The minimum ratio of tangible equity to total assets shall not be less than 150 percent of the corresponding ratio for insured State member banks. The Board shall establish by regulation the levels at which an uninsured State member bank is adequately capitalized, undercapitalized, and significantly undercapitalized. The critical capital level for uninsured State member banks shall not be less than 150 percent of the corresponding ratio for insured State member banks.

Each uninsured State member bank will maintain a non-interest bearing deposit with its Federal Reserve bank in an amount determined by the Board, in addition to its reserve, clearing balance and liquidity requirements. The Board may prescribe a special higher discount rate for uninsured State member banks. The Board may limit the bank's transactions with affiliates; prescribe special clearing balance requirements; limit the banks' availability of credit and frequency of borrowing from the Federal Reserve bank; and limit the use of payment or payment-related services from any Federal Reserve bank. The Board may impose any additional requirements as it deems necessary to promote the safety and soundness of the uninsured State member bank or to protect other persons engaged in transactions with that bank.

The Board may exempt any uninsured State member bank from any provision applicable to an insured State member bank. The exemption may not be inconsistent with the safety and soundness of the uninsured State member bank and the protection of other persons engaged in transactions with that bank. Section 9B does not limit the Board's authority over member banks or create any obligation for any Federal Reserve bank to make or extend any advance or discount to any member bank.

The Board may appoint a conservator for an uninsured State member bank to the same extent as the appropriate Federal banking agency may for a national bank under section 203 of the Bank Conservation Act.

SECTION 229. STUDY OF CORE BANKING

Section 229 creates a Congressional Commission on Core Banking. The Commission will review all major policy issues regarding core banking to assist Congress in evaluating the potential effect of such proposals.

The Commission will consist of 9 members, 5 appointed by the Speaker of the House and 4 by the Majority Leader of the Senate. The Commission will include one representative each from the Department of the Treasury, the Federal Reserve Board, and the FDIC; one representative of insured depository institutions; one representative of consumer and public interest groups; three independent banking experts; and one representative of the private sector, who will serve as chairman.

The Commission will evaluate the potential effect of core banking proposals on the health and profitability of banks; limiting the scope of deposit insurance; the Bank Insurance Fund; credit availability; risk-taking; flow of funds through banks, lending and loan losses, and deposit and loan spreads; industry consolidation; and institution size. Core banking proposals to be examined include limits on the interest rates that may be paid on deposits, loan-to-one-borrower restrictions more stringent than current law, net exposure limits, and changes to the bank holding company structure necessary to implement core banking.

Within one year after the bill becomes law, the Commission must submit a report to Congress and the President with recommendations on core banking proposals.

SECTION 230. PRIORITY OF CLAIMS

Section 230(a) adds a new section 11(s) to the Federal Deposit Insurance Act, giving certain claims by the FDIC priority over claims by an insured depository institution's depositors, creditors, and shareholders.

New section 11(s) applies in proceedings brought by the FDIC to any claim by the FDIC against any person employed by or providing services to an insured depository institution (including a director, officer, employee, agent, attorney, accountant, or appraiser), if the FDIC acquired the claim under section 11, 12, or 13 of the Federal Deposit Insurance Act. Section 11(s) gives such a claim priority over any claim against the same person by a depositor, creditor, or shareholder of the institution (other than a claim by another Federal agency or the Federal Government).

If the FDIC receives written notice that a depositor, creditor, or shareholder of the institution has asserted a claim in such a proceeding, it will lose its priority unless it files a statement with the court within 180 days after receiving notice (or 180 days after acquiring its claim, if it acquires its claim after receiving the notice) that it intends to pursue its claim. To preserve its priority the FDIC must then diligently pursue its claim and file suit within one year after receiving notice (or acquiring its claim). At the FDIC's request, the court shall extend the time in which the FDIC may file suit unless the court finds that the extension would result in prejudice to another claimant's ability to prove his or her claim that would outweigh the harm to the Government resulting from denial of the extension.

The FDIC's priority extends to both prosecuting the suit and executing any resulting judgment. The FDIC will not have a priority as to an asset adjudicated to the unavailable to satisfy any subsequent judgment.

Section 230 does not affect claims commenced before the bill becomes law.

TITLE III—INTERSTATE BANKING AND BRANCHING

SECTION 301. INTERSTATE BANKING

A. In general

Section 3(d) of the Bank Holding Company Act, commonly known as the Douglas Amendment, currently allows the States to limit a bank holding company's authority to acquire subsidiary banks in more than one State. 12 U.S.C. §1842(d). Under the Douglas Amendment, the Federal Reserve Board may allow a bank holding company to acquire a bank outside the State in which the operations of the bank holding company's banking subsidiaries are principally conducted only if permitted by statute of the other State. Nearly all States currently permit some form of interstate banking: 34 States permit full nationwide interstate banking while an additional 14 States allow banks from States in their particular region to establish subsidiaries.

Section 301(a) amends section 3(d) to add a new section 3(d)(2) phasing out the application of the Douglas Amendment over two years. Beginning one year after the bill becomes law, a bank holding company that is adequately capitalized and adequately managed, or a subsidiary, may acquire any voting shares of or all of the assets of a bank in any State. Beginning two years after the bill becomes law, a bank holding company that is adequately capitalized and adequately managed, or a subsidiary, may charter and acquire any voting shares of or all of the assets of a new subsidiary bank in any State. "Adequately capitalized" has the same meaning as in new section 37 of the Federal Deposit Insurance Act (as added by section 205 of the bill). For purposes of section 3(d), a bank that does not open for business and is chartered solely for the purpose of acquiring all or substantially all of the assets of an existing bank is not a "new" bank.

Section 301(a) further adds a new section 3(d)(3) to impose certain concentration limits on a bank holding company's ability to acquire existing banks located in a State other than the State where its banking subsidiaries' operations are principally conducted. A bank holding company may not acquire an existing bank in another State if the bank holding company controls or after the acquisition would control 10 percent of the assets of the nation's insured depository institutions as determined by the Federal Reserve Board. A bank holding company also may not acquire an existing bank in another State if the bank holding company controls or after the acquisition would control 30 percent or more of the deposits of the insured depository institutions in the State of the bank to be acquired as determined by the Federal Reserve Board. This latter provision may be waived by the State. Federal antitrust laws and State antitrust laws that do not discriminate against out-of-State bank holding companies would continue to apply to any such acquisition. The concentration limits apply only to the acquisition, and not to the establishment, of an out-of-State bank by a bank holding company. "Insured depository institution" has the same meaning as in the Federal Deposit Insurance Act.

B. Conversion of banks to branches

Section 301(b) further amends section 3 of the Bank Holding Company Act to add a new section 3(h). New section 3(h) allows an adequately capitalized bank holding company owning subsidiary banks in more than one State to merge or consolidate those banks on or after June 1, 1993, except that a bank may not be or remain so merged if it is located in a State that has prohibited out-of-State banks from establishing and acquiring branches in that State. An undercapitalized bank holding company may merge or consolidate banks in any State as part of an approved capital restoration plan under new section 37 of the Federal Deposit Insurance

Act. The capital restoration plan must include at least one element in addition to the merger or consolidation.

Intrastate branching provisions of State law will continue to apply. A national bank may not operate branches at locations in a State unless a national bank having its main office in that State could operate branches at those locations. Similarly, a State bank may not operate branches at locations in a State unless a State bank having its main office in that State could operate branches at those locations.

SECTION 302. INTERSTATE BRANCHING BY NATIONAL BANKS

A. In general

Section 5155 of the Revised Statutes, known as the McFadden Act, currently allows national banks, with the approval of the Comptroller of the Currency, to establish branches only within the State in which it is situated and then only to the extent the given state allows its own banks to branch. 12 U.S.C. §36. Section 302 amends Section 5155 to include a new section 5155(d). New section 5155(d)(1) provides that, three years after the bill becomes law, the Comptroller of the Currency may allow an adequately capitalized and adequately managed national bank to establish or acquire a branch outside the State in which its main office is located. As under current law, the bank must apply to the Comptroller for approval before establishing or acquiring such a branch. In considering such an application the Comptroller must weigh the bank's rating under the Community Reinvestment Act of 1977 and its compliance with State community reinvestment laws as determined by State officials. State laws regarding intrastate branching, consumer protection, fair lending and community reinvestment will apply to the new branch as if it were a branch of a bank chartered by that State unless such State law is preempted by Federal law on the same subject. Such State law will be enforced with respect to branches of national banks by the Comptroller of the Currency.

The tax laws of the host State will apply and be enforced by that State as if the branch were a national bank located in that State. However, the authority for a bank to branch interstate does not provide a basis for nor affect the authority of a State where a branch is located to tax the income or capital of any State or national bank or its affiliate located in or chartered by any other State. The State and its political subdivisions are free to impose nondiscriminatory franchise taxes or other nonproperty taxes on any such branch. The State may also require a national bank with its main office in another State that seeks to establish a branch within the State to comply with filing requirements similar to those imposed on a corporation incorporated in another State that seeks to conduct business in the State.

B. State election to prohibit interstate branching

New section 5155(d)(2) allows a State to prohibit out-of-State banks from establishing or acquiring branches. During the period beginning on January 1, 1990 and ending 3 years after the bill becomes law, a State may pass a law expressly prohibiting all out-of-State banks from establishing or acquiring branches located in that State. The law must apply equally to national and State banks. A national bank that has its main office in a State that enacts such a prohibition may not acquire or establish a branch in another State.

C. State election to permit interstate branching

New section 5155(d)(3) allows States to permit interstate branching prior to the expiration of the 3 year phase-in period provided by new section 5155(d)(1). If a State expressly permits interstate branching by all out-of-state national and State banks, a national bank may acquire or establish a branch in that State. In addition, if during the 3 year transition period a State permits interstate branching, it may limit such branching for 5 years after enactment to the acquisition and conversion of existing banks to branches, or the acquisition of existing branches, while prohibiting establishment of new branches. A State that enacts such a law may require that a copy of the application for approval filed with the Comptroller of the Currency be timely filed with the State banking authority. Prior to approving such an application, the Comptroller of the Currency will consider any comments of the State regulator that are timely provided. The State may also impose other conditions on an incoming branch if the conditions do not discriminate against out-of-State banks or bank holding companies. Such conditions may not be imposed if they are preempted by Federal law on the same subject.

A State that originally elected to prohibit interstate branching may subsequently enact a law permitting interstate branching by all out-of-state national and State banks.

D. Concentration limits

New section 5155(d)(4) imposes the same concentration limits on a national bank's ability to acquire branches as are imposed on a bank holding company's ability to acquire existing banks. A national bank may not acquire an existing branch in a State other than the State where its head office is located if the bank controls or after the acquisition would control 10 percent of the assets of the nation's insured depository institutions, as determined by the Federal Reserve Board. A national bank also may not acquire an existing branch in another State if the bank controls or after the acquisition would control 30 percent or more of the deposits of the insured depository institutions in the State of the branch to be acquired, as determined by the Federal Reserve Board. This latter provision may be waived by the State. Federal antitrust laws and State antitrust laws that do not discriminate against out-of-State banks or bank holding companies also would continue to apply to any such acquisition. The concentration limits apply only to the acquisition, and not to the establishment, of an out-of-State branch by a national bank. "Insured depository institution" has the same meaning as in the Federal Deposit Insurance Act.

SECTION 303. INTERSTATE BRANCHING BY STATE BANKS

A. In general

Section 303 amends section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. §1828(d)) to include new sections 18(d)(3) through 18(d)(9). New section 18(d)(3) provides that, three years after the bill becomes law, an adequately capitalized and adequately managed FDIC-insured State bank may establish or acquire a branch outside the State in which the bank is chartered if the laws of its chartering State and the State into which it wishes to branch permit. The laws of the State where the new branch is located regarding intrastate branching, consumer protection, fair lending and community reinvestment will apply to the new branch as if it were a branch of a bank chartered by that State.

The tax laws of the host State will apply and be enforced by that State as if the branch were a bank chartered by that State. However, the authority for a bank to branch interstate does not provide a basis for nor affect the authority of a State where a branch is located to tax the income or capital of any State or national bank or its affiliate located in or chartered by any other State. The state and its political subdivisions are free to impose nondiscriminatory franchise taxes or other nonproperty taxes on any such branch. An out-of-state branch established by an insured State bank may not conduct any activity that is not permitted to banks chartered by the host State. The State may also require the out-of-state bank to comply with filing requirements similar to those imposed on a corporation incorporated in another State that seeks to conduct business in the State. Each State remains free to supervise, regulate and examine the banks it charters and to establish branching restrictions for the banks it charters.

B. State election to prohibit interstate branching

New section 18(d)(5) allows a State to prohibit out-of-state banks from establishing or acquiring branches in that State. During the period beginning on January 1, 1990 and ending 3 years after the bill becomes law, a state may pass a law expressly prohibiting all out-of-state banks from establishing or acquiring branches located in that State. The law must apply equally to national and State banks. A State bank that is chartered by a State that enacts such a prohibition may not acquire or establish a branch in another State.

C. State election to permit interstate branching

New section 18(d)(6) allows States to permit interstate branching prior to the expiration of the 3 year phase-in period provided by new section 18(d)(3). If a State expressly permits interstate branching by all national and State banks, an out-of-state bank may acquire or establish a branch in that State. In addition, if during the 3 year transition period a State permits interstate branching, it may limit such branching for 5 years after the bill becomes law to the acquisition and conversion of existing banks to branches or the acquisition of existing branches while preventing establishment of new branches. A State may require that a copy of an application to open a branch in that State be timely filed with its State banking authority. Prior to approving the application, the banking authority of the chartering State and the appropriate Federal banking agency will consider any timely comments of the banking authority of the State in which the branch is to be located. The State may also impose other conditions on an incoming branch that do not discriminate against out-of-state banks or bank holding companies. Such conditions may not be imposed if they are preempted by Federal law on the same subject. A State that originally elected to prohibit interstate branching may subsequently enact a law permitting interstate branching by all national and State banks.

D. Concentration limits

New section 18(d)(7) imposes the same concentration limits on a State bank's ability to acquire existing branches as are imposed on a bank holding company's ability to acquire existing banks and on a national bank's ability to acquire existing branches. A State bank may not acquire a branch in another State if the bank controls or after the acquisition would control 10 percent of the assets of the nation's insured depository institutions as determined by the Federal Reserve Board. A State bank also may not acquire an existing branch in another State if the bank controls or after the acquisition would control 30 percent or more of the de-

posits of the insured depository institutions in the State of the branch to be acquired as determined by the Federal Reserve Board. This latter provision may be waived by the State. Federal antitrust laws and State antitrust laws that do not discriminate against out-of-State banks or bank holding companies would continue to apply to any such acquisition. The concentration limits apply only to the acquisition, and not to the establishment, of an out-of-state branch by a State bank.

E. Coordination of examination authority

New section 18(d)(8) allows a State bank supervisor to examine a branch established in that State by an out-of-state bank to determine compliance with that State's laws, including regarding banking, taxation, community reinvestment, fair lending, consumer protection and permissible activities. The State bank supervisor also may examine the branch to ensure that its activities are consistent with sound banking principles and do not pose a serious risk to the safety and sound operation of the branch. If the State banking supervisor determines there is a violation of State law concerning the activities being conducted by the branch or that the branch is not being operated safely and soundly, the regulator may take the same regulatory actions as would be permitted if the branch were a branch of a bank chartered by that State.

State bank authorities are authorized to enter into cooperative agreements to facilitate State regulatory supervision of State banks. These agreements may relate to coordination of and joint participation in bank examinations. Each appropriate Federal banking agency remains free to examine any bank or branch of a bank over which it has jurisdiction. The appropriate Federal banking authority will not defer to examinations of out-of-state branches by State regulators if the State regulators have failed to enter into a cooperative agreement or if the agreement does not adequately protect the Federal insurance funds.

SECTION 304. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES

Section 807 of the Community Reinvestment Act of 1977 ("CRA") requires the appropriate Federal banking agency to prepare, upon conclusion of each examination of an insured depository institution, a written evaluation of the institution's record of meeting the credit needs of its community, including low- and moderate-income neighborhoods. 12 U.S.C. §2906. Section 304 amends section 807 to add a new section 807(d) pertaining to institutions with branches in more than one State. New section 807(d) requires the appropriate Federal banking agency to prepare separate written evaluations of the entire institution's record of performance and of its record of performance in each State in which it has branches. The institution-wide evaluation would contain: (1) the agency's conclusions regarding the depository institution's overall performance under each CRA assessment factor; (2) the facts and data supporting such conclusions; and (3) the depository institution's overall CRA rating. The State-wide evaluation would contain such information except that the agency's conclusions, disclosure and ratings would be tailored to the individual State under discussion.

If the institution has branches in two or more States within a multistate metropolitan area, the appropriate Federal agency may prepare a separate written evaluation of the institution's record of performance within such metropolitan area and adjust the scope of the State-by-State reports accordingly. For example, in the case of an institution with branches in Pittsburgh, Harrisburg, Philadelphia, and Wilmington the agency would have the discretion to prepare: (1) separate Pennsylvania and Delaware evaluations or (2) one evaluation for Pennsylvania (covering Pittsburgh and Harrisburg) and one evaluation for the Philadelphia-Wilmington metropolitan area.

The written evaluation of an institution's record of performance in a State must present separate information for each metropolitan area in which the institution maintains one or more branches and for the remaining nonmetropolitan area of the State if the institution has one or more branches there. The evaluation must specifically present the agency's conclusions regarding a depository institution's performance under each CRA assessment factor for the metropolitan area or nonmetropolitan area in question and the facts and data supporting such conclusions. This direction would apply to institutions that have interstate branches as well as those that operate solely within one State. Section 807(b)(1) would be amended to cover the latter situation.

For purposes of section 807, "metropolitan area" includes any primary metropolitan statistical area, metropolitan statistical area or consolidated metropolitan statistical area as defined by the Office of Management and Budget with a population of 250,000 or more. Under the example given above, an overall evaluation for Pennsylvania must present separate information for Philadelphia and Pittsburgh. The Federal banking agencies are also authorized to identify other areas as "metropolitan areas." The agencies should, at a minimum, identify each State's major urban population center as a "metropolitan area"—regardless of whether such center has a population of 250,000 or more. Metropolitan statistical areas like Billings, Montana, and Bismarck, North Dakota would qualify.

SECTION 305. BRANCHING BY FOREIGN BANKS

A. In general

Section 5(a) of the International Banking Act currently governs the ability of a foreign bank to engage in interstate banking and branching outside of its "home state." 12 U.S.C. §3103(a). (The "home state" of a foreign bank with branches, agencies or subsidiaries in more than one State is whichever of such States is designated by the foreign bank or by the Federal Reserve Board.) Section 5(a) permits a foreign bank to establish and operate a Federal branch outside of its home state only if the State in which the branch is to be operated expressly permits such operation and the foreign bank undertakes to accept only such deposits as are incidental to carrying out transactions in other countries. Section 5(a) further permits a foreign bank to establish and operate a State branch outside of its home state only if approved by the bank regulator of the State in which it is to be operated and if it undertakes to accept only such deposits as are incidental to carrying out transactions in other countries. Similar restrictions apply to the operation of Federal and State agencies by a foreign bank outside its home state. A foreign bank's acquisition of a bank outside of its home state is subject to the Douglas Amendment as if it were a bank holding company.

Section 305(a) amends section 5(a) to permit a foreign bank, with the approval of the Federal Reserve Board and the Comptroller of the Currency, to establish and operate a Federal branch or agency in any State outside its home state to the same extent permitted a national bank under section 5155 of the Revised Statutes, as amended by section 302 above. Subject to the approval of the Federal Reserve Board and the appropriate State regulatory authority, a foreign bank may establish and operate a state branch or agency to the same extent permitted a state bank under section 18(d) of the Federal Deposit Insurance Act, as amended by section 303 above.

In approving an application, the Federal Reserve Board and the Comptroller of the Currency must apply the standards for establishment of a foreign bank office in the United States under section 7(e) of the International Banking Act (12 U.S.C. §3105), as amended by section 602 of the bill. The agencies may not approve an application unless the foreign bank's worldwide financial resources, including capital level, are equivalent to those required for a domestic bank seeking to branch interstate. (In the case of the first branching application by a foreign bank, the agencies must consult with the Secretary of the Treasury regarding capital equivalency.) Such capital equivalency determinations shall be based upon the joint guidelines published by the Federal Reserve Board and Secretary of the Treasury pursuant to section 621 of the bill. Either the Federal Reserve Board or the Comptroller of the Currency may require that the foreign bank establish an adequately capitalized banking subsidiary in the United States as a condition for approving an interstate branching application by a foreign bank if it determines that the bank's adherence to the equivalent capital requirement in its worldwide operations cannot be verified. This authority is not meant to authorize interstate expansion for weakly capitalized foreign banks, but rather is intended to hold foreign banks to the same capital standards required of domestic banks that wish to pursue interstate expansion.

B. Treatment of U.S. banking subsidiaries

Section 305(b) amends section 5 of the International Banking Act to add a new section 5(d). New section 5(d) permits a foreign bank with a domestic subsidiary to establish Federal and State branches and agencies to the extent permitted under section 5155(d) of the Revised Statutes and section 18(d) of the Federal Deposit Insurance Act.

C. Deposit insurance requirement

Section 6 of the International Banking Act currently governs the insurance of deposits at branches of foreign banks. 12 U.S.C. §3104. Under section 6 a foreign bank with several branches may designate one branch to accept retail deposits and then must pay insurance premiums only on deposits taken in that branch rather than on all deposits taken in this country. Section 6 generally requires a Federal or State branch of a foreign bank that receives deposits of less than $100,000 to be an insured branch or that it be determined not to be engaged in domestic retail deposit activities.

Section 305(c) amends section 6 by adding a new section 6(c). New section 6(c) provides that if any branch of a foreign bank maintains retail deposit accounts with balances of less than $100,000, then all branches of that foreign bank must pay insurance premiums on deposits taken in such branches. Any foreign bank that has an insured branch must establish a domestic banking subsidiary to conduct all of its insured deposit taking activities. In effect, section 6(c) requires for-

eign banks that wish to take retail deposits (less than $100,000) to do so only through subsidiary banks incorporated in this country. The requirement is designed to protect depositors and the insurance fund. If the branch was established before the bill becomes law, the requirement that the branch become an insured bank subsidiary of the foreign bank shall apply one year after the date of enactment.

D. Home state of foreign bank

Section 5(c) of the International Banking Act provides that the "home state" of a foreign bank having branches, agencies, subsidiary commercial lending companies, or subsidiary banks in more than one State is whichever of such States is so determined by election of the foreign bank. In default of an election by the foreign bank, the Federal Reserve Board determines the home state of the foreign bank. 12 U.S.C. §3103(c). Section 305(d) amends section 5(c) to add that the home state of a foreign bank that has branches, agencies, subsidiary commercial lending companies, or subsidiary banks in only one State is that State.

SECTION 306. STATE TAX COMPLIANCE

Section 5240 of the Revised Statutes prohibits a national bank from being subject to visitorial powers except as authorized by Federal law. 12 U.S.C. §484. Authorized State auditors and examiners may review the records of a national bank at reasonable times and upon reasonable notice to ensure compliance with State laws regarding unclaimed property. Section 306 amends section 5240 to add a new section 5240(c). New section 5240(c) permits authorized State auditors and examiners to, on behalf of State tax agencies, review the records of a federally-chartered financial institution at reasonable times to determine compliance with the tax laws of a State or its political subdivisions.

SECTION 307. USE OF NAMES IN HOST STATE

Section 307(a) amends section 3 of the Bank Holding Company Act (12 U.S.C. §1842) to add a new section 3(i). New section 3(i) requires a bank holding company that acquires or establishes a bank in a State outside the State in which the operations of the bank holding company's banking subsidiaries are principally conducted to provide the Federal Reserve Board with the name or names under which the bank will operate in that State. A bank holding company may not operate a bank in that State if the proposed name of the bank is identical or deceptively similar to a name being used by an existing bank in that State or is likely to confuse or deceive the public. If a bank holding company uses such a name, the Federal Reserve Board upon application shall revoke permission of the bank holding company to operate a bank in that State. These provisions do not preclude any adversely affected person from pursuing any available legal or administrative remedies.

Section 307(b) further adds parallel new provisions to section 5155(d) of the Revised Statutes (12 U.S.C. §36(d)), and section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. §1828(d)), as amended by sections 302 and 303, governing branches of national banks and State banks respectively. A national bank seeking to acquire or establish a branch in a State other than where it has its main office must provide the Comptroller of the Currency with the name under which the branch will operate. A State bank seeking to acquire or establish a bank in a State other than where it is chartered must provide the appropriate State regulatory authority with the name under which the branch will operate. A national or State bank may not operate a branch in another State if the proposed name of the branch is identical or deceptively similar to a name being used by an existing bank or bank holding company in that State or is likely to confuse or deceive the public. If a national bank uses such a name, the Comptroller of the Currency upon application shall revoke permission of the bank to operate a branch in that State. If a State bank uses such a name, the appropriate state regulatory authority upon application may revoke permission of the bank to operate a branch in that State. These provisions do not preclude any adversely affected person from pursuing any available legal or administrative remedies.

TITLE IV—REGULATORY RESTRUCTURING

Subtitle A—Restructuring Board of Directors of FDIC

SECTION 401. RESTRUCTURING THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

Under section 2(a)(1) of the Federal Deposit Insurance Act, the Board of Directors of the Federal Deposit Insurance Corporation ("FDIC") consists of the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and three members appointed by the President with the advice and consent of the Senate. 12 U.S.C. §1812(a)(1). Original subtitles A and B of title IV of the committee print would have combined the Office of the Comptroller of the Currency and the Office of Thrift Supervision into a newly created independent Federal Banking Commission. Section 401, as it originally appeared in the committee print, made a conforming change in the composition of the FDIC Board of Directors, replacing the Comptroller of the Currency and the Director of the Office of Thrift Supervision with the Chairman of the Federal Banking Commission, and adding the Chairman of the Federal Reserve Board. During markup, the Committee adopted an amendment deleting original subtitles A and B of title IV. Section 401 accordingly amends section 2(a)(1) to provide that the FDIC Board of Directors consists of three Presidential appointees and the Chairman of the Federal Reserve Board, and reserves for further action by the Senate the position held under the committee print by the Chairman of the Federal Banking Commission.

The six-year terms of the three appointed members will be staggered, with a vacancy occurring every two years. Of the first members of the FDIC Board of Directors to be appointed after the bill becomes law, one shall be appointed for a term to expire on February 28, 1993, one shall be appointed for a term to expire on February 28, 1995, and one shall be appointed for a term to expire on February 28, 1997, as designated by the President at the time of the appointment.

Subtitle B—Depository Institutions Coordination

SECTION 411. IMPROVING COORDINATION AMONG FEDERAL BANKING AGENCIES

The Federal Financial Institutions Examination Council Act of 1978 established the Federal Financial Institutions Examination Council ("FFIEC"). 12 U.S.C. §3301 et seq. FFIEC currently consists of the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the FDIC Board of Directors, the Chairman of the National Credit Union Administration, and a member of the Federal Reserve Board designated by the Chairman of that Board. FFIEC is directed to "prescribe uniform principles and standards for the Federal examination of financial institutions" by the various Federal banking agencies and "to promote uniformity in the supervision of these financial institutions." FFIEC's actions should "promote consistency in such examination and to insure progressive and vigilant supervision."

Section 411(a) replaces sections 1001 through 1006 of the FFIEC Act with the Federal Financial Institutions Coordination Council Act of 1991. New section 1001 sets forth the title of the Act. New section 1002 requires the Federal Financial Institutions Coordination Council (the "Council") to establish uniform supervisory and examination policies, procedures, and report forms for the Federal examination and supervision of depository institutions by the Federal banking agencies and to ensure consistent and vigilant examination and supervision. New section 1003 defines the terms "appropriate Federal banking agency," "Council," "Federal banking agencies," "depository institution," and "depository institution organization."

A. Composition

As described above, original subtitles A and B of title IV would have created a new independent Federal Banking Commission. New section 1004(a), as it originally appeared in the committee print, would have established the composition of the new Council as the Chairman of the Federal Banking Commission, the Chairman of the Federal Reserve Board, and the Chairperson of the FDIC. During markup, the Committee adopted an amendment deleting original subtitles A and B. The Committee did not adopt any amendments to this subtitle. Accordingly, under new section 1004(a), the new Council consists of the Chairperson of the FDIC Board of Directors and the Chairman of the Federal Reserve Board; the position held by the Federal Banking Commission under the committee print is reserved for further Senate action.

The members of the Council shall select the first Chairman of the Council. The chairmanship will then rotate among the members of the Council, each serving two-year terms. Actions taken and reports filed by the Council shall be approved by a majority vote of its members. Each member of the Council shall serve without compensation but shall be entitled to reimbursement of reasonable expenses. New section 1005 requires each Federal banking agency to bear an equal share of the Council's costs and expenses.

B. Functions

New section 1006 sets forth the functions of the Council. The Council shall establish uniform policies and procedures to be used by the Federal banking agencies as minimum standards in the examination of depository institutions and coordinate supervisory policies and procedures among those agencies. The Council shall ensure that by January 1, 1993 a coordinated supervisory effort is made with regard to a depository institution under the jurisdiction of more than one Federal banking agency. The Council shall ensure that interstate activities and branches are subject to the same level of supervision as intrastate activities and branches.

The Council shall establish uniform reporting systems and procedures to be used by Federal banking agencies by January 1, 1993. The Council will seek to reduce duplicative and unnecessary reporting and filing requirements for depository institutions. Each Federal banking agency will remain free to research and develop new supervisory methods and tools and to test such innovations.

Section 411(b) provides for additional powers of the Council. New section 1012 requires

the Council, in consultation with the Federal banking agencies, to develop a training program for bank examiners hired by those agencies. Examiners hired by those agencies after January 1, 1993 must complete the training program established by the Council. The Council may allow previous work or education experience to substitute for the training program for examiners who have demonstrated thorough knowledge of the program's content. The Federal banking agencies are free to develop and carry out supplemental training programs appropriate to each agency's regulatory needs. Employees of the National Credit Union Administration, the Federal Housing Finance Board, and State financial institution supervisory agencies may enroll in the training program; their employers will reimburse the Council for the cost of the training.

New section 1013 requires each Federal banking agency, in consultation with the Council, to establish examination improvement programs. Each agency's examination improvement program will review the organization of the agency's examination staff and the number, training and career paths of examiners of depository institutions. The programs will make improvements in the organization and training and increase, to the extent necessary, the number of examiners to ensure frequent, objective, and thorough examinations of depository institutions.

New section 1014 instructs each Federal banking agency to establish a schedule of examinations for each depository institution for which it is the appropriate Federal banking agency. Each will notify the other agencies with examination responsibility for that institution of the schedule. The agencies will consult with one another and attempt to arrive at a mutually acceptable schedule. Each agency will coordinate examination of each depository institution for which it is the appropriate Federal banking agency with the other Federal banking agencies having examination responsibilities for the institution. The appropriate Federal banking agency shall notify the State banking supervisory agency, if any, of examinations and invite its participation in the coordinated examination. The agencies may form joint examination teams consisting of at least one examiner from each agency.

Each Federal banking agency may conduct an examination of any depository institution under its authority at any time without coordination with other agencies if it has reason to believe the condition of the institution may be deteriorating, the institution has engaged in an unsafe or unsound practice, has violated or the institution or an affiliated party has or is about to violate a law, regulation, final cease and desist order, or written condition or agreement between the depository institution and the agency.

New section 1015 directs the Council to publish an annual report discussing its establishment of uniform policies and procedures for the examination and supervision of depository institutions, including efforts to develop consolidated supervision for depository institution organizations.

Subtitle C—Bank Securities Registration

SECTION 421. BANK-ISSUED SECURITIES

Section 3(a)(2) of the Securities Act of 1933 currently exempts from the registration provisions of that Act, but not its antifraud provisions, any security issued by any bank. Section 3(a)(2) further exempts any securities guaranteed by any bank. The Securities and Exchange Commission has interpreted section 3(a)(2) to mean that securities backed by bank letters of credit need not be registered. Section 421 amends section 3(a)(2) to delete the exemption for bank-issued and bank-guaranteed securities.

Under section 2(1) of the Securities Act, a bank's letter of credit guaranteeing a security is a separate security. Although section 421 removes the exemption for securities issued by the bank even if backed by a letter of credit, the letter of credit itself will continue to be exempt from registration under new section 3(d) of the Securities Act, added by section 424 of the bill.

SECTION 422. SAVINGS ASSOCIATION-ISSUED SECURITIES

Similarly to section 3(a)(2), section 3(a)(5) of the Securities Act of 1933 currently exempts from the registration provisions of that Act, but not its antifraud provisions, any securities issued by savings associations. Section 422 amends section 3(a)(5) to delete the general exemption for savings association-issued securities. Section 422 adds to section 3(a)(5) an exemption for securities issued by a State or Federal savings association in connection with a conversion from the mutual stock form of ownership under section 5 of the Home Owners' Loan Act. Section 424 of the bill adds to the Securities Act a new section 3(d) containing a list of exempt deposit instruments issued by savings associations.

Section 3(a)(5) continues the current exemption from registration for securities issued by farmers' cooperatives exempt from tax under section 521 of the Internal Revenue Code of 1986, corporations described in section 501(c)16 and exempt from tax under section 501(a) of the Code, and corporations described in section 501(c)2 of the Code, exempt from tax under section 501(a) of the Code, and organized solely to hold title to property, collect income from property, and turn over income from the property to one of the foregoing types of entities.

SECTION 423. EXEMPTION FOR SECURITIES IN CERTAIN CORPORATE TRANSACTIONS

Section 3(a)(9) of the Securities Act of 1933 currently exempts from the registration provisions of that Act, but not its antifraud provisions, any securities exchanged by an issuer with its existing security holders exclusively where no commission or other renumeration is paid or given for soliciting the exchange. Section 423 amends section 3(a)(9) to add an exemption from the registration requirements of the Act for certain securities issued or exchanged in the reorganization of a corporation, including a bank, into a holding company.

Section 423 contains conditions to ensure that the exemption is not used to transfer corporate control or substantially alter the proportional interests of security holders without complying with the disclosure provisions of the Securities Act. Section 423 requires that, as part of the reorganization, the security holders exchange their securities of the corporation for securities of a newly-formed holding company with no significant assets other than the securities of the corporation and its subsidiaries. The security holders must receive securities representing the same proportional share or debt interests in the holding company as they held in the corporation prior to the transaction. The rights and interests of the security holders in the holding company must be substantially the same as those in the corporation prior to the transaction. Finally, the holding company must have substantially the same assets and liabilities as the corporation had prior to the transaction.

SECTION 424. TREATMENT OF CERTAIN BANK AND SAVINGS ASSOCIATION INSTRUMENTS

Section 424 adds a new subsection (d) to section 3 of the Securities Act of 1933. 15 U.S.C. §77c. New subsection 3(d) lists instruments that will be exempt from the registration provisions of the Act but will continue to be subject to the antifraud provisions in section 17 of the Act. The listed instruments are (1) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank or savings association; (2) a share account issued by an FDIC-insured savings association; (3) a banker's acceptance; (4) a letter of credit issued by a bank or savings association; and (5) a debit account at a bank or savings account arising from a credit card or similar arrangement. Participations in these instruments other than direct obligations of a bank or savings association are not exempted.

New subsection 3(d) defines "deposit" as the unpaid balance of money or its equivalent received or held by a bank or savings association in the course of business for which it has given or is obligated to give credit to a commercial, checking, savings, time or thrift account; which is evidenced by a certificate of deposit, check or draft, letter of credit, traveler's check, or any similar instrument on which a bank or savings association is liable; which consists of nonpooled assets of individual trust funds received or held by a bank or savings association; which is received or held by a bank or savings association for a specific noninvestment purpose, including escrow funds, funds held as security for any obligation due the bank or savings association, and withheld taxes; or which is insured by the FDIC, is subject to the deposit reserve requirements of the Federal Reserve Board, or is regulated as a deposit by a Federal banking agency.

SECTION 425. SECURITIES EXCHANGE ACT ADMINISTRATION TRANSFER

Section 12(i) of the Securities Exchange Act of 1934 makes the Federal agencies that regulate banks and savings associations responsible for administering and enforcing sections 12, 13, 14 (a), (c), (d), and (f), and 16 of the Act with respect to the institutions under their jurisdiction. Section 12 requires registration of securities traded on national exchanges or issued by certain issuers. Section 13 requires filing of periodic and other reports concerning these securities and their issuers and filing of disclosure statements by certain beneficial owners and issuers that repurchase their securities. Sections 14 (a), (c) and (f) impose disclosure and other requirements for solicitations of proxies with respect to these securities. Section 14(d) imposes disclosure and other requirements regarding tender offers. Section 16 requires filings regarding certain acquisitions and sales of equity securities by officers, directors and principal shareholders.

Section 425 repeals section 12(i), thereby transferring administration and enforcement of these provisions with respect to banks and savings associations from the Federal banking agencies to the Securities and Exchange Commission.

SECTION 426. TRUST INDENTURE ACT TECHNICAL AMENDMENT

Section 304(a)(4)(A) of the Trust Indenture Act of 1939 currently exempts from that Act any securities exempted by section 3(a) of the Securities Act of 1933. Section 426 amends section 304(a)(4)(A) so that securities exempt from the Securities Act under new section 3(d) are also exempt from the Trust Indenture Act.

SECTION 427. TECHNICAL AMENDMENT

Section 12 of the Securities Act of 1933 imposes certain civil liabilities on any person who offers or sells a security by means of prospectus or oral communication which contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements not misleading, if the person knew or should have known of such untruth or omission. Securities exempted by section 3(a)(2) of the Act are currently exempt from section 12. Section 427 amends section 12 to include securities exempted by new subsection 3(d) within the securities exempt from section 12.

SECTION 428. EFFECTIVE DATE

Section 428 provides that this subtitle will become effective 270 days after the bill becomes law.

TITLE V—CONSUMER PROTECTION

Subtitle A—Truth in Savings and Investments

SECTION 501. SHORT TITLE

Section 501 designates this subtitle as the "Truth in Savings and Investments Act."

SECTION 502. FINDINGS AND PURPOSE

Section 502 finds that the ability of consumers to make informed decisions among savings and investment options would be enhanced and competition among depository institutions and investment companies would be increased if there were uniformity in the calculation and disclosure of the yields and the basic terms and conditions of savings accounts and investment accounts. It is the purpose of this subtitle to require standardization of the method of calculating yields and clear and uniform disclosure of the key costs of such accounts and investments so consumers may make meaningful comparisons among the competing claims of depository institutions and investment companies.

SECTION 503. DEFINITIONS

Section 503 provides definitions of the terms "account," "annual percentage yield," "Board," "depository institution," "interest" and "multiple rate account." "Account" is defined as an account offered by a depository institution other than for a business purpose to one or more individuals or to an unincorporated nonbusiness association.

SECTION 504. DISCLOSURE OF YIELDS AND TERMS OF ACCOUNTS

A. In general

Section 504 prohibits depository institutions and other entities from including misleading information in any advertisement, announcement, or solicitation. The institution or other entity may disclose only the annual percentage yield on an account and not any other specific rate of interest payable on amounts held in such an account. The purpose of section 504 is to ensure that depository institutions disclose only one standardized figure so that consumers will know that the higher advertised figure will always produce the greater return. This will eliminate the present confusion that results from the advertising of interest figures based on different forms of calculation.

B. Information required to be disclosed if annual percentage yield is used

Section 504(b) provides for the disclosure of the most significant terms and conditions in any advertisement, announcement or solicitation which includes a reference to an annual percentage yield. Among the terms that must be disclosed to the extent applicable are: the period such yield is in effect; all minimum account balance and time requirements which must be met to earn the yield; the minimum amount of any required initial deposit if greater than the minimum balance; a statement that regular fees or other conditions could reduce the yield; and a statement that a penalty shall be imposed for early withdrawal.

C. Broadcast and electronic media and outdoor advertising exception

Section 504(c) provides for more limited disclosure requirements for broadcast and electronic media and certain other advertising. If the Federal Reserve Board finds that disclosure in such advertising of minimum initial balances or statements that regular fees or conditions could reduce the yield would be unnecessarily burdensome; the Board may exempt such advertising from those disclosures.

D. Misleading descriptions of free or no-cost accounts prohibited

Section 504(d) prohibits depository institutions from making any advertisement, announcement or solicitation describing an account as "free" or "no-cost" if certain conditions apply to the account. The institution may not describe an account as "free" or "no-cost" if a minimum balance must be maintained, the number of transactions is limited or any regular service or transaction fee is imposed.

SECTION 505. ACCOUNT SCHEDULE

A. In general

Section 505 requires each depository institution to maintain a schedule of fees, charges, yields, and terms and conditions applicable to each class of accounts offered by a depository institution. The schedule for each class may be in the form of separate schedules or one comprehensive document. The Federal Reserve Board will specify which fees, charges, yields, and terms and conditions must be included in a schedule.

B. Information on fees and charges

The schedule with respect to any account shall contain: a description of all fees, periodic service charges, and penalties which may be charged or assessed against the account or account holder; the amount of such fees, charges, or penalties (or the method by which such amounts will be calculated); the conditions under which such amounts will be assessed; all minimum balance requirements that affect fees, charges and penalties, including a clear description of how each such minimum balance is calculated; and any minimum amount required with respect to the initial deposit in order to open an account.

C. Information on yields

The schedule shall also include: any annual percentage yield; the period during which any such yield will be in effect; any annual rate of simple interest; the frequency with which the interest will be compounded and credited; any minimum balance which must be maintained to earn the stated rates and yields and a clear description of how such minimum balance is calculated; a description of any minimum time requirement necessary to obtain the disclosed yields; a statement, if applicable, that any accrued interest that has not been credited to an account at the time of a withdrawal or closing will not be paid by the depository institution nor credited to the account by reason of such withdrawal or closing; and any provisions relating to the nonpayment of interest, including any charge or penalty for early withdrawal.

D. Other information

The schedule shall include any such other disclosures as the Federal Reserve Board may determine to be necessary to allow consumers to understand and compare accounts. These may include frequency of interest rate adjustments, account restrictions, and renewal policies. Schedules shall be written in plain language and be presented in a readily understandable format.

SECTION 506. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS

Section 506 requires the Federal Reserve Board to issue any necessary regulations to modify for certain accounts the disclosure requirements under this subtitle. The Federal Reserve Board may issue modified disclosure requirements for accounts for which annual percentage yield is based on a rate of interest guaranteed for less than one year; for variable rate accounts; for accounts that do not guarantee a stated rate; and for multiple rate accounts.

SECTION 507. DISTRIBUTION OF SCHEDULES

A. In general

Section 507 provides that, beginning six months after publication of final regulations, a copy of the schedule shall be made available to any person upon request. At that time the schedule shall also be provided to any potential customer before an account is opened or a service rendered.

B. Notice to current account holders

Section 507(b) provides that current account holders must be given notice of their right to request a schedule. For any account in which the depository institution delivers a statement quarterly or more frequently, the institution shall include with any regularly scheduled mailing a statement of the account holder's right. This statement must be posted or delivered within six months after publication of final regulations.

C. Distribution in case of certain initial deposits

If a depositor is not physically present at the depository institution when his initial deposit is accepted, and the schedule has not been furnished previously to such depositor, the institution shall mail the schedule to the depositor not later than 10 days after the initial deposit.

D. Distribution of notice of certain changes

Section 507(d) requires depository institutions to provide information to all its account holders of a change in any term or condition required to be disclosed in the schedule that may reduce the yield or adversely affect the account holder. This information shall be mailed to account holders at least 30 days before the change takes effect. Section 507(d) does not require notice of changes in annual percentage yields of variable rate accounts.

E. Distribution in case of accounts established by more than one individual or by a group

If an account is established by more than one individual or for a person other than the individual, distribution requirements are met if distribution is made to one of the persons who opened the account or to a representative of the person on whose behalf such account was established.

SECTION 508. PERIODIC STATEMENTS

Section 508 requires depository institutions to make certain clear and conspicuous disclosures to each account holder with each periodic statement. Institutions using the average daily balance method must disclose the average daily balance, the applicable interest rate, the number of days to which each rate applies, the amount of interest earned and any fees or charges imposed. Institutions using the day of deposit to day of withdrawal method must disclose the appli-

cable annual percentage yield, the amount of interest earned, and any fees or charges imposed. This information will enable account holders to understand on a periodic basis how their accounts are performing. It does not, however, require depository institutions to provide periodic statements if they are not presently providing them.

SECTION 509. PAYMENT OF INTEREST

A. Determination of balance on which interest is calculated

Section 509(a) requires depository institutions to calculate interest on the principal balance in an interest-bearing account by using either the average daily balance method, or the day of deposit to day of withdrawal method, as defined by the Federal Reserve Board. These two methods are permitted because they produce highly similar, if not identical, results in the vast majority of cases. It is important for interest to be calculated on nearly identical balances so that consumers can determine which account will produce the best return. Section 509(a) will prohibit the use of all other methods, including the low balance method, which produces far lower yields than the other two balance calculation methods for the same annual percentage yield.

B. Date by which interest must accrue

Depository institution accounts subject to this subtitle will begin to credit interest no later than the time the institution receives provisional credit for the deposit, which typically is within one to two days of the date of deposit.

C. Special rule for credit unions

Section 509(a) does not apply to certain accounts at credit unions. Section 509(a) does not apply if the credit union calculates the accrual of interest or dividends by a method other than the average daily balance or day of deposit to day of withdrawal method with respect to all funds, including cash, deposited in such accounts, and provides notice of their interest payment policy to their account holders.

D. Calculated on full amount of principal

Section 509(d) requires that the amount of interest accruing on an interest bearing account shall be calculated on the full amount of the principal in the account for the stated calculation period at the stated rates. The section is intended to prohibit use of the "investable balance" method whereby institutions pay interest on less than the full amount of the deposit.

E. No particular method of compounding interest required

Section 509(e) should not be construed as prohibiting or requiring the use of any particular method of compounding or crediting interest.

SECTION 510. REGULATIONS

A. In general

Section 510 requires the Board to prescribe regulations to carry out the provisions of this subtitle. The regulations may contain any exceptions for any class of accounts which the Board determines to be necessary or proper to carry out the purposes of this subtitle, to prevent circumvention or evasion of the requirements of this subtitle, or to facilitate compliance with the requirements of this subtitle. It is not intended to permit the Board to override the specific provisions of any section of the subtitle.

B. Model forms and clauses

The Federal Reserve Board must publish model forms and clauses for disclosure to facilitate compliance with this subtitle. While a depository institution would not be required to use any model such form or clause, proper use of model forms and clauses would be deemed to be compliance with the disclosure provisions of this subtitle.

SECTION 511. ADMINISTRATIVE ENFORCEMENT

Section 511 provides for administrative enforcement by the relevant depository institution agencies. The agencies may exercise any legal authority they already possess to enforce compliance with this subtitle. Each agency retains the authority to make rules regarding its own procedures for enforcing compliance with this subtitle.

SECTION 512. CIVIL LIABILITY

A. Civil liability

Section 512 sets forth a penalty structure based on the Truth in Lending Act, with minor modifications, for an institution that fails to comply with any of this subtitle's requirements or any regulations. In the case of an individual action by an account holder, any entity that fails to comply shall be liable for not less than $100 nor more than $1000, in addition to actual damages. In the case of a class action, the total recovery shall not be more than 1 percent of the net worth of the depository institution involved up to a maximum of $500,000, in addition to actual damages. In any successful action, the institution must also pay the costs of the action and reasonable attorney's fees as determined by the court.

B. Class action awards

In setting awards in class actions under section 512, courts must consider the amount of any actual damages awarded, the frequency, persistence and willfulness of the failures of compliance, the number of people affected, and the institution's resources.

C. Bona fide errors

The institution will not be liable for a violation of this subtitle if it demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error. Examples of bona fide errors include clerical, calculation and printing errors.

D. Jurisdiction

An action under section 512 may be brought in any United States district court within one year after the violation.

E. Reliance on board rulings

The institution will not be liable for any act or omission made in good faith in conformity with any Federal Reserve Board rule, regulation or interpretation or with Board approval. The institution will not be liable even if the rule, regulation, interpretation or approval is later amended, rescinded, or determined to be invalid.

F. Notification of adjustment for errors

The institution will not be liable for a failure to comply if it notifies the account holder of the failure and corrects the failure within 60 days of discovering the failure and before the account holder has instituted an action or given written notice of the failure. The institution must make any adjustments necessary to ensure that account holders will not be liable for any fee or charge in excess of that disclosed or not actually disclosed. The institution also must make any adjustments necessary to ensure that interest in accounts will accrue at the annual percentage yield and under the conditions actually disclosed.

G. Multiple interests in one account

A depository institution will have the same liability for a failure to comply with respect to an account held by more than one person as to an account held by an individual. The court must determine how the amount of any liability should be distributed among persons holding one account.

H. Continuing failure to disclose

The continuing failure of an institution to make a required disclosure with respect to a particular account shall generally be treated as a single violation for purposes of determining the institution's liability. A continuing failure to make a required disclosure after a judgment has been rendered in favor of the account holder in connection with such failure will be treated as a subsequent violation for determining liability.

SECTION 513. CREDIT UNIONS

Section 513 exempts credit unions from direct application of the regulations prescribed by the Federal Reserve Board under this subtitle. Within 90 days of the effective date of any regulation prescribed by the Federal Reserve Board, the NCUA shall promulgate a "substantially similar" regulation. The regulation promulgated by the NCUA shall take into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts. The section is intended to give the NCUA discretion to accommodate the unique structure of credit unions, so long as the regulations are substantially similar to those prescribed by the Board.

SECTION 514. REVIEW OF DISCLOSURE REQUIREMENTS FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES

Section 514 adds new Section 66 to the Investment Company Act of 1940 to require the SEC to consult with the Board to review the regulations prescribed under this subtitle, the Securities Act of 1933 and the Investment Company Act of 1940. The agencies will determine if such regulations are providing consumers with the ability to compare effectively savings and investment options.

SECTION 515. EFFECT ON STATE LAW

The provisions of this subtitle do not supersede any state laws relating to the disclosure of yields payable or terms for accounts to the extent such state laws require the disclosure of such yields or terms for accounts, except to the extent those laws are inconsistent with the provision of this subtitle. A similar rule applies with respect to state laws relating to the determination of the balance on which interest is calculated.

SECTION 516. EFFECTIVE DATE OF REGULATIONS

Section 516 requires the Federal Reserve Board to issue regulations in final form within nine months after the date of enactment of this subtitle. The regulations shall take effect not later than six months after publication in final form.

Subtitle B—Fair Lending Enforcement

SECTION 521. SHORT TITLE

Section 521 provides that the short title of the bill is the "Fair Lending Enforcement Act of 1990."

SECTION 522. APPRAISALS

Section 522 amends section 701 of the Equal Credit Opportunity Act to require lenders promptly to provide a loan applicant with a copy of the appraisal report used in connection with applicant's application for a loan secured by residential real estate. The appraisal report is the complete appraisal report signed by the appraiser; it includes all information submitted to the lender by the appraiser for the purpose of determining the value of the residential real estate.

The applicant must request the appraisal in writing within a reasonable period of time

of the loan application. What constitutes a reasonable time would depend on a balancing of factors, such as how long lenders routinely maintain loan files with how long a loan applicant might need to identify and act upon suspected discrimination. The lender is required to provide the appraisal report whether or not the loan applicant has been granted a mortgage loan. The lender may require the applicant to pay for the appraisal.

SECTION 523. CONSUMER COMPLIANCE PROGRAMS

Section 523 adds new section 41 to the Federal Deposit Insurance Act and new section 130 to the Federal Credit Union Act to require each Federal depository institution regulatory agency to establish separate consumer compliance programs with specially trained consumer compliance examiners. The head of the program must report directly to the head of the agency.

Consumer compliance examinations are examinations of depository institutions to determine the extent of their compliance with fair lending and all other applicable consumer protection laws. Such examinations could also include selected other public interest compliance responsibilities. Banks and thrifts must be examined for compliance with the Community Reinvestment Act, but credit unions are not subject to this law. Consumer compliance examinations must be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. Consumer compliance examiners must be specialists in consumer compliance and must have received specialized training in this area. Such examiners, however, may have received training in safety and soundness examination techniques as well.

Such consumer compliance examinations are required to be conducted at least every two years or as frequently as regular on-site safety and soundness examinations, whichever is less frequent. Special safety and soundness examinations, which are conducted because of heightened concern over the financial condition of a depository institution, and brief on-site visitations would not be considered a "regular" examination for purposes of tolling a required consumer compliance examination. Consumer compliance examinations may be conducted at a different time from safety and soundness examinations. The regulatory agencies may send only one examiner to small depository institutions to conduct both consumer compliance and safety and soundness examinations, but this examiner must have a thorough understanding of the consumer laws and compliance examination procedures.

New section 41 also allows bank and savings and loan holding companies to request the appropriate regulatory agency to do a special consumer compliance examination. The regulatory agencies, however, are not required to perform such examinations.

Each regulatory agency may consider the size of the institution and the complexity of the consumer examination issues presented in allocating personnel within their consumer compliance programs. Since credit unions tend to be smaller than national banks, have less sophisticated portfolios and are not subject to the Community Reinvestment Act, the Federal banking agencies may need to devote more examiners to consumer compliance than will the NCUA. The unique structure and mission of credit unions may also indicate less of a need for consumer compliance examinations.

The head of the consumer compliance program will be responsible for, among other things, developing procedures for consumer compliance examinations, training and supervision or oversight of consumer compliance examiners, responding to consumer complaints, and causing agency personnel to undertake supervisory actions or initiate enforcement proceedings. The head of this program is also responsible for developing career paths for consumer compliance examiners so that examiners who receive this specialized training and conduct these examinations will be treated comparably to examiners who only conduct safety and soundness examinations.

Implementation of the consumer compliance programs must be completed by January 1, 1993. Each consumer compliance program must prepare an annual report describing its activities. This report must be transmitted to Congress or included in the agency's annual report to Congress.

SECTION 524. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT

Pattern or Practice. Section 524(a) amends section 706(g) of ECOA to require the OCC, Federal Reserve, FDIC, OTS, and NCUA to refer suspected pattern and practice cases of violations of the Equal Credit Opportunity Act (ECOA) to the Justice Department. The section is intended to mandate referrals of substantive rather than technical violations. For example, referrals would be required when: (1) the creditor denies loans for which the applicant is otherwise qualified because it discounted part-time income in determining the applicant's creditworthiness, even when that income is shown to be reliable; (2) the creditor denies loans or changes the terms or conditions of loans through the use of more restrictive credit criteria for minorities or women; (3) the creditor discourages applications from minority applicants by making exceptions from established lending criteria for white applicants but not for minority applicants similarly situated. Referrals would not be required when: (1) the creditor fails to complete processing of applications within 30 days, as required by regulation, if there is no indication that loans are denied or discouraged on a prohibited basis, or that the delays have a particular impact on members of protected categories in such a way as to discourage them from applying for credit; (2) the creditor fails to complete, or to complete properly, adverse action notices as required by regulation; (3) the creditor improperly obtains spousal signatures, where there is no evidence that applicants are denied, or discouraged from applying for, or are given changed terms or conditions on, loans on a prohibited basis by the implementation of this policy; and (4) the creditor fails to obtain monitoring data for mortgage loans, as required, if there is no evidence that applications were discouraged or denied or changed on an illegal basis because of the failure.

Further, section 524(a) is not intended to strip these regulatory agencies of their enforcement powers and responsibilities; the agencies should cause depository institutions to change any discriminatory policies identified. Referral of a case does not relieve the regulatory agency of enforcement responsibility; instead, referral provides the Justice Department with the opportunity to intervene or to direct a case. Justice Department action would be most appropriate in egregious cases of discrimination, cases in which the regulatory agencies have not sought proper compensation for victims of discrimination, and cases in which a closer examination by those with greater civil right expertise would be desirable.

In contrast to suspected pattern and practice cases, section 524(a) authorizes, but does not require, the regulatory agencies to refer suspected individual cases of discrimination to the Justice Department. Current ECOA law provides that agencies may refer, cases to the Justice Department "if unable to obtain compliance.

Damages. Section 524(b) amends section 706(h) of ECOA to clarify that the Justice Department may seek actual and punitive damages in any civil action it brings. Although the ECOA statute provides that the Attorney General may bring a civil action "for such relief as may be appropriate, including injunctive relief," the court in *United States* v. *Beneficial Corp.*, 462 F. Supp. 682 (D. N.J. 1980), affirmed without opinion, 673 F. 2d (3d Cir. 1981), held that section 706(h) of ECOA, "authorizes the Attorney General to seek a wide range of equitable remedies, but not legal money damages . . ." (462 F. Supp. at 688). Section 524(b) changes this rule. Punitive damage awards sought by the Justice Department would be subject to the statutory limits provided for in section 706(b) of ECOA.

Individual Cases. Section 524(c) amends section 706 of ECOA to require the OCC, Federal Reserve, FDIC, OTS, and NCUA to refer suspected individual cases of mortgage discrimination, i.e. violations of ECOA which also are violations of the Fair Housing Act (FHA), to HUD if not referred to the Justice Department. In such a situation the agency also must notify the loan applicant that remedies may be available under the FHA.

Like section 524(a), section 524(b) is intended to mandate referrals of substantive rather than technical violations and is not intended to strip these regulatory agencies of their enforcement powers. The agencies still should cause depository institutions to change any discriminatory policies identified. Referral of a case does not relieve the regulatory agency of enforcement responsibility; instead, referral provides HUD with the opportunity to intervene or to direct a case. HUD action would be most appropriate in egregious cases of discrimination, cases in which the regulatory agencies have not sought proper compensation for victims of discrimination, and cases in which a closer examination by those with greater civil rights expertise would be desirable.

SECTION 525. HOME MORTGAGE DISCLOSURE ACT

Section 5 amends section 309 of the Home Mortgage Disclosure Act (HMDA) by narrowing the type of institutions exempt from the statute for having $10,000,000 or less in assets. The Federal Reserve, in consultation with HUD, is authorized to establish a new exemption for "other lending institutions," which are not banks, thrifts, or credit unions. The new exemption would exempt these lending institutions or mortgage bankers who are comparably small within their industry to banks and thrifts of $10,000,000 or less in assets within the banking and thrift industry.

Subtitle C—Basic Financial Services Accounts

SECTION 531. SHORT TITLE

Section 531 designates this subtitle as the "Financial Services Access Act of 1991."

SECTION 532. BASIC FINANCIAL SERVICES ACCOUNTS REQUIRED

Section 532(a) requires each depository institution to offer a basic financial services account providing basic transaction services or government check cashing services. A consumer may choose either service but is not entitled to receive both services.

Section 532(b) provides that the terms of a basic financial services account may not require any other relationship between the

consumer and the depository institution. (Section 537 provides an exception for credit unions.) The institution may not discriminate against low income persons on the basis of race, color, national origin, sex, age, marital status, receipt of public assistance, source of income, employment status, or access to credit in providing the basic financial services account. The institution may not restrict the holder of a basic financial services account to nonteller services such as automated teller machines.

Under section 532(c), an institution need not provide a basic financial services account to any consumer who has a deposit account or government check cashing relationship with the institution or any other depository institution. A depository institution may require individuals to self certify that their household income is less than $20,000 to qualify for basic banking and check cashing services.

A depository institution that on the subtitle's effective date already offers basic transaction services comparable to or more favorable than those required by the subtitle is exempt under section 532(d) from the basic transaction services requirements. The exemption applies so long as the institution continues to offer those services or improved services. The institution must notify the appropriate Federal regulatory agency of any changes in its services that cause a failure to comply with the basic transaction services requirements. Section 532(e) similarly exempts depository institutions offering government check cashing services comparable to or more favorable than those required by the subtitle from the subtitle's government check cashing services requirements. The institution must notify the appropriate Federal regulatory agency of any changes in its services that cause a failure to comply with the government check cashing services requirements.

SECTION 533. ACCOUNT APPLICATIONS

Section 533 requires the Federal Reserve Board to develop an application form to be used by depository institutions in offering basic financial services accounts. The form must be available at all depository institution offices that are staffed by the institution's employees, take deposits and open new accounts. Among the information the Federal Reserve Board requires on the form shall be the name, address, date of birth, handwritten signature, the identification number of the applicant, and self certification by the applicant that the household income of the applicant is less than $20,000.

An applicant for a basic financial services account may be required to present identification with a signature and photograph. The applicant may be required to state in writing whether he has, or has applied for, any other basic transaction services or government check cashing services. The applicant must be provided with a copy of the completed application within 15 days after filing demonstrating that it has been received.

Under section 533(f), a depository institution may reject an application if it has reason to believe the applicant has committed or attempted fraud against a depository institution or has made an intentional material misrepresentation. The institution shall provide the applicant with timely written notification of the reasons for rejecting the application and maintain for at least one year a file regarding the rejection. The Federal Reserve Board shall develop a notice of rejection form for use by institutions.

Under section 533(g), an institution may impose a 15-day waiting period between the date of the application and the provision of basic transaction or government check cashing services. If an institution issues an identification card to an approved applicant, it may assess a reasonable charge for replacing lost or stolen cards.

SECTION 534. BASIC TRANSACTION SERVICES REQUIREMENTS

Section 534(a) establishes the requirements of a basic transaction services account. Such an account must not have a minimum initial deposit or establishment fee. Any minimum balance requirement can be no more than $25. The account must permit checks or other instruments to be drawn on the account to make payments to third parties. It must further permit at least 10 withdrawals per month, including withdrawals by check. The only allowable fees are a monthly maintenance fee that does not exceed the demonstrable costs of providing the account plus profit of up to 10% of costs, a reasonable cost-based fee for check printing, and a reasonable cost-based fee for transactions in excess of the 10 withdrawals per month. The account holder must receive either a detailed periodic statement of transactions or a passbook in which the institution enters all transactions. The account must allow for direct deposit at the consumer's option. The institution may initiate direct deposit if the consumer does not object; the institution must first notify the consumer of the initiation of direct deposit and of his right to decline direct deposit.

The institution need not provide a basic transaction services account to an individual who maintains an average daily balance of over $1000. The institution need not pay interest on funds deposited in the account. The institution may offer a cost-based discount to consumers using direct deposit or automated teller machines. The institution may close the account if three overdrafts or returned checks occur with respect to an account in a six-month period or if the consumer engages in fraudulent activity.

Section 534(b) requires the Federal Reserve Board to conduct cost analysis studies of depository institutions. Depository institutions will self certify that their fees are cost based plus a ten percent profit.

SECTION 535. GOVERNMENT CHECK CASHING SERVICES REQUIREMENTS

Section 535(a) establishes the requirements of a government check cashing services account. Such an account must allow the account holder to cash government checks issued to him up to $1500. The account must not have an establishment fee or any monthly service charge. The only allowable fees are a check cashing fee that does not exceed the demonstrable costs of providing the service plus profit of up to 10% of costs. The account holder may select three of the depository institution's offices that are staffed by the institution's employees, take deposits and open new accounts at which to cash checks if the institution has at least three such offices. Before cashing any government check, the institution may require the consumer to present an identification card issued by the institution, another form of identification with a photograph, and his account number.

Section 535(b) requires the Federal Reserve Board to conduct cost analysis studies of depository institutions. Depository institutions will self certify that their fees are cost based plus a ten percent profit.

SECTION 536. INFORMATION ON ACCOUNTS

Section 536 requires depository institutions to prepare and display written materials informing consumers of the availability of basic financial services accounts. The materials must explain the features of basic transaction and government check cashing services, state that further information is available upon request, and disclose the consumer's right to complain about the institution's noncompliance with the subtitle. An institution must provide a written summary describing its basic transaction and government check cashing services to any individual upon request.

SECTION 537. SPECIAL RULES FOR CREDIT UNIONS

Section 537 limits the extent to which credit unions must provide basic financial services accounts. Section 537(a) provides that community and private-employment based credit unions that offer share draft accounts or cash share drafts for their members must offer basic transaction and government check cashing services to their members, subject to the provisions of the subtitle. Section 537(b) provides that government-sponsored credit unions that offer share draft accounts or cash share drafts for their members must provide basic transaction and government check cashing services to their members, subject to the provisions of the subtitle.

SECTION 538. SPECIAL RULES FOR CERTAIN DEPOSITORY INSTITUTIONS

Section 538 provides that an institution that does not maintain deposit accounts for customers in the ordinary course of its business is not required to provide basic transaction services. An institution that does not cash checks for customers in the ordinary course of its business is not required to provide government check cashing services.

SECTION 539. PREVENTION OF FRAUD LOSSES

A depository institution may petition the Federal Reserve Board to suspend the requirement that it provide government check cashing services. The Board may grant such petition if it determines that the institution is experiencing an unacceptable level of losses due to check-related fraud. The Board further may suspend any government check cashing services requirement for any class of checks if the Board determines that depository institutions are experiencing an unacceptable level of losses due to check-related fraud with respect to such class of checks or there is reason to believe such class of checks is being used in a scheme to defraud. If the Board suspends the check cashing services requirement for an institution or class of checks, it shall within 10 days submit to the House and Senate Banking Committees a report explaining the reasoning for its decision and the evidence it considered.

Under section 539(d), an institution need not cash a government check if the institution has reason to believe the check is fraudulent, fraudulently presented, altered or forged; the identification card presented is altered or forged; the individual presenting the check is misrepresenting his identity; or the check will not be honored by the check-issuing governmental authority.

SECTION 540. ADMINISTRATIVE ENFORCEMENT

The appropriate Federal banking agencies, Federal Reserve Board, FDIC Board of Directors and NCUA Board shall enforce compliance with the subtitle by the institutions for which they are the primary Federal regulatory agencies. Each agency may exercise any authority conferred on the agency by law in enforcing compliance with the subtitle. However, no administrative monetary penalty or fine shall be imposed in enforcing this subtitle.

Section 540(d) directs the Secretary of the Treasury to develop a complaint form for use by consumers in reporting possible violations of the subtitle. A Federal regulatory agency receiving such a complaint shall investigate as it deems necessary. The agency shall not consider any complaints alleging wrongful denial of an application for a basic financial services account filed more than one year after the denial. If a complaint is verified by an investigation, the agency shall take proper enforcement steps and provide the results in writing to the complainant and the depository institution.

SECTION 541. CIVIL LIABILITY

No private cause of action for damages, whether an individual action or a class action, is created by the subtitle.

SECTION 542. DEFINITIONS

Section 542 defines the terms "Board," "consumer," "depository institution," "Federal depository institution," "government check," "government check cashing relationship," "state," and "transaction account." "Consumer" is defined as a natural person. "Government check" is defined as any check issued by the United States or an agency thereof; by any state or agency thereof if presented for cashing within that state; or by any unit of local government or agency thereof if presented for cashing within that unit of local government. A state-issued payment warrant or a check issued by a local government special purpose district or unit is not a "government check" for purposes of the subtitle.

SECTION 543. STUDY AND REPORT ON INCIDENCE OF FRAUD IN CONNECTION WITH GOVERNMENT CHECK CASHING

Section 543 requires the Federal Reserve Board, one year after enactment of the subtitle, to conduct a study of the check cashing services provided pursuant to the subtitle. The study will determine whether any losses due to fraud in connection with providing such services are causing the costs incurred by depository institutions to exceed revenues from the service fees collected. Within eighteen months after enactment of the subtitle, the Board must submit to Congress its findings and conclusions, together with any recommendations for legislative or administrative action.

SECTION 544. STUDY AND REPORT ON THE STAGGERING OF FEDERAL RECURRING PAYMENTS

Currently all Social Security and other recurring Federal benefit and payroll payments occur on the 1st and 15th days of the month. Section 544 requires the Secretary of the Treasury to conduct a study of the feasibility of staggering such recurring Federal payments. Within six months after enactment of the subtitle, the Secretary must transmit to Congress a report of the results of the study, together with any recommendations for legislative or administrative action.

SECTION 545. STUDY AND REPORT ON UTILIZING THE UNITED STATES POSTAL SERVICE AS A PROVIDER OF GOVERNMENT CHECK CASHING SERVICES

Section 545 requires the Comptroller General to conduct a study of current practices of check cashing outlets. Within one year after enactment of the subtitle, the Comptroller General must report to Congress regarding the results of the study, any potential need for Federal or state regulation of check cashing services, and any recommendations for legislative or administrative action for enhancing the access of low-income consumers to government check cashing services through the United States Postal Service.

SECTION 546. STUDY AND REPORT ON DIRECT DEPOSIT PROGRAM FOR FEDERAL RECURRING PAYMENTS

Section 546 requires the Comptroller General to conduct a study to assess the benefits and costs to the Federal government of making government payments by direct deposit as compared to paper checks. Within six months after enactment of the subtitle, the Comptroller General must transmit to Congress a report of the results of the study, together with any recommendations for legislative or administrative action.

SECTION 547. GOVERNMENT RETURN OF ELECTRONIC PAYMENTS

Section 3712(a) of title 31, United States Code currently allows the Secretary of the Treasury to reclaim the amount of a Treasury check paid over a forged or unauthorized endorsement from the presenting bank or any other endorser that has breached its guarantee of endorsement. The Secretary must reclaim the payment within one year of the date of payment. Section 547 extends this authority to allow the Secretary to reclaim a government benefit paid by electronic funds transfer that has been acquired by an unauthorized party. For payments made on or after January 1, 1985, the Secretary must reclaim the payment within six months of the date of payment.

SECTION 548. EFFECTIVE DATE

Sections 543 through 546 of this subtitle shall take effect 90 days after publication of the studies required in section 534(b) and 535(b). In no case shall this subtitle take effect later than 9 months after the date of enactment. The remaining sections of this subtitle shall take effect 180 days after enactment of the subtitle.

Subtitle D—Miscellaneous

SECTION 551. HOME EQUITY CONSUMER PROTECTION ACT AMENDMENT

Section 551 amends section 127A(a)(2)(A) of the Truth in Lending Act to require the lenders to provide as part of the disclosure given with an application form the specific margin that applies to the lender's home equity plan. 15 U.S.C. §1637a(a)(2)(A). New section 127A(a)(2)(A) permits creditors to offer multiple margins. For example, the lender may tie the amount of the margin to specific features of the plan, such as the size of the credit line or whether the consumer pays closing costs for the plan. In such circumstances, in addition to stating the different margins, the lender must specify the amount of the credit line to which the margin is tied, or clearly set forth and describe the feature to which the margin is tied. While more than one margin may be disclosed, lenders could not merely state a range of possible margins.

New section 127A(a)(2)(A) does not require lenders to provide multiple payment or other examples for each margin offered. However, such payment or other examples as are already required by law and regulation must reflect a specific margin being offered that is commonly chosen by consumers. The Committee expects the Board to disclose clearly and conspicuously the specific margin used in multiple payment and other examples.

SECTION 552. DIRECTIVE TO RELIEVE REGULATORY BURDEN

Section 522 will require regulators to reduce any regulatory burden imposed on banks by consumer laws including the Community Reinvestment Act of 1977, the Expedited Funds Availability Act, the Electronic Funds Transfer Act, the Home Mortgage Disclosure Act of 1975, the Real Estate Settlement Procedures Act of 1974, the Right to Financial Privacy Act of 1978, the Equal Credit Opportunity Act, and the National Flood Insurance Act of 1968. Regulators must identify innovative arrangements that can help banks comply with the Community Reinvestment Act and other consumer laws. Regulators will be required to submit a report to Congress on the actions taken to comply with this directive not later than one year following enactment.

SECTION 553. EXPEDITED FUNDS AVAILABILITY ACT

Section 553 will amend the Expedited Funds Availability Act as it concerns availability of cash and other next-day deposits, nonproprietary ATM deposits, safeguard exceptions, and loss allocation.

A. Availability of cash and other next-day deposits

Section 603(a) of the Expedited Funds Availability Act (dealing with next business day availability for certain deposits) will be amended to require that cash, state and local government checks, and cashier's, certified, teller's, and depository checks must be made available for withdrawal on the next business day after the business day of deposit, regardless of whether the deposits were made with tellers or at proprietary automated teller machines ("ATMs").

In shortening the availability rules for cash and certain checks deposited at ATMs, the Committee recognizes that some ATMs are located in remote areas which are difficult to service on a daily basis. In order to avoid discouraging depository institutions from establishing remote ATMs, section 553(a) authorizes the Federal Reserve Board to allow an extra day in making available funds deposited in those ATMs which are difficult to service on a daily basis. Deposits made at ATMs on the premises of a depository institution will be expected to be made available for withdrawal under the general next-day rule.

B. Nonproprietary ATM deposits

Section 553(b) amends section 603(e) of the Expedited Funds Availability Act, regarding deposits at nonproprietary ATMs. It postpones until September 1, 1994 the effective date of the permanent rules for deposits at nonproprietary ATMs. Section 553(b) also reduces the availability period for funds deposited at nonproprietary ATMs from seven to five days so that deposits at nonproprietary ATMs will have the same availability as non local checks deposited with tellers or proprietary ATMs under the permanent schedule.

C. Safeguard exceptions for next-day checks and notice requirements

Section 553(c) amends section 604 of the Expedited Funds Availability Act. First, it expands the scope of the "safeguard" exception holds to include deposits of all "next-day" checks, such as government checks and depository checks. Section 553(c) applies the large or redeposited checks exception and the repeated overdrafts exception provided for in section 604(b), the reasonable cause exception provided in the section 604(c), and the emergency conditions exception provided for in section 604(d) to next-day checks covered in section 603(a)(2).

Second, section 553(c) grants the Federal Reserve Board some flexibility in tailoring the requirements for exception hold notices to the exception invoked. It allows the Federal Reserve Board to issue regulations so

that account holders repeatedly depositing large dollar amounts or redepositing checks would receive a single notice rather than notices at the time of each deposit. Also, for repeatedly overdrawn accounts, a single notice could be provided at the time the exception was first invoked so long as the notice describes the special schedules applicable to the account and the time period for which they apply.

D. Loss allocation

Section 553(d) amends section 611(f) of the Expedited Funds Availability Act to clarify the Federal Reserve Board's ability to allocate liability for losses in the check collection process among depository institutions as well as among other participants in the payments system, such as states and their political subdivisions. Section 553(d) eliminates the ambiguity in current law by allowing the Federal Reserve Board to impose on or allocate among such entities the risks of loss and liability in connection with any aspect of the payments system, including the payment of checks. Liability under these provisions would then be enforced in the appropriate courts.

The amount of liability in cases against states or their subdivisions is limited to the damages provided for in the Expedited Funds Availability Act. Section 553(d) does not allow against states or their subdivisions punitive damages or the special class action awards that may be awarded against depository institutions under sections 611(a) and (b).

SECTION 554. TRUTH IN LENDING ACT

Section 554 amends the Truth in Lending Act to permit high income borrowers—those earning more than $200,000 annually or that have assets in excess of $1 million—to waive their right to information mandated under the Act. This waiver will only be permitted after full disclosure to the consumer.

SECTION 555. HOME OWNERSHIP AMENDMENTS

Section 555 eliminates a requirement of the Real Estate Settlement Procedures Act that lenders provide potential borrowers with a booklet which describes and explains all the costs associated with settlement if a mortgage application is denied within three days of submission. Section 555 also clarifies the Federal Reserve's current interpretation of the Competitive Equality Banking Act of 1987 that only consumer—not commercial—loans are subject to adjustable rate mortgage (ARM) cap limitations.

SECTION 556. DISCUSSION OF LENDING DATA

Section 556 requires regulators to disclose the statistical lending data used in assessing an institution's Community Reinvestment Act performance. This should bring regulatory performance into compliance with changes to the Community Reinvestment Act mandated under FIRREA.

SECTION 557. GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING

Section 557 requires the Comptroller General to examine the existing requirements that govern the collection and reporting of deposit and lending data by financial institutions and determine the extent to which such requirements need to be modified to reflect the shift to interstate branching.

SECTION 558. GAO STUDY ON COMMUNITY LENDING

Section 558 requires the Comptroller General to conduct a study on the impediments to sound lending in low- and moderate-income neighborhoods and inner cities. The study shall be submitted to Congress not later than one year after enactment.

TITLE VI—FOREIGN BANK SUPERVISION AND REGULATION

Subtitle A—Foreign Bank Supervision Act

SECTION 601. SHORT TITLE

Section 601 designates subtitle A of title VI as the "Foreign Bank Supervision Act of 1991."

SECTION 602. REGULATION OF FOREIGN BANK OPERATIONS

A. Establishment and termination of foreign bank offices in the United States

Section 602(a) amends section 7 of the International Banking Act of 1978 (12 U.S.C. §3105) to add new sections 7(e) through 7(i). New section 7(e) requires prior approval of the Federal Reserve Board before a foreign bank may establish a Federal or State branch or agency or acquire ownership or control of a commercial lending company in the United States. (The term "office" will be used to refer to these differing types of banking operations.) In acting on an application by a foreign bank to establish an office, the Federal Reserve Board may not make the size of the foreign bank the sole determinative factor. The Board may take into account the needs of the community to be served, the length of operation of the foreign bank in its home country, and its relative size in its home country.

To approve a foreign bank's application to establish an office in the United States, the Federal Reserve Board must determine that the foreign bank engages directly in banking outside the United States, is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, and has furnished the information the Board needs to assess the application adequately.

In reviewing applications under new section 7(e), the Federal Reserve Board may also consider (1) whether the appropriate authorities in the foreign bank's home country have consented to the proposed establishment of an office in the United States; (2) the financial and managerial resources of the foreign bank, including its experience and capacity to engage in international banking and the competence, experience and integrity of its officers, directors and principal shareholders; (3) whether the foreign bank has provided adequate assurances to the Federal Reserve Board that it will make available such information on its operations and activities as the Board deems necessary to determine and enforce compliance with the International Banking Act, the Bank Holding Company Act, and other applicable Federal banking statutes; and (4) whether the foreign bank and its United States affiliates are in compliance with applicable United States law.

The Federal Reserve Board may impose such conditions on its approval as it deems necessary consistent with these standards. In considering whether to approve the establishment of or terminate an office of a foreign bank, the Federal Reserve will request and consider any views of the appropriate State banking agency or the Comptroller of the Currency.

New section 7(f) allows the Federal Reserve to order a foreign bank to terminate any Federal or State branch, agency or commercial lending company subsidiary in the United States. To terminate a foreign bank's office, the Federal Reserve must find that the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country. Alternatively, the Board must find reasonable cause to believe that the foreign bank or an affiliate has committed a violation of law or engaged in an unsafe or unsound practice in the United States and that as a result of such violation or practice the continued operation of the office in the United States would not be consistent with the public interest or the purposes of the International Banking Act, the Bank Holding Company Act, or the Financial Institutions Supervisory Act of 1966. In making findings under new section 7(f), the Federal Reserve shall not make the size of the foreign bank the sole determinative factor. The Federal Reserve may take into account the needs of the community to be served, the length of operation of the foreign bank in its home country, and its relative size in its home country.

The Federal Reserve must first give notice and opportunity for hearing and notice to the Office of the Comptroller of the Currency or any appropriate State supervisory agency. If, however, the Federal Reserve Board determines that expeditious action is necessary in order to protect the public interest, it may close an office of a foreign bank without providing an opportunity for a hearing.

A termination order shall become effective within 120 days of its issuance unless the Federal Reserve Board directs otherwise. Federal and State law govern procedures for closure or dissolution of terminated foreign bank offices or subsidiaries.

The Federal Reserve Board may apply for enforcement of any effective and outstanding termination order to any United States district court within a jurisdiction in which the foreign bank has an office or subsidiary. Such court shall have jurisdiction and power to require compliance with such an order.

A foreign bank against which the Federal Reserve Board has issued an order regarding the establishment or termination of an office may obtain review of that order in the United States Court of Appeals for the circuit where the office is located or in the United States Court of Appeals for the District of Columbia Circuit. That court will have exclusive jurisdiction over the issuance, enforcement, review, modification, suspension or termination of such an order. The foreign bank must file a petition within 30 days after the Federal Reserve Board enters its order. The clerk of the Court of Appeals must transmit a copy of the petition to the Board, which must then file in court the record made before it. The Court of Appeals may affirm, modify or set aside the Federal Reserve Board's order and may require the agency to take such action as the court deems proper. In any such judicial proceeding the Federal Reserve Board's factual findings shall be conclusive if supported by substantial evidence.

Effective one year after enactment, a State branch or agency of a foreign bank may not engage in any type of activity that is not permissible for a Federal branch of a foreign bank unless the Federal Reserve Board has determined that such activity is consistent with sound banking practices. In the case of an insured branch, the FDIC must also determine that the activity would pose no significant risk to the deposit insurance fund. The Federal Reserve Board and the appropriate State supervisory authority remain free to impose more stringent restrictions on the powers of State branches and agencies of foreign banks.

B. Standards for approval of Federal branches and agencies

Section 4(a) of the International Banking Act requires a foreign bank seeking to establish a Federal branch or agency to obtain the

approval of the Comptroller of the Currency. 12 U.S.C. §3102(a). Section 602(b) amends section 4(a) to include the Federal Reserve Board in the approval process with the Comptroller. It also requires that such approval be consistent with any condition imposed by the Federal Reserve Board under new section 7(e)(1).

C. Standards for approval of additional Federal branches and agencies

Section 4(h) of the International Banking Act requires a foreign bank with a Federal branch or agency seeking to establish additional branches or agencies in the same state to obtain the approval of the Comptroller of the Currency. 12 U.S.C. §3102(h). Section 602(c) amends section 4(h) to require the Comptroller to provide the Federal Reserve Board with notice and an opportunity to comment on any application to establish an additional Federal branch or agency. As described above, the approval of the Federal Reserve Board is required before a foreign bank may open any Federal branch or agency.

D. Disapproval for failure to agree to provide necessary information

Section 3(c) of the Bank Holding Company Act sets forth procedures to be followed and factors to be considered by the Federal Reserve Board in approving the acquisition of bank shares or assets by bank holding companies. 12 U.S.C. §1842(c). Section 602(d) amends section 3(c) to include additional factors for the Board's consideration. The Federal Reserve Board should disapprove any application to acquire a United States bank unless the foreign company or companies give adequate assurances to the Federal Reserve Board that the Board will have access to information on the operations and activities of the company or companies and any affiliates the Federal Reserve Board deems necessary to determine and enforce compliance with the Bank Holding Company Act. This requirement applies to applications by both foreign banking organizations and domestic bank holding companies. In the case of an application by a foreign bank, the Federal Reserve should also disapprove the application if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country.

E. Conforming amendments

Section 602(e) makes certain conforming amendments to the definitions section of the International Banking Act. "Affiliate" is given the same meaning as in the Bank Holding Company Act. "Representative office" means any office of a foreign bank in any State that is not a Federal branch or agency, State branch or agency, or a subsidiary of a foreign bank.

SECTION 603. CONDUCT AND COORDINATION OF EXAMINATIONS

Section 7(c) of the International Banking Act authorizes the Federal Reserve Board to examine each branch or agency of a foreign bank and each commercial lending company or bank controlled by a foreign bank. The cost of any such examination shall be paid by the foreign bank. 12 U.S.C. §3105(b). The Federal Reserve Board must defer to the other regulators "insofar as possible" in exercising its examination authority. Each State branch or agency of a foreign bank is subject to the same reporting requirements as a State member bank. Each Federal branch and agency is subject to the same reporting requirements as a member bank.

Section 603(a) amends section 7(c) to remove the requirement that the Federal Reserve Board defer to other regulators in exercising its examination authority. Instead, the Federal Reserve may examine any office or affiliate of a foreign bank or bank controlled by a foreign bank conducting business in the United States. The cost of such examinations shall be paid by such foreign bank or entity. The Federal Reserve Board must coordinate examinations with the Office of the Comptroller of the Currency, the FDIC, and appropriate State supervisory authorities. The Federal Reserve Board may request, when it deems appropriate, that the appropriate Federal and State bank regulators conduct simultaneous examinations of all offices of a foreign bank and its affiliates operating in the United States.

Each branch or agency of a foreign bank must receive an on-site examination at least once every 12 months by the Federal Reserve Board, the Comptroller of the Currency, the FDIC, or the appropriate State supervisory authority. In connection with that examination the Federal Reserve Board will review the worldwide capital level of the foreign bank to determine whether its financial resources, including the capital level, are equivalent to those required of a domestic bank holding company engaging in the activities that the foreign bank conducts in the United States. The Federal Reserve Board must consult with the Secretary of the Treasury before determining that a foreign bank meets the capital equivalency requirement. If the Federal Reserve Board finds that a foreign bank does not have the required level of capital to engage in securities activities, its branch or agency will be treated under section 10(d) of the Bank Holding Company Act (added by section 715 of the bill) in the same manner as an insured institution that becomes undercapitalized; that is, its securities activities will be restricted. If the Federal Reserve finds that a foreign bank does not have the required capital to engage in interstate banking, it must review the foreign bank's United States operations to determine whether the continued operation of the foreign bank's branches, agencies or commercial lending company subsidiaries would not be consistent with the public interest or the purposes of the International Banking Act, the Bank Holding Company Act, and the Financial Institutions Supervisory Act.

The Federal Reserve Board may require the foreign bank to increase capital or improve management. If those requirements can be adequately verified only if the foreign bank's banking activities are carried out in a domestic banking subsidiary, the Federal Reserve Board may require the foreign bank to conduct all its banking activities in the United States through such a subsidiary.

Section 4(b) of the International Banking Act subjects a Federal branch or agency of a foreign bank to such rules, regulations and orders as the Comptroller of the Currency considers appropriate. 12 U.S.C. §3102(b). Section 603(b) amends section 4(b) to require the Comptroller to coordinate examinations of Federal branches and agencies with examinations conducted by the Federal Reserve Board. To the extent possible, the Comptroller of the Currency will participate in any simultaneous examination of the United States operations of a foreign bank requested by the Federal Reserve Board.

Section 10(b)(2) of the Federal Deposit Insurance Act authorizes the FDIC to examine any insured State branch of a foreign bank or State branch of a foreign bank that files an application to become insured. 12 U.S.C. §1820(b)(2). Section 603(c) amends section 10(b)(2) to require the FDIC to coordinate examinations of insured state branches of foreign banks with examinations conducted by the Federal Reserve Board. To the extent possible, the FDIC will participate in any simultaneous examination of the United States operations of a foreign bank requested by the Federal Reserve Board.

SECTION 604. SUPERVISION FOREIGN BANKS' REPRESENTATIVE OFFICES

Section 10 of the International Banking Act requires a foreign bank that maintains an office other than a branch or agency to register with the Secretary of the Treasury. 12 U.S.C. §3107. These facilities are commonly referred to as representative offices. Section 604 amends section 10 to require a foreign bank to obtain prior approval of the Federal Reserve Board before establishing a representative office. In acting on such an application, the Federal Reserve Board must take into account whether the foreign bank engages directly in banking outside the United States, is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, and whether the foreign bank has furnished the information the Board needs to assess the application adequately. The Federal Reserve Board may impose any additional requirements necessary to carry out the purposes of the Act. Section 604 also gives the Federal Reserve Board discretionary authority to examine representative offices.

The Federal Reserve Board may terminate the activities of a representative office of a foreign bank on the basis of the same standards, procedures and requirements as apply to the termination of a foreign bank's branch, agency or commercial lending company. The termination is subject to the same judicial review as the termination of a foreign bank's branch, agency or commercial lending company.

Section 604 does not alter the current prohibition against establishing representative offices of a foreign bank in any State in contravention of State law.

SECTION 605. REPORTING STOCK LOANS

Section 7(j)(9) of the Federal Deposit Insurance Act requires the president of an insured depository institution that makes a loan secured by 25 percent or more of the outstanding voting stock of an insured depository institution to report the loan to the appropriate Federal banking agency for the bank whose stock secures the loan. 12 U.S.C. §1817(j)(9). No report need be made where the borrower has been the owner of record of the stock for one year or more or where the stock is of a newly organized bank prior to its opening.

Section 605 amends section 7(j)(9) to require any financial institution and its affiliates that have credit outstanding to any person or group of persons secured or to be secured by shares of an insured depository institution to file a consolidated report with the appropriate Federal banking agency for the insured institution if, in the aggregate, such extensions of credit are secured or to be secured by 25 percent or more of any class of shares of the same insured institution. "Financial institution" is defined as any insured depository institution and any foreign bank that is subject to the Bank Holding Company Act by virtue of section 8(a) of the International Banking Act. "Credit outstanding" is defined as any loan or extension of credit; the issuance of a guarantee, acceptance, or letter of credit (including an endorsement or standby letter of credit) and

any other type of transaction that provides credit or financing to a person or group of persons. "Group of persons" includes any number of persons that the financial institution reasonably believes are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured institution at approximately the same time under substantially the same terms; or that have made or propose to make a joint filing under section 13 of the Securities Exchange Act regarding ownership of shares of the same insured institution.

Any shares of the insured institution held by the financial institution or any of its affiliates as principal shall be counted toward the 25 percent level of the reporting requirement. The financial institution must file a consolidated report in writing within 30 days of the time that the financial institution or any of its affiliates believes that the 25 percent level has been met or exceeded. The report must disclose the number and percentage of shares securing each relevant extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any of its affiliates. The financial institution must file a copy of the report with its appropriate Federal banking agency. Each such agency may require additional information necessary to carry out its responsibilities.

A financial institution and its affiliates are not required to report a transaction if the person or group of persons disclosed the amount borrowed and the security interest to the appropriate Federal banking agency of the insured institution in connection with a notice filed under section 7(j), an application filed under the Bank Holding Company Act or the Savings and Loan Holding Company Act, or any other formal application filed with the appropriate Federal banking agency. This includes applications for deposit insurance, for membership in the Federal Reserve System, or for a national bank charter.

A financial institution and its affiliates need not report a transaction involving a person or group of persons that has been the owner or owners of record of the stock for at least one year or where the stock is of a newly chartered bank prior to its opening.

SECTION 606. COOPERATION WITH FOREIGN SUPERVISORS

Section 606 adds a new section 15 to the International Banking Act. New section 15 permits the Federal Reserve Board, the FDIC, and the Office of the Comptroller of the Currency to disclose information obtained in exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority. The agency must determine that such disclosure is necessary or appropriate and would not prejudice the interests of the United States. Prior to any such disclosure, the United States agency must obtain the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.

The Federal Reserve Board, the FDIC and the Office of the Comptroller of the Currency shall not be compelled to disclose information obtained from a foreign bank supervisor if the foreign supervisor has in good faith determined and represented that public disclosure would violate the laws applicable to that supervisor, and the United States agency obtains such information pursuant to an authorized procedure in connection with the administration or enforcement of the banking laws or pursuant to a memorandum of understanding. However, new section 15 does not authorize the Federal Reserve Board, FDIC or the Office of the Comptroller of the Currency to withhold information from Congress or to prevent such agency from complying with an order of a United States court in an action commenced by the United States or such agency.

SECTION 607. PENALTIES

Section 607 adds a new section 16 to the International Banking Act. New section 16 allows the appropriate Federal banking agencies to assess civil penalties for violations of the International Banking Act in a manner consistent with the Bank Holding Act applying civil penalties to bank holding companies. New section 16 requires any foreign bank or branch, agency, office or subsidiary of a foreign bank that violates any provision of the International Banking Act or a regulation or order issued pursuant to the Act to pay a civil penalty of up to $25,000 for each day the violation continues. Any penalty imposed may be assessed and collected by the appropriate Federal banking agency by written notice. If a hearing is not requested, the assessment shall constitute a final and unappealable order. The appropriate Federal banking agency may modify any penalty it may assess or has assessed. In determining the amount of penalty the agency shall consider the size and good faith of the foreign bank, the gravity of the violation, the history of previous violations, and such other matters as justice may require. If the foreign bank fails to pay an assessment after a penalty has become final, the agency may recover the amount assessed by action in the appropriate United States district court. The validity and appropriateness of the penalty shall not be subject to review in such an action. All penalties collected shall be deposited into the Treasury.

If the foreign bank, branch, agency, office, subsidiary or other person against whom a penalty is assessed requests a hearing within 20 days after the issuance of the notice of assessment, the foreign bank or other person will be afforded an agency hearing. The hearing will be conducted in accordance with section 8(h) of the Federal Deposit Insurance Act.

For purposes of new section 16, the term "violate" includes taking any action, alone or with others, that causes, brings about, participates in, counsels, or aids or abets a violation. The appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

The resignation, termination of employment or participation, or separation of an institution-affiliated party of a foreign bank, branch, agency, office or subsidiary shall not affect the authority of the appropriate Federal banking agency to issue a notice or seek penalties against any such party under new section 16 if notice is served within 6 years after the party ceases to be affiliated with the foreign bank.

New section 16(c) provides for three tiers of civil penalties for a failure by a foreign bank, branch, agency, other office, or subsidiary to make reports as required by the International Banking Act or regulations promulgated thereunder. These civil penalty provisions parallel those in the Bank Holding Company Act for failure to make reports under that Act. The first tier applies to any foreign bank, branch, agency, office or subsidiary maintaining procedures reasonably adapted to avoid any inadvertent error that nonetheless unintentionally and as a result of such error fails to submit required reports or information within the period of time specified, that submits any false or misleading report or information, or that inadvertently transmits a report that is minimally late. Such an entity shall be fined up to $2,000 for each day the failure continues or the false or misleading information is not corrected. The foreign bank bears the burden of proving that an error was inadvertent or that a report was inadvertently transmitted or published late.

The second tier requires any foreign bank, branch, agency, office or subsidiary that fails to submit required reports or information within the time period specified or submits any false or misleading report or information to be fined up to $20,000 for each day the failure continues or the false or misleading information is not corrected.

The third tier provides that if any company knowingly or with reckless disregard for the accuracy of any required report or information publishes any false or misleading report or information, the appropriate Federal banking agency may in its discretion assess a penalty up to $1 million or 1 percent of the total assets of the foreign bank, branch, agency, office or subsidiary, whichever is less, for each day the failure continues or the false or misleading information is not corrected.

Any penalty imposed shall be assessed and collected by the appropriate Federal banking agency in the same manner as for violations of the International Banking Act and the assessment shall be subject to those provisions. If the foreign bank, branch, agency, office, subsidiary or other person against whom a penalty is assessed requests a hearing within 20 days after the issuance of the notice of assessment, the foreign bank or other person will be afforded an agency hearing. The hearing will be conducted in accordance with section 8(h) of the Federal Deposit Insurance Act.

SECTION 608. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS

Section 13(b) of the International Banking Act authorizes any appropriate Federal banking agency to enforce compliance with the Act under section 8 of the Federal Deposit Insurance Act. 12 U.S.C. §3108(b). Section 608 amends section 13(b) to provide that the Federal Reserve Board, the FDIC and the Comptroller of the Currency and any designated representative, including any person designated to conduct a hearing under the Act, may administer oaths and affirmations, take depositions, and issue, revoke, quash or modify subpoenas and subpoenas duces tecum. The Federal Reserve Board, the FDIC and the Comptroller of the Currency shall have the authority to issue appropriate rules and regulations to effectuate the purposes of section 13(b). Attendance of witnesses and production of documents may be required by subpoena or subpoena duces tecum from any place subject to the jurisdiction of the United States at any designated place where a proceeding is conducted. Any party to proceedings under the International Banking Act may apply to the United States District Court for the District of Columbia or for the district in which the proceeding is conducted or where the witness resides or conducts business for enforcement of any subpoena or subpoena duces tecum. Such courts are given jurisdiction to enforce compliance with such subpoenas.

Subpoenaed witnesses will be paid the same fees and mileage as are paid to witnesses in the United States district courts. Any service required may be made by reg-

istered mail or in another manner reasonably calculated to give actual notice. A party that succeeds in having an agency order modified or set aside may be awarded reasonable expenses and attorneys' fees as the court deems just and proper. Any person who willfully fails or refuses to testify or to produce documents in obedience to an agency subpoena shall be guilty of a misdemeanor. Upon conviction, such person shall be subject to a fine up to $10,000 for each day that such failure or refusal continues, or to imprisonment up to 1 year, or both.

SECTION 609. PENALTIES FOR FAILURE TO COMPLY WITH AGENCY SUBPOENA

Section 5(f) of the Bank Holding Company Act provides penalties that makes a person who fails to comply with a subpoena of the Federal Reserve Board subject to a fine up to $1000, or to imprisonment up to 1 year, or both. 12 U.S.C. §1844(f). Section 8(n) of the Federal Deposit Insurance Act contains a parallel penalty for a person who fails to comply with a subpoena of an appropriate Federal banking agency. Section 609 amends section 5(f) and section 8(n) to increase the fine to up to $10,000 for each day that failure or refusal to comply with such subpoenas continues. This makes the penalties for failure to comply with agency subpoenas consistent among the International Banking Act, the Bank Holding Company Act, and the Federal Deposit Insurance Act.

SECTION 610. CLARIFYING MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT

Section 610 amends section 3(c) of the Bank Holding Company Act, as amended by section 602, to clarify that in considering an application for approval of a bank acquisition, the Federal Reserve Board shall consider the competence, experience, and integrity of the officers, directors and principal shareholders of a bank or bank holding company when considering the managerial resources of that bank or bank holding company. 12 U.S.C. §1842(c).

SECTION 611. AUTHORITY OF FEDERAL BANKING AGENCIES TO ENFORCE CONSUMER STATUTES

Section 304 of the Home Mortgage Disclosure Act requires national banks to disclose information regarding mortgage loans to the appropriate Federal banking agency. 12 U.S.C. §2803(h). Section 304(h) requires the Federal Reserve Board, in cooperation with the other appropriate Federal banking regulators, to develop regulations prescribing the format for such disclosures and the method for their submission. Section 611 extends section 304(h)'s disclosure to Federal branches and Federal agencies of foreign banks and specifies that the other appropriate regulator for drafting regulations for Federal branches and agencies is the Comptroller of the Currency. The Federal Reserve Board and the FDIC must develop such regulations for insured State branches of foreign banks.

Section 305(b) of the Home Mortgage Disclosure Act (12 U.S.C. §2804(b)), section 108(a) of the Truth in Lending Act (15 U.S.C. §1607(a)), section 621(b) of the Fair Credit Reporting Act (15 U.S.C. §1681s(b)), section 704(a) of the Equal Credit Opportunity Act (15 U.S.C. §1691c(a)), section 814(b) of the Fair Debt Collection Practices Act (15 U.S.C. §1692l(b)), section 917(a) of the Electronic Fund Transfer Act (15 U.S.C. §1693o(a)), section 18(f) of the Federal Trade Commission Act (15 U.S.C. §57a(f)), and section 610(a) of the Expedited Funds Availability Act (12 U.S.C. §4009(a)) authorize the appropriate Federal banking agencies to enforce compliance with those statutes by national banks, other Federal Reserve System member banks, FDIC-insured banks and savings associations, mutual savings banks, credit unions, and other lending institutions.

Section 611 makes parallel amendments to those sections regarding enforcement of those statutes. The Comptroller of the Currency will enforce compliance by Federal branches and Federal agencies of foreign banks. The FDIC will enforce compliance by insured State branches of foreign banks. The Federal Reserve Board will enforce compliance by commercial lending companies owned or controlled by foreign banks and by branches and agencies of foreign banks other than Federal branches, Federal agencies, and insured State branches. As the Federal Reserve Board currently has regulatory and supervisory authority with respect to the international banking entities known as Edge and Agreement corporations, section 611 provides the Board with examination and enforcement authority over those entities for purposes of the consumer statutes.

SECTION 612. CRIMINAL PENALTY FOR VIOLATING THE INTERNATIONAL BANKING ACT OF 1978

Section 612 amends the International Banking Act to add a new section 17. New section 17 requires whoever knowingly violates any provision of the International Banking Act or any regulation issued thereunder with the intent to deceive, to gain financially, or to cause financial gain or loss to any person to be fined up to $1 million for each day a violation continues, or imprisoned up to 5 years, or both.

Subtitle B—Regulation of Foreign Banks and Subsidiaries Seeking Expanded Securities Powers

SECTION 621. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978

A. Treatment of foreign banks as holding companies

Section 8(a) of the International Banking Act of 1978 provides that a foreign bank that maintains a branch or agency in the United States or controls a commercial lending company organized under State law, or a company that owns or controls such a bank, is subject to the Bank Holding Company Act. 12 U.S.C. §3106(a). Section 10 of the Bank Holding Company Act, as amended by section 715 of the bill, requires a bank holding company to apply to the Federal Reserve Board for permission to acquire a securities affiliate. Section 621(a) amends section 8(a) to permit a foreign bank to own or acquire a securities affiliate subject to Federal Reserve Board approval. The Federal Reserve Board shall disapprove such an application by a foreign bank or company that owns or controls a foreign bank unless the Board can determine that the financial resources of the foreign bank or company, including the capital level, are equivalent to those required of a domestic bank holding company permitted to engage in securities activities. In addition, the Federal Reserve Board must take into account differences in domestic and foreign accounting standards and assure that competitive equivalence between domestic and foreign banks is maintained.

The Federal Reserve Board must consult with the Secretary of the Treasury regarding the capital equivalency of the foreign bank or company in making such a determination. The Federal Reserve Board and the Treasury Secretary must publish jointly their analysis of capital standards and their guidelines for making these capital equivalency determinations.

Ensuring that foreign banks adhere to the same capital standards as U.S. banks is a complex task, given differences in national capital standards and accounting practices. There may be cases in which the Federal Reserve believes, but cannot verify, that a foreign bank is well managed and meets the equivalent capital required of an American bank engaging in securities activities. Section 715 of the bill therefore authorizes the Federal Reserve to permit such a foreign bank to engage in securities activities subject to the requirement that it adopt a holding company structure and conduct in its U.S. banking activities in domestic banking subsidiaries of such a holding company. This provision is not intended to allow undercapitalized foreign institutions to engage in expanded powers. It is a discretionary authority designed for foreign institutions whose worldwide capital cannot be verified, but in whose management and solvency U.S. regulators have confidence.

As a condition for approving the creation of such a securities subsidiary the Federal Reserve Board may require the foreign bank or its controlling parent to limit its participation in the U.S. banking market to direct or indirect subsidiaries of a single bank holding company. In effect, the Federal Reserve Board may condition access to securities activities by prohibiting the foreign bank (or its parent) from branching into the U.S. banking market. Activities authorized by section 2(h) or section 4(c)(9) of the Bank Holding Company Act (activities conducted by a foreign company the greater part of whose business is conducted outside the United States) need not be conducted by the bank holding company.

A foreign bank and any securities affiliate of a foreign bank shall be subject to section 10(f) of the Bank Holding Company Act, as added by section 715 of the bill, in the same manner and to the same extent as a domestic insured depository institution and its securities affiliate.

B. Authority to terminate grandfathered status

Section 8(c)(1) of the International Banking Act extends "grandfather" protection to certain nonbanking activities of foreign banks in the United States. 12 U.S.C. §3106(c)(1). A foreign bank may retain ownership or control of any voting shares of any domestically-controlled affiliate engaged since July 26, 1978 in underwriting, distributing, or dealing in securities if the affiliate was covered in 1978 by an application to engage in nonbanking activities. Additionally, the Federal Reserve Board has since approved applications by foreign banks to engage in securities activities through affiliates. Section 621(b) requires the Federal Reserve Board to terminate such protection for any affiliate of a foreign bank engaged in underwriting, distributing or dealing in securities when such activities are authorized for bank holding companies in the United States. Foreign banks wishing to continue exercising securities powers must meet the capital equivalency requirements or establish domestic banking subsidiaries.

C. Guidelines on equivalence of foreign bank capital

Section 621(c) amends section 7 of the International Banking Act (12 U.S.C. §3105) to add a new section 7(e). New section 7(e) requires the Federal Reserve Board and the Secretary of the Treasury to publish a report within 180 days after the bill becomes law, analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Basle Committee on Banking Supervision, foreign regulatory capital standards applicable to for-

eign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks. The report must also establish guidelines for the adjustments to be used by the Federal Reserve Board in converting data on the capital of foreign banks to the equivalent risk-based capital and leverage requirements for United States banks in order to make determinations of whether a foreign bank's capital level is equivalent to that required of United States banks for purposes of sections 5(a), 7(c) and 8(a) of the International Banking Act. The report must be submitted to the House and Senate Banking Committees. The report must be updated annually to explain any change in the analysis of capital standards and resulting changes in the guidelines.

SECTION 622. STUDY ON SUBSIDIARY REQUIREMENTS FOR FOREIGN BANKS

Section 622 requires the Secretary of the Treasury to conduct a study of whether foreign banks should be required to conduct banking operations in the United States through subsidiaries rather than branches. The Secretary will conduct the study in consultation with the Federal Reserve Board, the FDIC, the Comptroller of the Currency and the Attorney General. In conducting the study, the Secretary must take into account the following considerations: differences in accounting and regulatory practices abroad and the difficulty of assuring that a foreign bank meets United States capital and management standards and is adequately supervised; the implications for the deposit insurance system; competitive equity; national treatment of foreign financial institutions; the need to prohibit money laundering and illegal payments; safety and soundness; the implications for international negotiations for liberalized trade in financial services; and the implications for determining tax liability of foreign banks.

The Secretary must transmit the results of this study to the House and Senate Banking Committees within one year after the bill becomes law. The report shall include any additional or dissenting views of participating agencies. If the participants expressing such views conclude that changes in law or policy are needed, they shall submit legislative proposals to Congress within 30 days of the submission of the report. If the participants agree that foreign banks should be required to conduct their United States activities through domestic banking subsidiaries, the Federal Reserve Board may implement the requirement by regulation.

Subtitle C—Fair Trade in Financial Services

SECTION 631. SHORT TITLE

Section 631 designates subtitle C of title VI as the "Fair Trade in Financial Services Act of 1991."

SECTION 632. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES

Section 632 adds a new section 18 to the International Banking Act of 1978, establishing a framework of negotiations, reports, and discretionary sanctions designed to help end discrimination against U.S. banks and bank holding companies that operate or seek to operate abroad. New section 18(a) states the purpose of new section 18 is to encourage foreign countries to accord national treatment to U.S. banks and bank holding companies that operate or seek to operate in those countries and thus to help end discrimination against U.S. banks and bank holding companies.

New section 18(b) requires the Secretary of the Treasury to report to Congress by December 1, 1992 and biennially thereafter (1) on the identity of each foreign country that, according to the most recent national treatment study, does not accord national treatment to U.S. banks and bank holding companies, and with respect to which no determination under new section 18(d)(1) is in effect; (2) on why the Secretary has not made (or has rescinded) such a determination; and (3) describing the results of any negotiations conducted pursuant to new section 18(c).

A. Negotiations required

New section 18(c) requires the Secretary of the Treasury to initiate negotiations with any foreign country if: (1) according to the Treasury Department's most recent national treatment study, that country significantly fails to accord U.S. banks and bank holding companies national treatment; and (2) the Secretary has not made (or has rescinded) a determination under new section 18(d)(1) with respect to that country. The objective of the negotiations is to ensure that the foreign country accords national treatment to U.S. banks and bank holding companies. However, the Secretary need not initiate such negotiations if the Secretary (1) determines that they would be fruitless or would impair national economic interests, and (2) gives written notice of that determination to the chairman and ranking minority member of the Senate and House Banking Committees.

B. Discretionary sanctions

The Secretary of the Treasury may under new section 18(d) publish in the Federal Register a determination that a foreign country does not accord U.S. banks and bank holding companies national treatment. A Federal banking agency may then consider that determination in evaluating an application or notice filed by persons of that country and may, in consultation with the Secretary of the Treasury, deny applications and disapprove notices filed by persons of that country. Nothing in new section 18 requires a Federal banking agency to consult with the Secretary of the Treasury about issues other than those relating to the exercise of the agency's discretion under that section.

New section 18(d) authorizes the Federal banking agencies to deny applications and disapprove notices notwithstanding any inconsistent statute, regulation, treaty, or international agreement. The only exception is for international agreements covered by new section 18(h)(1). The phrase "notwithstanding any other provision of law," which appeared in some antecedents of this section such as section 909 of S. 1886 (100th Congress), was omitted from new section 18(d)(1) as unnecessary. Thus, for example, applications may be denied and notices disapproved notwithstanding treaty provisions that accord persons of the foreign country in question "national treatment," "most-favored-nation treatment," or both.

New section 18(d) applies to any application requiring the approval of a Federal banking agency, including an application to acquire shares of a bank or bank holding company; to effect a bank merger; to establish a branch, agency, or commercial lending company; to engage in a nonbanking activity; to establish an Edge Act or Agreement corporation; or to obtain Federal deposit insurance. New section 18(d) likewise applies to any notice that is subject to disapproval by a Federal banking agency, such as a notice under the Change in Bank Control Act, and to any transaction covered by new section 18(e).

The Secretary of the Treasury must review annually any determination in effect and decide whether that determination should be rescinded. The objective is to avoid having a determination remain in effect when the reasons for the determination no longer exist.

If a Federal banking agency denied an application and the Secretary of the Treasury subsequently rescinded the determination on which the denial was based, the rescission would not grant the application, but would clear the way for a new application.

C. Preventing existing entities from being used to evade this section

1. General rule.

New section 18(e) creates a review procedure designed to prevent an existing bank, branch, agency, commercial lending company, or other affiliated entity from being used to evade sanctions under new section 18. If such an entity is a person of a country that the Secretary of the Treasury has determined does not accord national treatment to U.S. banks and bank holding companies, that entity generally may not, without prior approval under new section 18(e): (1) commence any line of business in which it was not engaged as of the date on which the Secretary's determination was published in the Federal Register; or (2) conduct business from any location at which it did not conduct business as of that date.

The prior-approval requirement does not apply to acquiring interests in companies that do not operate in the United States, because it applies only to commencing new lines of business and conducting business from new locations "in the United States."

The term "line of business" is drawn from and intended to have the same meaning as in section 225.145(c) of title 12, Code of Federal Regulations. Thus, the following are discrete lines of business: accepting demand deposits; accepting nondemand deposits that the depositor may withdraw by check or similar means for payment to third parties (e.g., NOW accounts); accepting savings deposits; commercial lending; consumer mortgage lending; consumer credit card lending; other consumer lending; trust activities; discount securities brokerage; full-service securities brokerage; investment advisory services; and foreign exchange transaction services.

New section 18(e) creates a review procedure for certain transactions without specifying how a Federal banking agency should exercise its discretion with respect to those transactions.

2. Exemption for transactions under section 2(h)(2).

New section 18(e)(2) specifically exempts transactions under section 2(h)(2) of the Bank Holding Company Act from the prior-approval requirement. Section 2(h)(2) permits a foreign bank or bank holding company principally engaged in banking outside the United States to acquire shares of a foreign company (the "investor company") also principally engaged in business outside the United States. It also permits the investor company to acquire shares of any company engaged in the same general line of business as the investor company or a related line of business. New section 18(e)(2) prevents section 2(h)(2) from being used to hold shares of a company that engages in or holds more than 5 percent of any class of voting securities of a company engaged in any banking, securities, insurance, or other financial activities in the United States. Thus, because section 2(h)(2) cannot be used to conduct financial services, it does not raise those concerns about national treatment in financial services to which the title is directed.

3. State-supervised entities.

If the entity in question is an uninsured State bank, an uninsured State branch, a State agency, or a commercial lending company and the State requires that entity to obtain the prior approval of the State bank supervisor before commencing the new line of business or doing business from the new location in question, and no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before commencing that activity or doing business from that location, then the State bank supervisor must consult with the appropriate Federal banking agency regarding the application. In all other cases the entity in question must obtain the prior approval of the appropriate Federal banking agency.

If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide a copy of the application record. For 45 days after receiving the record, the appropriate Federal banking agency may, after consultation with the State bank supervisor, consider the Secretary of the Treasury's determination among the factors the agency considers in evaluating the application. The agency may, in consultation with the Secretary of the Treasury, issue an order disapproving the activity based upon the Secretary's determination. The agency may extend the period for disapproval by up to 45 days. The Secretary shall inform State bank supervisors of any determination. The effect is thus to coordinate the Federal review process with State prior-approval procedures in cases where there is currently no Federal prior-approval requirement.

4. Effect on other law.

New section 18(e) does not affect the operation of any otherwise applicable requirement of Federal law. It does not in any way limit a Federal banking agency's express or implicit authority to prevent evasions under other provisions of law.

D. National treatment defined

New subsection 18(f) defines "national treatment." A foreign country accords "national treatment" to U.S. banks and bank holding companies if it offers them the same competitive opportunities in that country (including effective market access) as are available there to that country's domestic banks and bank holding companies.

The reference to "effective market access" is intended to emphasize that national treatment must be de facto as well as de jure. Mere equality in the letter of the law will not suffice.

This Committee originated that phrase to encapsulate the guiding principle of the International Banking Act of 1978: national treatment to ensure equality of competitive opportunity. The Committee's use of "national treatment" to encompass that concept is consistent with the opening paragraph of the Treasury Department's original national treatment study, which stated that the International Banking Act's guiding principle was "to provide 'national treatment' for foreign banks, i.e., to accord foreign banks equality of competitive opportunity with their domestic counterparts in the U.S." *Report to Congress on Foreign Government Treatment of U.S. Commercial Banking Organizations* vii (1979) (italics in original). Indeed, "the same competitive opportunities" is itself a paraphrase of "equality of competitive opportunity." Thus the Committee, quoting from the Treasury's original study, described "national treatment" as follows:

"[N]ational treatment 'afford(s) foreign banks equality of competitive opportunity vis-a-vis domestic institutions in similar circumstances.' It 'entails a pragmatic impact- or effects-oriented test for assessing the overall legal and regulatory climate affecting foreign banks in a given country. The test is met if foreign banks are allowed to compete on essentially equal terms with domestic institutions in the host country, even if some specific regulations or requirements applied to foreign banks differ from those affecting domestic banks.'"

S. Rep. No. 85, 100th Cong., 1st Sess. 42(1987).

The conference committee on the Omnibus Trade and Competitiveness Act of 1988 took the same approach in discussing section 3502(b): "In the Conferees' view, a country accords national treatment to U.S. companies only if it accords them the same competitive opportunities as it accords to its domestic companies. National treatment requires a pragmatic, effect oriented test for assuring that the same competitive opportunities exist." H. Rep. No. 576, 100th Cong., 2d Sess. 855 (1988).

The definition applies both to a U.S. banking organization's initial entry into a foreign country (sometimes referred to as its "establishment" there) and to its subsequent treatment in that country.

E. Person of a foreign country defined

New section 18(g) broadly defines a person of a foreign country as any person that (1) is organized under the laws of that country; (2) has its principal place of business in that country; (3) if an individual, is a citizen of or is domiciled in that country; or (4) is directly or indirectly controlled by any of the foregoing.

F. Exercise of discretion

1. International agreements.

The Secretary of the Treasury and the Federal banking agencies, in exercising their discretion under new section 18, must act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by Congress. Thus, for example, new subsection 18(h)(1) covers the U.S.-Canada Free Trade Agreement and would cover any multilateral agreement governing financial services developed in the Uruguay Round of GATT negotiations, entered into by the President, and approved and implemented by Congress. Conversely, it would not apply to treaties of friendship, commerce, and navigation, even if such treaties have some provisions dealing with financial services.

2. Factors to consider.

The Federal banking agencies, in exercising their discretion with respect to an entity that is a foreign person already operating in the United States, must consider: (1) the foreign country's record of according national treatment to U.S. banks and bank holding companies; and (2) whether that country would permit U.S. banks and bank holding companies already operating in that country to expand their activities there even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies.

The Federal banking agencies have discretion to differentiate further between entities already operating in the United States and proposed new entrants, insofar as such differentiation is consistent with achieving the purposes of new section 18.

SECTION 633. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS

Section 633 adds a new section 36 to the Securities Exchange Act of 1934, creating a framework for securities brokers and dealers parallel to that for banks and bank holding companies under section 632 of the bill.

New section 36(a) states the purpose of new section 36 is to encourage foreign countries to accord national treatment to U.S. brokers and dealers that operate or seek to operate in those countries and thus to help end discrimination against U.S. brokers and dealers.

New section 36(b) requires the Secretary of the Treasury to report to Congress by December 1, 1992 and biennially thereafter (1) on the identity of each foreign country that, according to the most recent national treatment study, does not accord national treatment to U.S. brokers and dealers, and with respect to which no determination under new section 18(d)(1) is in effect; (2) on why the Secretary has not made (or has rescinded) such a determination; and (3) describing the results of any negotiations conducted pursuant to new section 36(c).

A. Negotiations required

New section 36(c) requires the Secretary of the Treasury to initiate negotiations with any foreign country if: (1) according to the Treasury Department's most recent national treatment study, that country significantly fails to accord U.S. brokers and dealers national treatment; and (2) the Secretary has not made (or has rescinded) a determination under new section 36(d)(1) with respect to that country. The objective of the negotiations is to ensure that the foreign country accords national treatment to U.S. brokers and dealers. However, the Secretary need not initiate such negotiations if the Secretary (1) determines that they would be fruitless or would impair national economic interests, and (2) gives written notice of that determination to the chairman and ranking minority member of the Senate Banking Committee and the House Energy and Commerce Committee.

B. Discretionary sanctions

The Secretary of the Treasury may under new section 36(d) publish in the Federal Register a determination that a foreign country does not accord U.S. brokers and dealers national treatment. The Securities and Exchange Commission may then consider that determination in evaluating an application or notice filed by a person of that country and may, in consultation with the Secretary of the Treasury, deny applications for registration as a broker or dealer filed by a person of that country, and prohibit any person of that country from acquiring control of a registered broker or dealer. The SEC is not required to consult with the Secretary of the Treasury about issues other than those relating to the exercise of the SEC's discretion under that paragraph.

If the Secretary has published a determination with respect to a given country, no person of that country may acquire control of any registered broker or dealer unless the SEC has been given 60 days notice of the proposed acquisition and has not prohibited the acquisition. The SEC may extend the notice period during which an acquisition may be prohibited for an additional 180 days.

New section 36(d) authorizes the SEC to deny applications and disapprove notices notwithstanding any inconsistent statute, regulation, treaty, or international agreement. The only exception is for international

agreements covered by new section 36(g)(1). The phrase "notwithstanding any other provision of law," which appeared in some antecedents of this section, was omitted from subparagraph (D) as unnecessary. Thus, for example, applications may be denied and notices disapproved notwithstanding treaty provisions according persons of the foreign country in question "national treatment," "most favored nation treatment," or both.

New section 36(d) requires the Secretary of the Treasury to review annually any determination in effect and decide whether that determination should be rescinded. The objective is to avoid having a determination remain in effect when the reasons for the determination no longer exist.

C. National treatment defined

New subsection 36(e) defines "national treatment." A foreign country accords "national treatment" to U.S. brokers and dealers if it offers them the same competitive opportunities in that country (including effective market access) as are available there to that country's domestic brokers and dealers. This standard is discussed above in connection with section 632 of the bill.

D. Person of a foreign country defined

New subsection 36(f) broadly defines a person of a foreign country as any person that (1) is organized under the laws of that country; (2) has its principal place of business in that country; (3) if any individual, is domiciled in or a citizen of that country; or (4) is directly or indirectly controlled by any of the foregoing.

E. Exercise of discretion

1. International agreements.

The Secretary of the Treasury and the SEC, in exercising their discretion under new section 36, must act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by Congress. Thus, for example, new section 36(g)(1) covers the U.S.-Canada Free Trade Agreement and would cover any multilateral agreement governing financial services developed in the Uruguay Round of GATT negotiations, entered into by the President, and approved and implemented by Congress. Conversely, new section 36(g)(1) would not apply to treaties of friendship, commerce, and navigation, even if such treaties have some provisions dealing with financial services.

2. Factors to consider.

The SEC in exercising its discretion with respect to an entity that is a foreign person already operating in the United States, must consider: (1) the foreign country's record of according national treatment to U.S. brokers or dealers and (2) whether that country would permit U.S. brokers or dealers already operating in that country to expand their activities there even if that country determined that the United States did not accord national treatment to that country's brokers or dealers. Other appropriate factors may also be considered.

The SEC may further differentiate between entities already operating in the United States and proposed new entrants, insofar as such differentiation is consistent with achieving the purposes of new section 36.

SECTION 634. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

Section 634 adds a new section 233 to the Investment Advisers Act of 1940, creating a framework for investment advisers parallel to that for banks and bank holding companies under section 632 and securities brokers and dealers under section 633 of the bill.

New section 223(a) states the purpose of new section 223 is to encourage foreign countries to accord national treatment to U.S. investment advisers that operate or seek to operate in those countries and thus to help end discrimination against U.S. investment advisers.

New section 223(b) requires the Secretary of the Treasury to report to Congress by December 1, 1992 and biennially thereafter (1) on the identity of each foreign country that, according to the most recent national treatment study, does not accord national treatment to U.S. investment advisers, and with respect to which no determination under new section 223(d) is in effect; (2) on why the Secretary has not made (or has rescinded) such a determination; and (3) describing the results of any negotiations conducted pursuant to new section 223(c).

A. Negotiations required

New section 223(c) requires the Secretary of the Treasury to initiate negotiations with any foreign country if: (1) according to the Treasury Department's most recent national treatment study, that country significantly fails to accord U.S. investment advisers national treatment; and (2) the Secretary has not made (or has rescinded) a determination under new section 223(d) with respect to that country. The objective of the negotiations is to ensure that the foreign country accords national treatment to U.S. investment advisers. However, the Secretary need not initiate such negotiations if the Secretary (1) determines that they would be fruitless or would impair national economic interests, and (2) gives written notice of that determination to the chairman and ranking minority member of the Senate Banking Committee and the House Energy and Commerce Committee.

B. Discretionary sanctions

The Secretary of the Treasury may under new section 223(d) publish in the Federal Register a determination that a foreign country does not accord U.S. investment advisers national treatment. The Securities and Exchange Commission may then consider that determination in evaluating an application or notice filed by persons of that country and may, in consultation with the Secretary of the Treasury, deny applications and disapprove notices filed by persons of that country. New section 223(d) applies to any application requiring the approval of the Commission, and any notice that is subject to disapproval by the Commission. Nothing in new section 223 requires the SEC to consult with the Secretary of the Treasury about issues other than those relating to the exercise of the SEC's discretion under this section.

If the Secretary has published a determination with respect to a given country, no person of that country may acquire control of any registered investment adviser unless the SEC has been given 60 days notice of the proposed acquisition and has not prohibited the acquisition. The SEC may extend the notice period during which an acquisition may be prohibited for an additional 180 days.

New section 223(d) authorizes the SEC to deny applications and disapprove notices notwithstanding any inconsistent statute, regulation, treaty, or international agreement. The only exception is for international agreements covered by new section 223(g)(1). The phrase "notwithstanding any other provision of law," which appeared in some antecedents of this title, was omitted from new section 223(d) as unnecessary. Thus, for example, applications may be denied and notices disapproved notwithstanding treaty provisions according persons of the foreign country in question "national treatment," "most-favored-nation treatment," or both.

New section 223(d) also requires the Secretary of the Treasury to review annually any determination in effect and decide whether that determination should be rescinded. The objective is to avoid having a determination remain in effect when the reasons for the determination no longer exist.

C. National treatment defined

New section 223(e) defines "national treatment." A foreign country accords "national treatment" to U.S. investment advisers if it offers them the same competitive opportunities in that country (including effective market access) as are available there to that country's domestic investment advisers. This standard is discussed above in connection with section 632 of the bill.

D. Person of a foreign country defined

New section 223(f) broadly defines a person of a foreign country as any person that (1) is organized under the laws of that country; (2) has its principal place of business in that country; (3) if an individual, is a citizen of or is domiciled in that country; or (4) is directly or indirectly controlled by any of the foregoing.

E. Exercise of discretion

1. International agreements.

The Secretary of the Treasury and the SEC, in exercising their discretion under new section 223, must act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by Congress. Thus, for example, new section 223(g) covers the U.S.-Canada Free Trade Agreement and would cover any multilateral agreement governing financial services developed in the Uruguay Round of GATT negotiations, entered into by the President, and approved and implemented by Congress. Conversely, new subsection 223(g) would not apply to treaties of friendship, commerce, and navigation, even if such treaties have some provisions dealing with financial services.

2. Factors to consider.

The SEC, in exercising its discretion with respect to an entity that is a foreign person already operating in the United States, must consider: (1) the foreign country's record of according national treatment to U.S. investment advisers; and (2) whether that country would permit U.S. investment advisers already operating in that country to expand their activities there even if that country determined that the United States did not accord national treatment to that country's investment advisers.

The SEC may further differentiate between entities already operating in the United States and proposed new entrants, insofar as such differentiation is consistent with achieving the purposes of new section 223.

SECTION 635. INVESTIGATION AND REPORT ON FINANCIAL INTERDEPENDENCE

Section 635 adds a new section 3605 to subtitle G of title III of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. §5341 et seq.). New section 3605 requires the Secretary of the Treasury to determine the extent of the interdependence of the financial services sectors of the United States and foreign countries whose financial services institutions provide financial services in the U.S.

or whose persons own substantial interests in U.S. financial institutions. The Secretary must consult and coordinate with the SEC, the Federal Reserve Board, the appropriate Federal banking agencies, the CFTC, and any other Federal agency or department designated by the Secretary. The Secretary shall also determine the economic, strategic, and other consequences of that interdependence for the United States.

Within 2 years after the bill becomes law, the Secretary shall report the results of the investigation. The report must describe the activities and estimate the scope of financial service activities conducted by U.S. financial services institutions in foreign markets and by foreign financial services institutions in the United States. The report shall estimate the number of jobs created by both activities and the additional jobs and revenues that would be created if foreign countries offered U.S. institutions the same competitive opportunities as are available to their domestic institutions. The report shall describe the extent to which foreign institutions discriminate against U.S. persons and the extent to which foreign institutions purchase or facilitate the marketing from the United States of government and private debt and private equity. The report shall describe how the interdependence of financial services sectors affects the autonomy of U.S. monetary policy. It will also describe the extent to which U.S. companies rely on financing by foreign financial services institutions and the consequences of such reliance, as well as the extent to which foreign institutions favor their own manufacturers in purchasing high technology products.

"Financial services institution" is defined to include a broker, dealer, underwriter, clearing agency, information processor, investment company, investment manager, indenture trustee, depository institution and depository institution holding company.

SECTION 636. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS

Section 636 makes conforming amendments to three sections of current law.

A. Quadrennial reports on foreign treatment of U.S. financial institutions

Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 requires the Secretary of the Treasury to report at least every four years on the extent to which foreign countries deny national treatment to U.S. banking and securities organizations. 22 U.S.C. §5352. Section 636(a) adds a definition of national treatment consistent with that adopted in sections 632 through 634 of the bill: "a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities."

B. Negotiations to provide fair trade in financial services

Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 directs the President or his designee to conduct discussions with foreign governments aimed at "ensuring that United States banking organizations and securities companies have access to foreign markets and receive national treatment in those markets." 22 U.S.C. §5353(a)(1). For consistency with sections 632 through 634 of the bill, section 636(b) specifies that access must be "effective."

C. Primary dealers in Government debt instruments

Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 generally prohibits the Federal Reserve System from designating as a primary dealer in U.S. Government securities (or continuing any existing designation of) any person of a foreign country that "does not accord to United States companies the same competitive opportunities in the underwriting and distribution of government debt securities issued by such country as such country accords to domestic companies of such country." 22 U.S.C. §5342. For consistency with sections 632 through 634 of the bill, section 636(c) specifies that "the same competitive opportunities" include "effective market access." In addition, section 636(c) makes two technical changes in phrasing. Section 636(c) affects only the definition of national treatment. It does not alter current law—including the exemptions from and exceptions to section 3502(b)(1)—in any other respect.

TITLE VII—BANK POWERS AND AFFILIATIONS

Subtitle A—Securities Activities

SECTION 701. SHORT TITLE

Section 701 designates title VII as the "Proxmire Financial Modernization Act of 1991."

SECTION 711. ANTI-AFFILIATION PROVISION OF GLASS-STEAGALL ACT REPEALED

Section 711 repeals section 20 and amends section 32 of the Banking Act of 1933. (Sections 16, 20, 21, and 32 of that Act are commonly known as the Glass-Steagall Act.)

Section 20 prohibits any bank that is a member of the Federal Reserve System from affiliating with any company that is "engaged principally in the issue, flotation, underwriting, public sale, or distribution" of securities. 12 U.S.C. §377. Section 711(a) repeals section 20. Section 717 replaces section 20 with a new restriction on securities affiliations of FDIC-insured banks.

Section 32 prohibits any officer, director, or employee of a company "primarily engaged in the issue, flotation, underwriting, public sale, or distribution" of securities from serving simultaneously as an officer, director, or employee of any member bank, except as allowed by the Federal Reserve Board. 12 U.S.C. §78. Section 711(b) makes an exception to section 32 allowing an officer, director, or employee of a "securities affiliate" to serve simultaneously as an officer, director, or employee of a member bank. Section 713 defines "securities affiliate," and section 715(a) adds a new section 10(f)(5) to the Bank Holding Company Act of 1956, restricting a director or senior executive officer of a securities affiliate from serving simultaneously as a director or senior executive officer of any affiliated FDIC-insured depository institution.

SECTION 712. BANK HOLDING COMPANIES AUTHORIZED TO HAVE SECURITIES AFFILIATES

Section 4(a) of the Bank Holding Company Act generally prohibits a bank holding company from owning or controlling voting shares of any company that is not a bank or engaged in certain activities closely related to banking. 12 U.S.C. §1843(a). Section 712 adds a new section 4(c)(15), permitting a bank holding company to own or control shares of a "securities affiliate."

SECTION 713. SECURITIES AFFILIATE DEFINED

Section 713 adds a definition of "securities affiliate" to the Bank Holding Company Act. A "securities affiliate" must (1) be a subsidiary of a bank holding company; (2) not be an FDIC-insured depository institution or a subsidiary of such an institution; (3) engage in the United States in one or more of the securities activities authorized for securities affiliates by new section 10(a)(1)-(2) of the Bank Holding Company Act (added by section 715); and (4) be registered under the Securities Exchange Act of 1934 as a broker or dealer, government securities broker or dealer, or municipal securities dealer. Moreover, the Federal Reserve Board must have approved the bank holding company's acquisition or retention of the company in question.

The requirement that a securities affiliate engage in securities activities "in the United States" does not preclude a securities affiliate from operating abroad.

SECTION 714. INSURED DEPOSITORY INSTITUTION DEFINED

Section 714 adds a definition of "insured depository institution" to the Bank Holding Company Act, incorporating by reference the definition in section 3 of the Federal Deposit Insurance Act. Thus "insured depository institution" covers all FDIC-insured banks and savings associations. 12 U.S.C. §1813(c)(2).

SECTION. 715. ESTABLISHMENT AND OPERATIONS OF SECURITIES AFFILIATES

Section 715 adds a new section 10 to the Bank Holding Company Act to establish a new framework for affiliations between banks and securities firms. New section 10 replaces obsolete section 10 of the Bank Holding Company Act, which amended the Internal Revenue Code.

A. Activities permissible for securities affiliates

Subsection (a) of new section 10 permits a securities affiliate to engage in a broad range of securities activities, as well as certain other activities.

1. Securities activities

Under paragraph (1) of subsection (a), a securities affiliate may engage in securities activities permissible for brokers or dealers registered under the Securities Exchange Act of 1934, including underwriting or dealing in securities of any type. Under paragraph (2), a securities affiliate may engage in securities activities permissible for investment advisers registered under the Investment Advisers Act of 1940, including sponsoring, organizing, controlling, managing, and acting as investment adviser to an investment company.

2. Other activities

Paragraph (3) permits a securities affiliate to engage in, or acquire the shares of a company engaged in, other activities permissible under section 4(c) of the Bank Holding Company Act, such as leasing, mortgage banking, management consulting, financial counseling, selling money orders, or dealing in precious metals. To qualify under paragraph (3), the activity or shares must satisfy a two-part test. First, some provision of section 4(c) permits bank holding companies generally to engage in that activity or acquire those shares. Second, either (1) that provision permits the bank holding company to engage in that activity or acquire those shares without the Board's approval, or (2) the Board permits the bank holding company to engage in that activity or acquire those shares through the securities affiliate.

Paragraph (3) is intended to avoid imposing needless constraints on how bank holding companies structure their nonbanking operations. However, paragraph (3) does not authorize a bank holding company to use a deposit-taking institution as a vehicle for underwriting ineligible securities. This paragraph (3) cannot be used to circumvent section 21 of the Glass-Steagall Act, which prohibits a company that underwrites ineligible securities from accepting deposits. 12 U.S.C. §378(a)(1).

B. Acquiring interest in securities affiliate

Subsection (b) sets forth the standards and procedures applicable to a bank holding company that seeks to acquire shares—or all or substantially all of the assets—of a securities affiliate.

1. Board's approval required

Under paragraph (1) of subsection (b), a bank holding company cannot directly or indirectly acquire or retain shares of a securities affiliate—or all or substantially all of the assets of a securities affiliate—without the Federal Reserve Board's prior approval. The prior approval requirement also applies to acquiring all or substantially all of the assets of a company that would meet the definition of a securities affiliate under new section 2(n) of the Bank Holding Company Act (added by section 713) if the Board permitted the bank holding company to acquire that company.

2. Criteria for approval

Under paragraph (2), the Board cannot approve an application to acquire or retain shares (or all or substantially all of the assets) of a securities affiliate unless the Board determines that the proposed transaction satisfies criteria relating to capital, managerial resources, internal controls, effect on affiliates, concentration of resources, and public benefits—set forth in subparagraphs (A) through (F). The Board's determination that these criteria are satisfied must be made after notice and an opportunity for hearing.

a. Capital

Under subparagraph (A), each of the bank holding company's subsidiary insured depository institutions must be well-capitalized. The bank holding company itself must be adequately capitalized, both before and after the proposed acquisition.

Subsection (k)(1) defines "well capitalized" and "adequately capitalized." A bank is well-capitalized if its capital significantly exceeds the required minimum level for each relevant capital measure, as specified under new section 37(b)(1) of the Federal Deposit Insurance Act (added by section 205). A bank holding company is adequately capitalized if it meets the required minimum level for each relevant capital measure.

b. Managerial resources

Under subparagraph (B) of subsection (b)(2), the bank holding company and each of its subsidiary insured depository institutions must be well-managed, and have been well-managed for at least 12 months. The bank holding company must also have the managerial resources to conduct the securities affiliate's proposed securities activities safely and soundly.

To qualify as "well-managed," an institution or company must, when most recently examined, have received a management rating of 1 under the 5-point CAMEL system (or the equivalent under a comparable system). Moreover, the rating must not have subsequently been downgraded such that it was less than 1 during the 12-month period preceding the Board's action.

c. Internal controls

Subparagraph (C) requires the bank holding company to have established adequate policies and procedures to manage financial and operational risks and provide reasonable assurance of compliance with section 10.

d. No detrimental effect on bank holding company or its insured depository institution subsidiaries

Under subparagraph (D), the acquisition must not adversely affect the safety and soundness of the bank holding company or any of its subsidiary insured depository institutions.

e. Concentration of resources

Subparagraph (E) prohibits the acquisition from resulting, directly or indirectly, in an affiliation between a bank holding company with total assets of more than $35 billion and an investment banking organization with total assets of more than $15 billion. The assets of at least one of the two parties to the acquisition must be below the applicable dollar limitation both at the time of the acquisition and on average during each of the eight calendar quarters preceding the application. If this test is met, asset growth occurring after the acquisition has been lawfully consummated does not require any divestiture. The $35 billion and $15 billion limitations are to be adjusted annually after December 31, 1991 for inflation occurring after that date.

An acquisition results in an "affiliation" for purposes of subparagraph (E) if it causes the parties to become "affiliates" under section 2(k) of the Bank Holding Company Act. 12 U.S.C. §1841(k).

f. Public benefit

Subparagraph (F) applies a net-public-benefits test parallel to that in section 4(c)(8) of the Bank Holding Company Act. 12 U.S.C. §1843(c)(8). The bank holding company's acquisition and operation of the securities affiliate must reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

3. 91-day deadline

Under paragraph (3), an application is deemed approved if the Board fails to act on the application within 91 days after receiving the complete record of the application.

C. Additional investment in securities affiliate

If a bank holding company has already acquired control of the securities affiliate under subsection (b)(1), subsection (c) restricts additional investment in the securities affiliate if the investment is considered capital for purposes of any capital requirement imposed on the securities affiliate under the Securities Exchange Act of 1934. See generally 15 U.S.C. §78o(c)(3). This includes an investment in the form of preferred stock, nonvoting common stock, convertible debt, or subordinated debt considered capital for purposes of such a capital requirement.

1. Prior notice required

Paragraph (1) of subsection (c) prohibits the bank holding company from directly or indirectly making any such additional investment unless the bank holding company has given the Federal Reserve Board prior written notice of the proposed investment, and either (1) the Board issues a written statement of its intent not to disapprove the notice; or (2) the Board does not disapprove the notice within 30 days after the notice is filed. The notice requirement does not apply to individual extensions of credit under a revolving credit agreement previously approved by the Board under paragraph (1).

2. 3-day rule for certain bank holding companies

Paragraph (2) generally shortens the 30-day deadline to 3 business days if the bank holding company would be adequately capitalized after making the investment, and each of the bank holding company's subsidiary insured depository institutions would be well-capitalized. The Board may extend the 3-day deadline, but not past 30 days after the notice was filed.

3. Criteria for disapproving notice

Under paragraph (3), the Board may disapprove a notice of additional investment if any insured depository institution affiliate of the securities affiliate is undercapitalized, or if the Board determines that the bank holding company would be undercapitalized after making the investment or that the investment would be otherwise unsafe or unsound.

D. Provisions applicable if affiliated insured depository institution ceases to be well-capitalized

Subsection (d) imposes sanctions on a bank holding company with a securities affiliate if any of the bank holding company's subsidiary insured depository institutions is not well-capitalized.

1. Certain securities activities restricted unless affiliated institutions are well-capitalized

If any affiliated insured depository institution has ceased to be well-capitalized for more than 60 days, paragraph (1)(B) of subsection (d) generally prohibits the securities affiliate from agreeing to underwrite any securities other than (1) eligible securities that section 5136(b)–(c) of the Revised Statutes (as amended by section 716) expressly authorizes a national bank to underwrite; (2) securities backed by or representing interests in notes, drafts, acceptances, loans, leases, receivables, other obligations, or pools of any such obligations; or (3) securities issued by an open-end investment company registered under the Investment Company Act of 1940.

The Federal Reserve Board has discretion to make limited exceptions to paragraph (1)(B). The Board may permit the securities affiliate to underwrite other securities for up to one year after the affiliated insured depository institution affiliate ceased to be well-capitalized if the institution submits a capital restoration plan to the appropriate Federal banking agency and the agency accepts the plan. Such a plan must specify the steps the institution will take to become well-capitalized and contain such other information as the agency may require. The Board may also obtain from the institution or holding company such information as the Board may need to determine whether to make the exception.

2. Divestiture

Paragraph (2) requires the bank holding company to divest itself of the securities affiliate if any of the bank holding company's subsidiary insured depository institutions has been undercapitalized for more than two years. The Board may extend the deadline for divestiture for up to one year if (1) the appropriate Federal banking agency has accepted the undercapitalized institution's capital restoration plan under section 37(e) of the Federal Deposit Insurance Act (added by section 205), and (2) the Board determines that (a) the bank holding company has attempted in good faith to sell the securities affiliate at a realistic price, and (b) the securities affiliate poses no significant risk to any affiliated insured depository institution.

E. Securities affiliate excluded in determining whether bank holding company is adequately capitalized

Paragraph (1) of subsection (e) requires that a securities affiliate be separately capitalized—i.e., that the bank holding company's investment in the securities be deducted

from the bank holding company's capital in calculating compliance with bank holding company capital standards. Thus the bank holding company's investment in the securities affiliate must come from capital over and above what the bank holding company needs to meet its own capital standards. The separate capitalization requirement promotes the safety and soundness of the bank holding company and its subsidiary insured depository institutions.

Specifically, paragraph (1) provides two special rules for determining whether a bank holding company is adequately capitalized. First, the bank holding company's capital and total assets must each be reduced by the amount of (1) the bank holding company's equity investment in any securities affiliate, and (2) any extensions of credit by the bank holding company to any securities affiliate that are considered capital for purposes of any capital requirement imposed on the securities affiliate under the Securities Exchange Act of 1934. Thus each dollar the bank holding company contributes to the securities affiliate's capital results in a one-dollar reduction in the holding company's capital. Second, the securities affiliate's assets and liabilities must not be consolidated with those of the bank holding company.

The special rules of paragraph (1) apply in determining whether a bank holding company meets regulatory capital requirements; they do not affect the bank holding company's disclosure of its financial condition to investors and others.

Those special rules are intended only for securities activities. They are not intended to exempt nonsecurities activities conducted through a securities affiliate from normal capital requirements. Such an exemption would create an artificial incentive to transfer those activities into a securities affiliate. Accordingly, paragraph (2) provides that the special rules of paragraph (1) do not apply to the extent that the Board determines by order that the securities affiliate is engaged in nonsecurities activities.

F. Safeguards relating to securities affiliates

Subsection (f) imposes a series of restrictions and requirements on securities affiliates, their parent bank holding companies, and affiliated insured depository institutions and their subsidiaries. These safeguards are in addition to any restrictions and requirements imposed by other provisions of law.

Under paragraph (11) of subsection (f), the restrictions on a securities affiliate bind any subsidiary of the securities affiliate, and the restrictions on an insured depository institution generally bind any subsidiary of that institution. Moreover, paragraph (14) applies subsection (f) to *any* insured depository institution affiliated with a company engaged in underwriting or dealing in ineligible securities.

1. Extensions of credit and asset purchases restricted

Paragraph (1) restricts transactions between an insured depository institution and an affiliated securities affiliate.

a. In general

Subparagraph (A) of paragraph (1) generally prohibits the insured depository institution from, directly or indirectly, (1) extending credit in any manner to the securities affiliate; (2) issuing a guarantee, acceptance, or letter of credit, including an endorsement or a standby letter of credit, for the benefit of the securities affiliate; or (3) purchasing for its own account financial assets of the securities affiliate.

Subparagraph (A) permits the Federal Reserve Board to make exceptions to the prohibition on purchasing financial assets of the securities affiliate, but only for purchasing—at current market value—(1) securities issued or fully guaranteed by the United States Government or its agencies; or (2) securities that the securities affiliate has been marking to market daily, and that are rated investment grade by at least one nationally recognized statistical rating organization unaffiliated with the insured depository institution or the issuer of the securities. "Current market value" must be determined from reliable and continuously available price quotations, and the Board may allow such asset purchases only to the extent that such quotations are available. See generally 12 U.S.C. §84(a)(2) (loan-to-one-borrower rule for national banks referring to "readily marketable collateral having a market value. . . . determined by reliable and continuously available price quotations").

The restrictions in subparagraph (A) are in addition to any other applicable restrictions, such as sections 23A and 23B of the Federal Reserve Act.

b. Exception for clearing securities

Banks regularly clear transactions (i.e., administer transfers and payments) involving a full range of government and other securities for securities firms, including affiliated firms. Clearing securities transactions in the ordinary course of business necessarily involves an extension of credit by the clearing institution to the securities firm involved. During any trading day, for example, the clearing institution pays for securities bought by the securities firm. The amount paid out at any given time may exceed the amount the institution has received for securities sold, thus temporarily overdrawing the securities firm's clearing account at the institution. These temporary overdrafts are secured by the securities being cleared.

Subparagraph (B) permits an insured depository institution to clear securities for an affiliated securities affiliate by making a narrowly defined exception to subparagraph (A)'s prohibition on extending credit to a securities affiliate. For the exception to apply, five conditions must be satisfied. First, the insured depository institution must be well-capitalized. Second, the extension of credit must be made to acquire or sell securities, and be incidental to clearing transactions in those securities through that institution. Third, both the principal of and the interest on the extension of credit must be fully secured by those securities.

Fourth, the securities must be (1) issued or fully guaranteed by the United States Government or its agencies, or (2) such other securities as the Board may permit. Except in the case of U.S. Government or agency securities, the Board must require whatever additional security or other assurance of performance as may be necessary to prevent such transactions from posing any appreciable risk to the institution.

Fifth, the extension of credit must be for repayment on the same calendar day or—to the extent permitted by the Board—on the next calendar day. A next-day extension of credit (if permitted by the Board) must, at a minimum, meet a three-part test: (1) the securities cannot, in the ordinary course of business, be cleared on the calendar day on which the extension of credit was made; (2) the extension of credit must be for repayment on the calendar day following the day on which the extension of credit was made; and (3) all extensions of credit made under the next-day exception, when aggregated with all other covered transactions of the institution and all affiliated securities affiliates, must not exceed 10 percent of the institution's capital stock and surplus. Under subsection (k)(2)-(3), "covered transaction" and "capital stock and surplus" have the same meaning as in section 23A of the Federal Reserve Act.

c. Other exceptions

Subparagraph (C) permits the Board to make additional exceptions to subparagraph (A) under three conditions. First, the insured depository must be well-capitalized. Second, the transaction must be fully secured in accordance with section 23A(c) of the Federal Reserve Act. Third, the aggregate amount of covered transactions of the institution and all affiliated securities affiliates—excluding purchases of U.S. Government and agency securities, and extensions of credit for same-day securities clearing—must not exceed 5 percent of the institution's capital stock and surplus.

2. Credit enhancement restricted

a. In general

Subparagraph (A) of paragraph (2) generally prohibits an insured depository institution affiliated with a securities affiliate from directly or indirectly extending credit—or issuing or entering into a standby letter of credit, asset purchase agreement, indemnity, guarantee, insurance, or other facility—for the purpose of enhancing the marketability of securities underwritten by the securities affiliate.

b. Exception

Subparagraph (B) permits the Federal Reserve Board to make exceptions under three conditions. First, the insured depository institution must be well-capitalized. Second, the amount of the extension of credit, standby letter of credit, asset purchase agreement, indemnity, guarantee, insurance, or other facility (for simplicity, the "facility") provided by the institution must not exceed the greater of 25 percent of the total amount of the facility, or the amount of the facility provided by any one unaffiliated lender. The affiliate must have the same rights and duties (including the same priority) as all other providers of the facility. Third, the aggregate amount the institution has provided in all outstanding facilities to enhance the marketability of securities underwritten by the affiliated securities affiliates must not exceed 40 percent of the institution's capital stock and surplus. In calculating compliance with the 40-percent limit, the relevant "amount" is the institution's proportional share of the contingent liability represented by the facility. But certain eligible securities receive half-weight in calculating compliance with the 40-percent limit: if section 5136(b)-(c) of the Revised Statutes expressly authorizes a national bank to underwrite or deal in the securities, only half of the institution's proportional share of the facility counts towards the limit.

3. Prohibition on financing purchase of security being underwritten

a. In general

Subparagraph (A) of paragraph (3) generally prohibits a bank holding company or any of its subsidiaries other than a securities affiliate from knowingly extending or arranging for the extension of credit, directly or indirectly, secured by or for the purpose of purchasing any security being underwritten by a securities affiliate of the bank holding company. The prohibition applies to any security that is—or during the past 30 days has been—the subject of a distribution in which such a securities affiliate partici-

pates as an underwriter or member of a selling group. The prohibition applies by its terms to any subsidiary of a securities affiliate. Thus an extension of credit falling within subparagraph (A) may be made only by a securities affiliate itself, subject to the investor-protection and margin regulations applicable to brokers or dealers generally.

An insured depository institution or other entity need not prohibit its customers from using proceeds of an overdraft line of credit on a NOW account, credit-card cash advance, or other general-purpose retail line of credit (as distinguished from, e.g., a line of credit on a margin account) to purchase securities being underwritten by the securities affiliate. Such an extension of credit is not "knowingly" made "for the purpose of purchasing" such securities.

b. Exceptions

Subparagraph (B) authorizes the Federal Reserve Board to make exceptions to subparagraph (A). The exceptions are of four types. First, the Board may permit the bank holding company or any of its subsidiaries—other than an insured depository institution or its subsidiaries—to extend credit if the bank holding company is adequately capitalized and each of the bank holding company's subsidiary insured depository institutions is well-capitalized. Second, the Board may permit an insured depository institution or subsidiary of such an institution to extend credit if the securities affiliate is not a principal underwriter of the security in question or a principal member of the selling group, and if in the aggregate all of the bank holding company's securities affiliates have less than a 15-percent interest in the distribution. Thus the first and second possible exceptions apply to any security, and vary according to which entity would make the extension of credit.

The third and fourth possible exceptions cover only specific types of securities, but the Board could apply those exceptions to a bank holding company or any of its subsidiaries, including insured depository institutions. The third exception applies to eligible securities that section 5136(b)-(c) of the Revised Statutes expressly authorizes a national bank to underwrite or deal in. The fourth exception applies to extensions of credit secured by securities of a registered open-end investment company.

4. Restriction on extending credit to make payments on securities

a. In general

Subparagraph (A) of paragraph (4) generally prohibits any insured depository institution affiliated with a securities affiliate from, directly or indirectly, extending credit to an issuer of securities underwritten by the securities affiliate for the purpose of paying the principal of those securities or interest or dividends on those securities. This prohibition does not apply to an extension of credit for a documented purpose other than paying principal, interest, or dividends, if the timing, maturity, and other terms of the credit, taken as a whole, are substantially different from those of the underwritten securities. "Timing" means the timing of the extension of credit compared to the timing of principal, interest, or dividend payments on the securities.

b. Exceptions

Subparagraph (B) permits the Federal Reserve Board to make exceptions to subparagraph (A) if the insured depository institution is well-capitalized, and either (1) section 5136(b)-(c) of the Revised Statutes expressly authorizes a national bank to underwrite and deal in those securities, or (2) the amount of credit extended by the institution does not exceed the greater of 25 percent of the total extension of credit or the amount of credit extended by any one unaffiliated lender.

5. Director and senior executive officer interlocks restricted

a. In general

Subparagraph (A) of paragraph (5) generally prohibits any director or senior executive officer of a securities affiliate from serving simultaneously as a director or senior executive officer of any affiliated insured depository institution.

"Senior executive officer" has the same meaning as "executive officer" under section 22(h) of the Federal Reserve Act (amended by section 216 of the bill). Thus "senior executive officer" means a person with an official title (e.g., president) who participates or has authority to participate in major policymaking functions of the institution or securities affiliate. The term does not include persons who may exercise a certain measure of discretion in performing their duties, but who do not participate in determining major policies of the entity in question, and whose decisions are limited by policy standards fixed by the entity's senior management. Thus, for example, the term does not include a manager or assistant manager of a bank branch unless that person participates, or is authorized to participate, in major policymaking functions of the bank.

b. Exception for small bank holding companies

Subparagraph (B) permits a director or senior executive officer of a securities affiliate to serve simultaneously as a director or senior executive officer of an affiliated insured depository institution if the aggregate assets of that institution and all affiliated insured depository institutions do not exceed $500 million. The $500-million limitation will be adjusted annually for inflation occurring after December 31, 1991.

c. Board's authority to make exceptions

Subparagraph (C) authorizes the Federal Reserve Board to make exceptions to the general prohibition against director and officer interlocks, by regulation or order. In determining whether to make such exceptions, the Board must consider the size of the bank holding companies, insured depository institutions, and securities affiliates involved, any burdens that may be imposed by the general prohibition, the safety and soundness of the insured depository institutions and securities affiliates, and other appropriate factors, including unfair competition in securities activities or the improper exchange of nonpublic customer information. The Board cannot allow more than half of an insured depository institution's directors to be directors or senior executive officers of the securities affiliate, or more than half of the securities affiliate's directors to be directors or senior executive officers of the insured depository institution.

6. Disclosure required

Paragraph (6) requires a securities affiliate to make a conspicuous written disclosure to each of its customers that securities sold, offered, or recommended by the securities affiliate are not deposits, are not insured by the FDIC, are not guaranteed by an affiliated insured depository institution, and are not otherwise an obligation of an insured depository institution (unless such is the case). This disclosure shall be pursuant to regulations prescribed by the Securities and Exchange Commission. The SEC may prescribe the frequency and manner, including the specific language, of the disclosures. The Commission may, for example, require longer disclosures when an account is opened and periodic shorter disclosures thereafter. Any language prescribed by the Commission or otherwise used by securities affiliates should be easily understandable to the customers of securities affiliates.

7. Investment advice restricted

Paragraph (7) prohibits any insured depository institution subsidiary of a bank holding company from expressing any opinion on the value of, or the advisability of purchasing or selling, securities underwritten or dealt in by a securities affiliate of that bank holding company unless the insured depository institution discloses to the customer that the securities affiliate is underwriting or dealing in the securities.

8. Improper disclosure of confidential customer information prohibited

Paragraph (8) generally prohibits the disclosure of nonpublic information about a customer without the customer's consent. An insured depository institution subsidiary of a bank holding company may not disclose such information to a securities affiliate of that bank holding company. Nor may a securities affiliate disclose such information to any affiliated insured depository institution or subsidiary of such an institution. "Nonpublic customer information" generally includes an evaluation of the creditworthiness of an issuer or other customer. The term does not include (1) a customer's name and address, unless the customer has specified otherwise; (2) information obtainable from unaffiliated credit bureaus or similar companies in the ordinary course of business; or (3) information customarily provided to unaffiliated credit bureaus or similar companies in the ordinary course of business by insured depository institutions not affiliated with securities affiliates, or broker-dealers not affiliated with insured depository institutions.

Paragraph (8) does not affect other laws governing the use of nonpublic information, such as the prohibitions on insider trading. Thus, for example, a customer's consent under paragraph (8) does not legitimize an otherwise impermissible use of nonpublic customer information in purchasing or selling securities.

9. Underwriting securities representing obligations originated by affiliate restricted

Paragraph (9) prohibits a securities affiliate from underwriting securities secured by or representing an interest in mortgages or other obligations originated or purchased by an affiliated insured depository institution or subsidiary of such an institution, unless those securities either (1) are rated by at least one unaffiliated, nationally recognized statistical rating organization; or (2) are issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association, or represent interests in such securities.

The rating requirement ensures that the investing public will have the benefit of an impartial expert's evaluation of any such securities underwritten by the securities affiliate. The rating requirement does not apply to securities issued or guaranteed by the three Government-sponsored mortgage financing agencies. Each agency has standards for evaluating mortgages underlying any securities it issues or guarantees, and is responsible for paying the principal and interest on the securities regardless of how the

mortgages perform. This gives investors protection at least equivalent to that of a rating by a rating organization.

The Federal Reserve Board may make exceptions to the rating requirement.

Paragraph (9) does not prohibit a securities affiliate from dealing in unrated asset-related securities. Because dealing involves trading in securities that are already in the hands of investors and for which there is a secondary market and a market price, the rating requirement is unnecessary.

10. Reciprocal arrangements prohibited

Paragraph (10) prohibits evasion of subsection (f) or other Federal law through reciprocal arrangements between bank holding companies. Specifically, no bank holding company or any of its subsidiaries may enter into any agreement, understanding, or other arrangement under which one bank holding company or subsidiary agrees to engage in a transaction with, or on behalf of, another bank holding company or subsidiary, in exchange for the agreement of the second bank holding company or any of its subsidiaries to engage in any transaction with, or on behalf of, the first bank holding company or any of its subsidiaries—for the purpose of evading any requirement or restriction of Federal law on transactions between, or for the benefit of, affiliates of bank holding companies.

11. Safeguards apply to certain subsidiaries

Subparagraph (A) of paragraph (11) prohibits any subsidiary of a securities affiliate from doing anything that subsection (f) prohibits the securities affiliate from doing.

Subparagraph (B) generally prohibits any subsidiary of an insured depository institution from doing anything that subsection (f) prohibits the insured depository institution from doing. There is an exception for a subsidiary engaged in securities activities only outside the United States: except as otherwise provided by the Federal Reserve Board, subparagraph (B) does not subject such a subsidiary to those prohibitions.

12. Additional restrictions

Paragraph (12) requires the Federal Reserve Board to prescribe such additional restrictions and requirements as may be necessary or appropriate to avoid any significant risk to insured depository institutions, protect customers, prevent insured depository institutions from subsidizing securities affiliates, and avoid conflicts of interest or other abuses. The Board may act by regulation or order.

13. Exceptions

Paragraph (13) limits the Federal Reserve Board's authority to make exceptions under subsection (f). In exercising any authority to make exceptions to subsection (f)—other than for director and officer interlocks under paragraph (5)—the Board must act only by regulation or order, and only after notice and opportunity for comment. These requirements facilitate proper public scrutiny of the Board's decision, and ensure that review under the Administrative Procedures Act will be available. The Board must also avoid any significant risk to insured depository institutions, protect customers, prevent insured depository institutions from subsidizing securities affiliates, and avoid conflicts of interest or other abuses.

14. Application to all insured depository institutions

Paragraph (14) applies subsection (f) to any insured depository institution affiliated with a company engaged in underwriting or dealing in any security other than certain eligible securities, as well as to that company. Whenever an insured depository institution has such an affiliation, subsection (f) applies in the same manner and to the same extent as if the affiliated company were a securities affiliate, and any company having control of the institution were a bank holding company. Subsection (f) does not apply if the affiliated company underwrites or deals only in securities that section 5136(b)-(c) expressly authorizes national banks to underwrite or deal in.

15. Compliance programs required

Paragraph (15) requires each appropriate Federal banking agency to establish a program for enforcing compliance with subsection (f) by entities under its supervision, and responding to any complaints from customers about inappropriate cross-marketing of securities products or inadequate disclosure. The Securities and Exchange Commission must establish a parallel program for securities affiliates. These programs are intended as additional safeguards against abuse—a speedy and inexpensive supplement to the regulatory, judicial, and other remedies already available to customers.

G. Activities not permissible for affiliated depository institutions

Subsection (g) restricts securities underwriting and dealing by insured depository institutions affiliated with a securities affiliate. Effective one year after a bank holding company acquires control of a securities affiliate, the bank holding company must cause its subsidiary insured depository institutions and their subsidiaries to cease engaging in the United States in certain securities activities. The activities in question are (1) underwriting securities backed by or representing interests in notes, drafts, acceptances, loans, leases, receivables, other obligations, or pools of any such obligations, originated or purchased by the insured depository institution or its affiliates; and (2) underwriting or dealing in any other securities, except to the extent that section 5136(b)-(c) of the Revised Statutes expressly authorizes a national bank to underwrite or deal in those securities. Subsection (g) will force the bank holding company to transfer any such activities to the securities affiliate.

Other provisions of the bill also restrict the securities activities of a bank affiliated with a securities affiliate, and thus promote the transfer of activities to the securities affiliate. Sections 731 and 732 limit the bank's exemption from registration as a broker or dealer. Section 716(b)(3) restricts a national bank's underwriting, dealing in, and brokerage of municipal securities and commercial paper.

H. Approval of securities activities under section 4(c)(8) restricted

Subsection (h) is intended to prevent section 4(c)(8) of the Bank Holding Company Act from being used to circumvent new section 10. Subsection (h) generally requires the Federal Reserve Board to deny any application by a bank holding company—under any provision of section 4(c)—to engage in, or acquire the shares of a company engaged in, underwriting or dealing in securities. There are two exceptions to this general prohibition. The first is for underwriting or dealing in securities that section 5136(b)-(c) expressly authorizes a national bank to underwrite or deal in. The second is for applications under section 4(c)(13), which permits a bank holding company to control shares of a company that does no business in the United States except as an incident to its international or foreign business. 12 U.S.C. §1843(c)(13). As used in subsection (h), "application" includes any formal request for expanded authority or diminished restrictions, whether by regulation, order, letter, or otherwise.

I. Bankers' banks

A banker's bank is a bank owned by other depository institutions, directly or through a bankers' bank holding company, and organized to engage exclusively in providing services to other depository institutions. *See, e.g.*, 12 U.S.C. §27(b)(1). A banker's bank holding company is a company that controls a bankers' bank and is itself controlled by depository institutions. The shares of a banker's bank holding company are usually owned by more than 20 depository institutions. As those depository institutions do not individually control the bankers' bank holding company, it could be argued that they would not be affiliates of any securities affiliate of the bankers' bank holding company, and thus would not be subject to the firewall or other provisions of new section 10.

Subsection (i) applies a special rule to any shareholder of or participant in a bankers' bank holding company if the shareholder or participant and its affiliates, in the aggregate, control more than 5 percent of any class of the bankers' bank holding company's voting shares. Subsection (i) treats each such shareholder or participant, and each subsidiary of such a shareholder or participant, as if it were a subsidiary of the bankers' bank holding company. Thus each such shareholder, participant, or affiliate will be treated as an affiliate of the securities affiliate for purposes of new section 10. Thus, for example, a depository institution controlling 10 percent of the voting shares of a bankers' bank holding company may extend credit to any securities affiliate of the bankers' bank holding company only to the extent permitted under subsection (f)(1).

"Shareholder" includes a holder of common stock, preferred stock, or convertible debt. "Participant" refers to a depository institution that, although not holding shares of the bankers' bank holding company, has an interest in the company's success, such as through a joint venture. A director of a bankers' bank holding company who must hold shares of the company to qualify as a director is not a "shareholder" of the company for purposes of subsection (i).

J. No limitation on other authority or duties

Subsection (j) specifies that nothing in new section 10 limits any authority of an appropriate Federal banking agency or the Securities and Exchange Commission to impose restrictions or requirements more stringent than those in section 10. Nor does anything in new section 10 limit any disclosure or registration requirements under the securities laws.

K. Definitions

Subsection (k) defines various terms used in new section 10.

1. Capital categories

Paragraph (1) of subsection (k) defines terms relating to the capitalization of insured depository institutions and bank holding companies. Under subparagraph (A), "well-capitalized," "adequately capitalized," and "undercapitalized" have the same meaning as in section 37(b)(1) of the Federal Deposit Insurance Act (added by section 205 of the bill).

Under subparagraph (B), a bank holding company is "adequately capitalized" if it meets the required minimum level for each relevant capital measure established by the Federal Reserve Board for bank holding com-

panies, and "undercapitalized" if it fails to meet the required minimum level for any such relevant capital measure.

2. Capital stock and surplus; covered transaction

Paragraph (2) gives "capital stock and surplus" the same meaning as in section 23A of the Federal Reserve Act.

Paragraph (3) generally incorporates the definition of "covered transaction" in section 23A(b)(7) of the Federal Reserve Act, but requires that any exemptions the Federal Reserve Board has granted under section 23A(e) be disregarded. 12 U.S.C. §371c(b)(7), (g). Thus the Board's authority to make exceptions to section 23A cannot be used to undercut provisions of new section 10(f)(1) that refer to "covered transactions": i.e., subparagraph (B)(iii)(II)(cc), relating to overnight clearing of securities; and subparagraph (C)(ii), relating to other exceptions to the general prohibition against extensions of credit, guarantees, and asset purchases.

3. Dealing

Under paragraph (4), "dealing" and "deal in" mean acting as a "dealer" as defined in section 3(a)(5) of the Securities Exchange Act of 1934 (amended by section 732 of the bill), but do not include purchasing or selling securities solely for the account of another person.

4. Foreign banks

Paragraph (6) deems a branch or agency of a foreign bank, or a commercial lending company controlled by a foreign bank, to be a "bank."

5. Security

Subparagraph (A) of paragraph (7) generally incorporates the definition of "security" in section 3(a)(10) of the Securities Exchange Act of 1934. 15 U.S.C. §78c(a)(10).

Subparagraph (B) specifies that "security" does not include any of the following: (1) a contract of insurance; (2) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a depository institution; (3) a share account issued by a savings association if the account is insured by the FDIC; (4) a banker's acceptance; (5) a letter of credit issued by a depository institution; or (6) a debit account at a depository institution arising from a credit card or similar arrangement.

Under subparagraph (C), the Federal Reserve Board may, by regulation, exempt from the definition of "security" a banking product that national banks have traditionally and customarily originated or handled if the exemption is consistent with the purposes of new section 10. This limited exemptive authority is provided in case a traditional banking product (such as loan participations or mortgage notes) were at some future time determined to be a security under section 3(a)(10). The reference to "loan participations or mortgage notes" illustrates the types of instruments covered by the Board's exemptive authority. It is not intended to imply that those instruments are "securities" under section 3(a)(10), or to affect in any way judicial determinations that those instruments are not "securities" under section 3(a)(10).

6. Underwriting

Under paragraph (8), "underwriting" generally means acting as an "underwriter" as defined in section 2(11) of the Securities Act of 1933 (15 U.S.C. §77(b)(11)), but does not include effecting sales exclusively to accredited investors as part of a primary offering of securities by an issuer, not involving a public offering, under section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the Securities and Exchange Commission's regulations. "Accredited investors" must qualify under section 2 of the Securities Act and the Commission's regulations.

L. Transition rule regarding exemptions to section 10(f)

Section 715(b) limits the Federal Reserve Board's authority to make exceptions to new section 10(f) of the Bank Holding Company Act (added by section 715(a). The Board may not make exceptions under the following provisions of section 10(f) sooner than one year after the bill becomes law: paragraph (1)(A)(iii)(II), relating to purchasing investment-grade, marked-to-market securities from a securities affiliate for an insured depository institution's own account); paragraph (2)(B), relating to credit enhancement for securities underwritten by a securities affiliate; paragraph (3)(B), relating to financing the purchase of securities being underwritten by a securities affiliate; and paragraph (9)(B), relating to underwriting securities secured by or representing an interest in certain obligations originated by affiliated insured depository institutions. The Board may not make exceptions under section 10(f)(1)(B)(iii)(II), relating to extending credit overnight to clear securities sooner than three years after the bill becomes law.

M. Transition rule for securities affiliates approved under section 4(c)(8)

Acting under section 4(c)(8) of the Bank Holding Company Act, the Federal Reserve Board has authorized bank holding companies to engage through nonbank subsidiaries in a wide range of underwriting and dealing activities not permissible for national banks. Section 715(c) requires a bank holding company to convert such a subsidiary into (or transfer those activities to) a securities affiliate approved under new section 10 of the Bank Holding Company Act (added by section 715(a)). The conversion generally must occur within 18 months after the bill becomes law. The Board may, for good cause shown, extend the 18-month deadline for up to 18 additional months. If a bank holding company files an application under new section 10(b) within 180 days after the bill becomes law, the initial 18-month period does not begin to elapse until 180 days after the Board acts on the application.

N. Conforming amendment regarding conditional approval of applications

Section 4(a)(2) of the Bank Holding Company Act authorizes the Federal Reserve Board to impose conditions (i.e., restrictions or requirements) on any activities permitted under section 4(c)(8) of that Act. 12 U.S.C. §1843(a)(2). Section 715(d) of the bill amends section 4(a)(2) to give the Board the same authority to impose conditions under new section 10 (added by section 715(a)) as under section 4(c)(8). Consistent with section 712, section 715(d) also specifies that a bank holding company may own voting shares of a securities affiliate.

O. Amendment to the Federal Reserve Act

Section 23B(b)(1)(B) of the Federal Reserve Act currently prohibits a member bank or any of its subsidiaries from knowingly acquiring any security "during the existence of any underwriting or selling syndicate" if any affiliate of the bank is a principal underwriter of the security. 12 U.S.C. §371c-1(b)(1)(B). Section 715(e) amends section 23B(b)(1)(B) to make the prohibition continue for 30 days after the underwriting or selling syndicate terminates.

P. Exemption from section 305(b) of the Federal Power Act

Section 305(b) of the Federal Power Act generally prohibits a person from serving simultaneously as an officer or director of a public utility and an officer or director of "any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility." 16 U.S.C. §825d(b). Section 715(f) makes an exception permitting an officer or director of a public utility to serve simultaneously as an officer or director of a securities affiliate permitted by new section 10 of the Bank Holding Company Act (added by subsection (a)) or a depository institution permitted by section 5136(b) of the Revised Statutes (as amended by section 716) to underwrite or participate in marketing securities (including commercial paper) of a public utility, so long as the securities affiliate or institution does not actually underwrite or participate in marketing securities of the particular public utility for which the person serves or proposes to serve as an officer or director.

SECTION 716. BANK SECURITIES AND INVESTMENT ACTIVITIES

Section 5136 of the Revised Statutes sets forth the corporate powers of national banks. 12 U.S.C. §24.

A. Restatement and reorganization of section 5136

Section 5136 is over one hundred years old and has been amended many times during its history, rendering it extremely convoluted. Section 716(a) recodifies section 5136, conforming its format to the rest of the banking laws.

The restatement and reorganization of section 5136 in section 716(a) makes no substantive change in the existing law and is not intended to alter, replace, or supersede any of the Office of the Comptroller of the Currency's regulations, orders, or interpretations of section 5136. Consequently, the restatement does not affect any court decisions based on a provision in, an interpretation of, or a regulation or an order issued pursuant to section 5136. The intent of the restatement in section 716(a) is strictly to make section 5136 easier to read and comprehend.

B. Commercial paper

Section 716(b) amends recodified section 5136 to make several substantive changes in national bank securities powers. Section 716(b)(1) authorizes a national bank to purchase, sell, and underwrite commercial paper of a type not ordinarily purchased by the general public that is exempt from registration requirements under section 3(a)(3) of the Securities Act. This authority builds upon, and is an extension of, national banks' current authority to discount, buy, and sell commercial paper as part of the business of banking.

C. Information processing and clearing functions

Section 716(b)(1) also authorizes a national bank to distribute or publish on a current and continuing basis information regarding securities transactions or quotations and perform clearing functions, to the extent allowed by section 3(a)(22)(A) or 3(a)(23)(B)(iii) of the Securities Exchange Act.

D. Eligible securities activities

Statutes other than section 5136 currently authorize a national bank to underwrite and deal in various securities of the Federal Agricultural Mortgage Corporation, the Financing Corporation, and the Resolution

Funding Corporation. 12 U.S.C. §§ 1441a(e)(6), 1441b(f)(6), 2279aa-12(c)(1). Section 716(b)(2) incorporates this authority into section 5136(d)(2).

E. Securities powers restricted

Section 716(b)(4) precludes a national bank that has been affiliated with a securities affiliate for more than one year from purchasing or selling (as principal or agent), or underwriting, municipal securities or commercial paper.

F. Technical and conforming amendments

Section 716(c) conforms cross-references to section 5136 in other statutes to the recodification made by section 716(a)

SECTION 717. SECURITIES AFFILIATIONS OF FDIC-INSURED BANKS

Section 717(a) adds a new section 18(s) to the Federal Deposit Insurance Act, restricting affiliations between FDIC-insured banks and securities firms.

A. In general

Paragraph (1) of new section 18(s) generally prohibits any insured bank from being an affiliate of any company that, directly or indirectly, acts in the United States as an underwriter or dealer of any security. There are two exceptions. The first permits affiliation with a securities affiliate under new section 10 of the Bank Holding Company Act (added by section 715). The second permits affiliation with a company that confines its underwriting and dealing to securities that section 5136(b)-(c) of the Revised Statutes expressly authorizes a national bank to underwrite or deal in.

B. Exception for certain limited purpose banks

Paragraph (2) exempts three types of insured banks from the general prohibition in paragraph (1): trust company banks, as defined in section 2(c)(2)(D) of the Bank Holding Company Act; credit card banks, as defined in section 2(c)(2)(F); and industrial banks, as defined in 2(c)(2)(H). 12 U.S.C. §1841(c)(2). Thus these banks are free to form new affiliations with companies engaged in underwriting or dealing in securities.

C. Grandfather provision

Paragraph (3) permits an affiliation that existed on July 15, 1991, to continue notwithstanding paragraph (1). Paragraph (3) also permits an insured bank that has such an affiliation to form new affiliations with companies engaged in underwriting or dealing in securities.

D. Transition rule

Under paragraph (4), an affiliation not grandfathered under paragraph (3) may continue for two years after the bill becomes law.

E. Definitions

Paragraph (5) defines various terms used in new section 18(s).

1. Company

Subparagraph (B) incorporates the definition of "company" in section 2(b) of the Bank Holding Company Act. 12 U.S.C. §1841(b).

2. Dealer

Subparagraph (C) incorporates the definition of "dealer" in section 3(a)(5) of the Securities Exchange Act of 1934. 15 U.S.C. §78c(a)(5).

3. Security

The definition of "security" in subparagraph (D) parallels that in new section 10(k)(7) of the Bank Holding Company Act (added by section 715). Clause (i) of subparagraph (D) generally incorporates the definition of "security" in section 3(a)(10) of the Securities Exchange Act of 1934. 15 U.S.C. §78c(a)(10).

Clause (ii) specifies that "security" does not include any of the following: (1) a contract of insurance; (2) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a depository institution; (3) a share account issued by a savings association if the account is insured by the FDIC; (4) a banker's acceptance; (5) a letter of credit issued by a depository institution; or (6) a debit account at a depository institution arising from a credit card or similar arrangement.

Under clause (iii), the Federal Reserve Board may, by regulation, exempt from the definition of "security" a banking product that national banks have traditionally and customarily originated or handled (such as loan participations or mortgage notes) if the exemption is consistent with the purposes of new section 18(s). As discussed above in connection with new section 10(k)(7), this limited exemptive authority is provided in case a traditional banking product were at some future time determined to be a security under section 3(a)(10), and does not imply that such products are "securities" under that section.

4. Underwriter

Subparagraph (E) incorporates the definition of "underwriter" in section 2(11) of the Securities Act of 1933. 15 U.S.C. §77(b)(11).

F. Conforming amendments

Section 18(j)(4) of the Federal Deposit Insurance Act authorizes civil money penalties against insured State nonmember banks that violate certain statutes, including section 20 of the Banking Act of 1933. 12 U.S.C. §1828(j)(4). As section 711(a) has repealed section 20 and section 717(a) has replaced section 20 with new section 18(s), section 717(b)(1) replaces the reference to section 20 in section 18(j)(4)(A) with a reference to new section 18(s).

Section 717(b)(2) repeals obsolete section 18(j)(3) of the Federal Deposit Insurance Act.

SECTION 718. EFFECT ON STATE LAWS PROHIBITING THE AFFILIATION OF BANKS AND SECURITIES COMPANIES

Section 7 of the Bank Holding Company Act currently provides that the Act does not restrict the States' authority over companies, banks, bank holding companies, and subsidiaries of those entities. 12 U.S.C. §1846. Section 718 makes a limited exception to that rule by providing that a State may not prohibit an affiliation between a bank or bank holding company and a securities affiliate solely because the securities affiliate is engaged in securities activities permissible under new section 10(f)(1)-(2) of the Bank Holding Company Act (added by section 715).

SECTION 719. DIVERSIFIED FINANCIAL HOLDING COMPANIES

Section 719 creates a new category of bank holding companies, "diversified financial holding companies."

A. In general

Section 719(a) adds a new section 4(k) to the Bank Holding Company Act, permitting a diversified financial holding company to continue to engage in certain financial activities not otherwise permissible for a bank holding company, or to acquire or retain shares of a company engaged in such activities. The activities in question are (1) insurance underwriting activities, (2) insurance agency activities, and (3) any other activities that the Federal Reserve Board has determined to be financial after notice and opportunity for hearing. The diversified financial holding company must have been lawfully engaging in those activities, directly or through a subsidiary, as of July 1, 1991.

B. Restrictions on joint marketing

Section 4(k) also imposes restrictions on joint marketing by a diversified financial holding company's subsidiary banks. Such a bank may not offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under section 4(c)(8) or new section 10 of the Bank Holding Company Act. Nor may the bank permit its products or services to be offered or marketed in connection with an affiliate's products or services, unless (1) the Federal Reserve Board has determined by regulation that bank holding companies may provide such products and services under section 4(c)(8) or section 10; or (2) those products or services of the bank were offered or marketed in the same manner as of March 5, 1987.

The joint marketing restrictions are intended to minimize the unfair advantage that diversified financial holding companies might otherwise have over other bank holding companies.

C. Diversified Financial Holding Company Defined

Section 719(b) adds a definition of "diversified financial holding company" to section 2 of the Bank Holding Company Act. Under the definition, a diversified financial holding company is a bank holding company that meets a five-part test. First, the company must engage only in activities that permissible for bank holding companies generally under section 4 of the Bank Holding Company Act, or financial activities permissible under new section 4(k).

Second, the company must have devoted 80 percent or more of its consolidated assets, on average during the preceding calendar year, to activities permissible under one or more of four specific provisions of the Bank Holding Company Act: section 4(c)(8), relating to activities determined by the Federal Reserve Board to be closely related to banking; section 4(c)13, relating to international or foreign activities; section 4(c)(14), relating to export trading companies; and new section 10, relating to securities activities. (An activity is permissible under a given provision only if it is conducted in compliance with any restriction or requirement imposed by or pursuant to that provision.) Assets of an insured depository institution or its subsidiaries cannot be used to satisfy the 80-percent test. Insurance activities permissible under section 4(c)(13) but not permissible under section 4(c)(8) may only be used to satisfy 10 percentage points of the 80-percent test.

Third, the company's subsidiary insured depository institutions and their subsidiaries must together, on average during the preceding calendar year, have constituted 20 percent or less of the company's consolidated assets.

Fourth, the company's subsidiary depository institutions (whether insured or uninsured, domestic or foreign) and any subsidiaries of those institutions, must together, on average during the preceding calendar year, have constituted 40 percent or less of the company's consolidated assets. "Depository institutions" includes, for example, Edge corporations that accept deposits; it excludes entities that do not accept deposits, even if those entities have legal authority to accept deposits.

Fifth, the company must file with the Federal Reserve Board a written notice of its in-

tent to be treated as a diversified financial services company.

SECTION 720. EFFECTIVE DATE

Under section 720, the amendments made by subtitle A become effective 90 days after the bill becomes law.

Subtitle B—Brokers and Dealers

SECTION 731. DEFINITION OF BROKER

Section 3(a)(4) of the Securities Exchange Act of 1934 (the "Exchange Act") currently excludes banks from its definition of "broker." 15 U.S.C. §78o(a)(4). As a result, bank securities activities are exempt from all but the anti-fraud provisions of the Exchange Act.

A. In general

Section 731 amends the Exchange Act's definition of "broker" to include banks under certain specific circumstances and subject to certain specific exemptions. A bank will not be considered a broker unless the bank (1) "publicly solicits" brokerage business, or (2) receives "incentive compensation" for brokerage business. A bank that does either will be subject to broker-dealer registration and regulation under the Exchange Act unless its brokerage activities fall within one of the nine exceptions described below. "Publicly solicits" is to be broadly interpreted, and includes not only general advertisements or public telephone solicitation but also systematic solicitation of existing customers through such items as materials included with account statements. "Incentive compensation" is the payment of commissions or similar remuneration based on effecting transactions in securities. "Incentive compensation" does not include fees calculated on a basis unrelated to or unconnected with effecting transactions in securities, such as an annual administration charge, an hourly charge for fiduciary consulting services, or fees calculated as a percentage of assets under management.

B. Exemptions

New section 3(a)(4)(C) includes nine specific exemptions that allow a bank to continue engaging in certain brokerage activities directly in the bank without being deemed a "broker" under the Exchange Act. A bank qualifying for one or more of these exemptions may remain subject to SEC regulation for some purposes. The exemptions are not grants of authority and do not affect any restrictions applicable under Federal banking laws. They should not be used to draw inferences about the Federal banking laws, including the provisions added by title VII-A.

1. Networking

A bank will not be deemed a "broker" because of transactions in connection with a "networking" arrangement, in which the bank contracts with a registered broker-dealer, whether or not affiliated with the bank, to provide brokerage services on the bank's premises on a fully disclosed basis. Bank employees who perform other than clerical or ministerial functions in connection with the transactions or who receive incentive compensation must qualify and be regulated as securities registered representatives.

2. Trust activities

A bank will not be deemed a "broker" because of transactions effected in the course of trust activities, including securities safekeeping, self-directed individual retirement accounts, and managed agency accounts, unless the bank (1) receives incentive compensation for such activities or (2) publicly solicits brokerage business other than by advertising such activities in conjunction with advertising other trust activities.

3. Certain securities

A bank will not be deemed a "broker" because of transactions in certain specified securities: "exempted securities" under the Exchange Act, such as United States Government securities, but excluding municipal securities; commercial paper; bankers' acceptances; and commercial bills.

4. Municipal securities

A bank that does not have a securities affiliate under new section 10 of the Bank Holding Company Act will not be deemed a "broker" because of transactions in municipal securities. A bank that does have such a securities affiliate may engage in transactions in municipal securities for one year after the affiliation without being deemed a "broker." After one year, the bank would no longer receive the exemption. Thus, if the bank otherwise fell within the definition of "broker," it would have to register as a broker or transfer its municipal securities brokerage activities to the securities affiliate.

5. Employee and shareholder benefit accounts

A bank will not be deemed a "broker" because of transactions for employee or shareholder benefit accounts. Such accounts include bonus, profit-sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, stock appreciation, stock option, dividend reinvestment, or similar plans.

6. Money market sweep accounts

A bank will not be deemed a "broker" because of transactions that invest or reinvest depositors' funds in money market accounts.

7. Affiliate transactions

A bank will not be deemed a "broker" because of transactions for the account of any affiliate, as that term is defined in section 2 of the Bank Holding Company Act.

8. Private placements

A bank that does not have a securities affiliate under new section 10 of the Bank Holding Company Act will not be deemed a "broker" because of selling securities exclusively to accredited investors (as defined in section 3 of the Securities Act) as part of a primary offering of securities by an issuer not involving a public offering. A bank that does have a securities affiliate may engage in such private placements of securities for one year after the affiliation without being deemed a "broker"; the bank's exemption would then cease. As a result, if the bank otherwise fell within the definition of "broker," it would have to register as a broker or transfer its private placement activities to the securities affiliate.

9. Fewer than 1,000 transactions

A bank will not be deemed a "broker" if it limits its brokerage activities that do not meet the other eight exemptions to fewer than 1,000 transactions per year. This exemption applies only if the bank is not affiliated with a separate registered broker-dealer.

10. Banks subject to section 15(e)

Section 731 excludes from the definition of "broker" banks subject to section 15(e) of the Exchange Act and to any restrictions and requirements the SEC deems appropriate.

SECTION 732. DEFINITION OF DEALER

A. In general

Section 732 is a complementary amendment to the definition of "dealer" in section 3(a)(5) of the Exchange Act. 15 U.S.C. §78c(a)(4). Like the current definition of "broker," the current definition of "dealer" in the Exchange Act specifically excludes banks. Section 732 includes banks within the general definition of dealer ("any person engaged in the business of buying and selling securities for his own account through a broker or otherwise"), but creates four specific exemptions for banks that are similar to the "broker" exemptions. Like the "broker" exemptions, the "dealer" exemptions are not grants of authority and do not affect any restrictions applicable under Federal banking laws. They should not be used to draw inferences about the Federal banking laws, including the provisions added by title VII-A.

B. Exemptions

1. Certain securities

A bank will not be deemed a "dealer" because of transactions in certain specified securities: "exempted securities" under the Exchange Act, such as United States Government securities, but excluding municipal securities; commercial paper; bankers' acceptances; and commercial bills.

2. Municipal securities

A bank that does not have a securities affiliate under new section 10 of the Bank Holding Company Act will not be deemed a "dealer" because of transactions in municipal securities. A bank that does have such a securities affiliate may engage in transactions in municipal securities for one year after the affiliation without being deemed a "dealer"; the bank's exemption would then cease. As a result, if the bank otherwise fell within the definition of "dealer," it would have to register as a dealer or transfer its municipal securities dealing activities to the securities affiliate.

3. Trust activities

A bank will not be deemed a "dealer" because it buys and sells securities for investment purposes for the bank or for accounts for which the bank acts as a trustee or fiduciary.

4. Securitization

A bank that does not have a securities affiliate under new section 10 of the Bank Holding Company Act will not be deemed a "dealer" because it engages in issuing or selling securities backed by or representing an interest in obligations originated or purchased by the bank, its affiliates, or its subsidiaries, if the underlying obligations are not third-party securities. A bank that does have such a securities affiliate may engage in such activities for one year after the affiliation without being deemed a "dealer"; the bank's exemption would then cease. As a result, if the bank otherwise fell within the definition of "dealer," it would have to register as a dealer or transfer these activities to the securities affiliate.

Section 732 preserves the existing distinction between dealer activities and non-dealer principal transactions, including bank investment and trading portfolio transactions for its own account or as a trustee or fiduciary, as reflected in current SEC interpretive positions.

SECTION 733. POWER TO EXEMPT FROM THE DEFINITIONS OF BROKER AND DEALER

Section 732 adds a new section 3(e) to the Exchange Act, authorizing the SEC to exempt by regulation or order any person or class of persons from the definition of "broker" or "dealer" if the SEC finds that the exemption is consistent with the public interest, the protection of investors, and the purposes of the Exchange Act.

SECTION 734. EFFECTIVE DATE

Under section 734, the amendments made by subtitle B become effective 270 days after the bill becomes law.

Subtitle C—Bank Investment Company Activities

SECTION 741. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK

Section 741 amends the Investment Company Act of 1940 to give the Securities and Exchange Commission rulemaking authority over certain situations involving banks affiliated with management investment companies (mutual funds and closed-end investment companies) and unit investment trusts.

Section 741(a) amends section 17(f) of the Investment Company Act (15 U.S.C. §80a-17(f)) to clarify and strengthen the SEC's authority to adopt regulations governing how banks may serve as custodians of affiliated management investment companies. A registered investment company is permitted to place its assets with a bank that is an affiliated person, promoter, organizer, sponsor, or principal underwriter for such a company only in accordance with regulations or orders that the SEC may adopt after written consultation with the appropriate Federal banking agency.

Section 26(a) of the Investment Company Act currently prohibits a principal underwriter or depositor of a unit investment trust from selling securities issued by the trust unless the trust, by appropriate agreement, designates as trustee a bank meeting certain qualifications. 15 U.S.C. §80a-26(a)(1). Section 741(b) amends section 26(f) to allow a unit investment trust to designate an affiliated bank as trustee only in accordance with regulations or orders that the SEC may adopt after written consultation with the appropriate Federal banking agency.

This section also amends section 36(a) of the Investment Company Act to permit the SEC to bring a civil action alleging breach of fiduciary duty involving personal misconduct against a person who acts as custodian for a registered investment company. The SEC may already bring such actions against persons acting as officers, directors, investment advisers or depositors of an investment company and against principal underwriters of an open-end company or unit investment trust.

SECTION 742. AFFILIATED TRANSACTIONS

Section 10(f) of the Investment Company Act currently prohibits a registered investment company from purchasing any security (except a security of which it is the issuer) during the existence of any underwriting or selling syndicate if a principal underwriter of the security is an officer, director, member of an advisory board, investment adviser, or employee of the investment company or affiliate of such a party (unless the investment company is itself acting as a principal underwriter). 15 U.S.C. §80a-10(f). Section 742(a) amends section 10(f) to further prohibit an investment company from knowingly acquiring a security during an underwriting if the proceeds of the security will be used to retire an indebtedness owed to an affiliated person of the investment company. Section 742(b) specifies that for purposes of section 10(f), a person that is under common control with an investment adviser shall be deemed to be an affiliated person of the investment company advised by that adviser.

SECTION 743. BORROWING FROM AN AFFILIATED BANK

Section 18(f) of the Investment Company Act currently restricts the ability of a registered open-end investment company (mutual fund) to issue a class of "senior security" and to borrow from a bank. 15 U.S.C. §80a-18(f). Section 743 adds a new section 18(f)(3), prohibiting a mutual fund from from borrowing from a bank if that bank or any affiliated person of that bank is an affiliated person, promoter, organizer, or sponsor of or principal underwriter for that mutual fund, except pursuant to such regulations as the SEC determines to be in the public interest and consistent with the protection of investors.

SECTION 744. INDEPENDENT DIRECTORS

Section 2(a)(19)(A)(v) of the Investment Company Act currently defines "interested person" of an investment company to include any registered broker or dealer and any affiliated person of such broker or dealer. 15 U.S.C. §80a-(a)(19)(A)(v). Section 744 amends section 2(a)(19)(a)(v) to include in the definition of "interested person" any person or any affiliate of a person that during the preceding six-month period acts as custodian or transfer agent or effects portfolio transactions for, engages in principal transactions with, or loans money to an investment company or any other investment company having the same investment adviser, principal underwriter, sponsor or promoter.

Under new section 2(a)(19)(a)(v), officers, directors or employees of a bank or other financial services provider that effects transactions in government or municipal securities for an investment company without registering as a broker-dealer would become "interested persons" of that investment company. While such persons would not be prevented from serving as directors of that investment company, they would be considered "interested persons" for purposes of the required percentage of independent directors of the investment company. The amendment is effective one year after the bill becomes law.

Section 10(c) of the Investment Company Act currently prohibits a registered investment company from having a majority of its board of directors consist of individuals who are officers, directors, or employees of any one bank. 15 U.S.C. §80a-10(c). Section 744(b) amends section 10(c) to extend this prohibition to any one bank and its subsidiaries, any one bank holding company and its affiliates and subsidiaries. This eliminates the potential to circumvent the legislative intent of section 10(c) by a bank operating under a multiple bank holding company structure.

SECTION 745. ADDITIONAL SEC DISCLOSURE AUTHORITY

Section 745 amends section 35(a) of the Investment Company Act to prohibit a registered investment company or a person selling any security issued by a registered investment company from representing or implying that the company or its security is guaranteed, sponsored, recommended or approved by the United States or its agencies; insured by the FDIC; or guaranteed by or otherwise an obligation of any insured institution. The SEC must require persons who issue or sell securities of an investment company and have specified relationships with a bank or bank holding company to make certain disclosures prominently. Such a person is required to disclose that the security is not insured by the FDIC, is not guaranteed by an affiliated bank or insured institution, and is not otherwise an obligation of such a bank or institution. This provision is similar to the requirements placed on securities affiliates under new section 10(f)(6) of the Bank Holding Company Act.

The SEC must consult with the appropriate Federal banking agencies before adopting such regulations. Section 745 is not intended to affect the SEC's authority to require disclosure under other provisions of the Federal securities laws.

Section 35(d) of the Investment Company Act currently prohibits a registered investment company from adopting as part of its name any words that the SEC determines to be deceptive or misleading. Section 745(b) amends section 35(d) to further prohibit a registered investment company that has an insured depository institution or its affiliate as an affiliated person, promoter, or principal underwriter from adopting as part of the name, title, or logo of the registered investment company or of any securities of which it is the issuer any word or design that is the same as, similar to, or a variation of the name, title, or logo of that insured institution or its affiliate.

The SEC may exempt an investment company from new section 35(d) only if it finds the exemption is consistent with the public interest, the protection of investors, and the purposes of the Investment Company Act.

SECTION 746. DEFINITION OF BROKER UNDER THE INVESTMENT COMPANY ACT OF 1940

Section 746 amends the definition of "broker" in section 2(a)(6) of the Investment Company Act to reflect section 731's amended definition of that term in the Securities Exchange Act. The amended definition continues to exclude any person, including a bank, that would be deemed a "broker" solely because such person is an underwriter for one or more investment companies.

SECTION 747. DEFINITION OF DEALER UNDER THE INVESTMENT COMPANY ACT OF 1940

Section 747 similarly amends the definition of "dealer" in section 2(a)(11) of the Investment Company Act to reflect section 732's amended definition of that term in the Securities Exchange Act. The amended definition continues to exclude insurance companies and investment companies.

SECTION 748. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES

Section 202(a)(11) of the Investment Advisers Act currently excludes a bank or a bank holding company that serves as an investment adviser to a registered investment company from the Act's definition of "investment adviser." 15 U.S.C. §80b-2(a)(11). Section 748(a) amends section 202(a)(11) to remove this exclusion. A bank may establish a separate subsidiary or affiliate in order to register as an investment adviser. A bank is also permitted to establish a "separately identifiable department or division" to act as an investment adviser, in which case only the department or division and not the bank or bank holding company would be required to register. The SEC would have the same regulatory authority over such a bank department or division as it has over other investment advisers.

Section 748(b) amends section 202(a)(25) to include a definition of "separately identifiable department or division" of a bank. A "separately identifiable department or division" is a unit that is under the direct supervision of an officer designated by the bank's board of directors to conduct the investment adviser activities and supervise all bank employees engaged in such activities. The records of the unit relating to investment adviser activities must be separately maintained or extractable to permit independent enforcement of the Investment Advisers Act.

SECTION 749. DEFINITION OF BROKER UNDER THE INVESTMENT ADVISERS ACT OF 1940

Section 749 amends the definition of "broker" in section 202(a)(3) of the Investment Advisers Act (15 U.S.C. §80b-2(a)(3)) to reflect section 731's amended definition of that term in the Securities Exchange Act. The amended definition continues to exclude any person, including a bank, that would be deemed a "broker" solely because such person is an underwriter for one or more investment companies.

SECTION 750. DEFINITION OF DEALER UNDER THE INVESTMENT ADVISERS ACT OF 1940

Section 750 similarly amends the definition of "dealer" in section 2(a)(7) of the Investment Advisers Act (15 U.S.C. §80b-2(a)(7)) to reflect section 732's amended definition of that term in the Securities Exchange Act. The amended definition continues to exclude insurance companies and investment companies.

SECTION 751. INTERAGENCY NOTIFICATION AND CONSULTATION

Section 751 adds a new section 210A to the Investment Advisers Act. New section 210A requires the SEC to notify the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) before initiating any examination, investigation, or enforcement proceeding against any bank holding company, bank, or department or division of a bank that is a registered investment adviser. If the SEC determines that the protection of investors requires its immediate action and prior notice is not practical under the circumstances, the SEC may take action and notify the appropriate Federal banking agency as promptly as possible after taking action. In addition, the SEC and the appropriate Federal banking agency must share the results of any examination of any bank holding company, bank, or department or division of a bank that is a registered investment adviser.

The notification and sharing requirements will diminish the possibility of redundant or duplicative regulation. This is advisable in view of the comprehensive examination and supervision authority that the banking agencies have over bank investment advisory activities, and the many State and Federal fiduciary protections currently applicable to bank investment advisory functions. The notification and sharing requirements are not intended to limit the SEC's discretion to conduct examinations or investigations or to institute enforcement actions. Those requirements are also not intended to require SEC notification and consultation regarding bank activities that do not require registration under the Investment Advisers Act.

SECTION 752. TREATMENT OF BANK COMMON TRUST FUNDS

Section 3(c)(3) of the Investment Company Act currently exempts bank common trust funds from the definition of investment companies under the Investment Company Act. 15 U.S.C. §80b-3(c)(3). Such funds must be maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank as trustee, executor, administrator, or guardian. Section 752(c) amends section 3(c)(3) to impose further requirements on a common trust fund before it is considered exempt from the definition of investment company. The fund must be employed by the bank solely as an aid to the administration of trusts, estates or other accounts maintained for a fiduciary purpose. Shares in the fund may not be advertised or offered for sale to the public except in connection with the ordinary advertising of the bank's fiduciary services.

Section 3(a)(2) of the Securities Act currently exempts any interest or participation in a bank common trust fund from the Securities Act. 15 U.S.C. §78c(a)(2). Section 752(a) amends section 3(a)(2) to provide that the common trust fund must be excluded from the amended definition of "investment company" under section 3(c)(3) of the Investment Company Act. Similarly, section 3(a)(12)(A)(iii) of the Securities Exchange Act currently includes any interest or participation in a bank common trust fund in the definition of "exempted security" under the Securities Exchange Act. Id. § 78c(a)(12)(A)(iii). Section 752(b) amends section 3(a)(12)(A)(iii) to require that the common trust fund must be excluded from the amended definition of "investment company" under section 3(c)(3).

Section 752(d) expresses the sense of the Congress that the public interest would be served by enacting legislation to amend the Internal Revenue Code to provide that any transfer of all or substantially all of the assets of a bank common trust fund to a registered investment company as a result of a merger, conversion, reorganization or similar transaction shall not result in a gain or loss to the participants in the common trust fund.

SECTION 753. SEC STUDY AND REPORT ON BANK AND INSURANCE POOLED INVESTMENT VEHICLES

Section 753 directs the Securities and Exchange Commission, in consultation with the Secretary of Labor and the Comptroller of the Currency, to review the appropriate treatment of bank collective investment funds and separate accounts under the securities laws and the Employee Retirement Income Security Act and the appropriate treatment of common trust funds under the securities laws. No later than six months after the bill becomes law, the SEC must submit to Congress a final report containing findings, conclusions and any recommendations for administrative or legislative action.

SECTION 754. INVESTMENT ADVISERS PROHIBITED FROM HAVING CONTROLLING INTEREST IN REGISTERED INVESTMENT COMPANY

Section 754 adds a new section 15(g) to the Investment Company Act. New section 15(g) allows an investment adviser of a registered investment company, or an affiliated person of the adviser, that holds shares of the investment company in a trustee or fiduciary capacity to own a controlling interest in that investment company only if one of three conditions is met. First, the investment adviser may pass the power to vote the investment company's shares through to beneficial shareholders, any fiduciary who is not an affiliated person of the investment adviser or its affiliated persons, or any person authorized to receive statements and information with respect to the trust who is not an affiliated person of the investment adviser or of its affiliated persons. Second, the investment adviser must either vote the shares in the same proportion as shares held by all other shareholders. Finally, the investment adviser must comply with such rules, regulations and orders as the SEC may prescribe for the protection of investors.

The prohibition in new section 15(g) does not apply to investment companies consisting solely of assets of (1) a common trust fund described in section 3(c)(3) of the Investment Company Act, (2) any employee's stock bonus, pension, or profit-sharing trust qualifying under section 401 of the Internal Revenue Code, (3) any governmental plan described in section 3(a)(2)(C) of the Securities Act, or (4) any collective trust fund maintained by a bank consisting solely of assets of such trusts or governmental plans.

SECTION 755. PURCHASE OF INVESTMENT COMPANY SECURITIES AS FIDUCIARY

Section 755(a) adds a new section 17(f) to the Investment Company Act. New section 17(f) imposes a disclosure requirement on the purchase by an investment adviser and an affiliated person of an investment adviser, promoter, organizer, sponsor of or principal underwriter for a registered investment company in its capacity as fiduciary for a beneficiary of securities issued by the investment company. The affiliated person may purchase the securities only if the beneficiary has received such disclosure as the SEC has prescribed. The SEC is directed to formulate the manner, form and content of the disclosure as it determines to be in the public interest and necessary for the protection of investors.

Section 755(b) requires the appropriate Federal banking agency to examine purchases by an insured institution's trust department or division of securities of an affiliated investment company, or an investment company that is an affiliated person of an affiliated person of the institution, to ensure compliance with applicable trust law.

SECTION 756. CONFORMING CHANGE IN DEFINITION

Section 756 amends the definition of "bank" in section 2(a)(5) of the Investment Company Act by replacing the reference to "a banking organization organized under the laws of the United States" with a reference to "a depository institution" as defined in the Federal Deposit Insurance Act.

SECTION 757. EFFECTIVE DATE

Under section 757, the amendments made by subtitle C become effective 270 days after the bill becomes law, except that section 753 becomes effective immediately, and section 744(a) becomes effective one year after enactment.

Subtitle D—Depositor Protection and Anti-Fraud

SECTION 761. SHORT TITLE

Section 761 designates subtitle D as the "Depositor Protection and Anti-Fraud Act of 1991."

SECTION 762. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FDIC-INSURED DEPOSITORY INSTITUTIONS

Section 762 adds a new section 15(f) to the Securities Exchange Act of 1934. New section 15(f)(1) imposes certain prohibitions on the sale or offer for sale of any equity in or debt of an insured depository institution or its affiliates. The institution may not permit such sale or offer for sale in any of its domestic branches that accept insured deposits or in its head office, if it accepts insured deposits and is located in the United States. New section 15(f)(2) specifies that the prohibitions in section 15(f)(1) do not apply to a deposit, a negotiable instrument sold in the course of business such as a traveler's check or a cashier's check, an interest in a registered investment company, a sale of instruments in large dollar amounts to a sophisticated investor, or a sale of instruments in connection with an approved conversion of a depository institution from mutual to stock ownership.

The Securities and Exchange Commission may issue an exemption from the prohibitions of section 15(f)(1) if it finds that the exemption is in the public interest, the pur-

chasers would not be likely to confuse the equity or debt with an insured deposit, and the sales of equity or debt would be subject to the sales practice rules of a self-regulatory organization.

The Securities and Exchange Commission must within 180 days after the bill becomes law issue final regulations to carry out new section 15(f). New section 15(f) will take effect immediately upon the issue of the final regulations but in no event later than 270 days after the bill becomes law.

SECTION 763. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FEDERALLY INSURED CREDIT UNIONS

Section 763 adds a new section 205(j) to the Federal Credit Union Act, similar to the new section 15(f) added to the Exchange Act. New section 205(j)(1) imposes on federally insured credit unions certain prohibitions on the sale or offer for sale of any debt of a credit union or its affiliates. The credit union may not permit such sale or offer for sale in any of its domestic branches that accept insured shares or in its head office, if it accepts shares and is located in the United States. New section 205(j)(2) specifies that the prohibitions in section 205(j)(1) do not apply to an insured share in a credit union, a negotiable instrument sold in the course of business such as a traveler's check or cashier's check, an interest in a registered investment company, or a sale of instruments in large dollar amounts to a sophisticated investor.

The National Credit Union Administration may issue an exemption from the prohibitions if it finds that the exemption is in the public interest, the purchasers would not be likely to confuse the debt with an insured deposit, the insured deposit would be on terms no less favorable for credit union shareholders than for other persons, the seller determines whether the instrument is appropriate for the purchaser, no registered broker or dealer receives a commission in connection with the sale greater than for a comparable sale of like kind or similar principal amount, and the credit union, its affiliates and their employees did not receive a commission in connection with the sale greater than is typical for the industry or than a registered broker or dealer could have received.

The National Credit Union Administration is required to report annually to the House and Senate Banking Committees on any differences between its regulations and those adopted by the Securities and Exchange Commission under new section 15(f) and the reasons for any such differences. New section 205(j) specifically does not supersede or limit the jurisdiction of the Securities and Exchange Commission.

The National Credit Union Administration must within 180 days after the bill becomes law issue final regulations to carry out new section 205(j). New section 205(j) will take effect immediately upon the issue of the final regulations but in no event later than 270 days after the bill becomes law.

Subtitle E—Insurance Activities

SECTION 771. INSURANCE AGENCY ACTIVITIES OF NATIONAL BANKS

Section 4 of the Bank Holding Company Act generally prohibits bank holding companies from acquiring or retaining the shares of any company other than a bank or bank holding company. Section 4 also prohibits a bank holding company from engaging in activities other than banking and managing banks. Section 4(c)(8), however, permits a bank holding company to acquire shares of a company engaging in activities that are so closely related to banking or managing banks as to be incidental to banking. The Garn-St Germain Depository Institutions Act of 1982 amended section 4(c)(8) to specify that providing insurance as a principal, agent, or broker was not closely related to banking or managing banks unless the insurance was provided pursuant to seven listed exceptions. States have been free to accord banks chartered under their laws greater insurance powers.

Section 771 conforms the insurance agency powers of national banks to the insurance agency powers that State banks enjoy under State law. In general, a national bank may solicit and sell insurance and collect premiums from residents of and individuals employed in any State where it has a branch to the extent that the State allows its own banks to engage in such insurance agency activities. Section 771(b) tightens the "town of 5,000 exception" enacted by the Garn-St Germain Act. In any town of 5,000 people or less in which it has a branch, a national bank may solicit and sell insurance to and collect premiums from residents of and individuals employed in that town and other such towns in that State. In selling insurance under this exception, a national bank may not assume or guarantee payment of premiums on policies issued through the bank's agency or guarantee the truth of any statement made by an assured in filing an application.

For purposes of section 771, "residents" of a State includes companies incorporated in, licensed to do business in, and having an office in that State.

Section 771 takes effect 120 days after the bill becomes law.

SECTION 77. INSURANCE UNDERWRITING IN BANK RESTRICTED

Section 772 adds a new subsection (f) to section 24 of the Federal Deposit Insurance Act (added by section 215). New section 24(f) generally prohibits insured State banks from underwriting insurance (providing insurance as a principal) except to the extent permissible for a national bank. A grandfather provision applies to a State bank that was providing insurance as a principal on July 15, 1991. Such a bank may continue to provide insurance of the same type to residents of and individuals employed in the State in which the bank is chartered. Such a bank may also continue to provide insurance of the same type to any customers whom it has insured continuously since they resided in or were employed in the State.

For purposes of new section 24(f), "residents" of a State includes companies incorporated in, licensed to do business in, and having an office in that State.

New section 24(f) becomes effective 90 days after the bill becomes law. State banks may continue for one year any activity prohibited by new section 24(f) that they were lawfully engaged in as of the date of enactment.

A grandfather provision also applies to banks providing title insurance. An insured State bank that was underwriting insurance through a subsidiary as of July 1, 1991, may continue to underwrite title insurance through a subsidiary if the bank was required to be empowered to provide title insurance as a condition of its initial chartering under State law.

SECTION 773. CUSTOMER PROTECTION

Section 773 prohibits a bank holding company or its affiliates or subsidiaries from using any confidential customer information without that customer's prior written consent to engage in any insurance activity. "Confidential customer information" is information proprietary to a bank and includes an evaluation of creditworthiness, the amount of money held on deposit, the amount of any loans outstanding and the details of any insurance policy but does not include the customer's name and address.

Section 773 also tightens the restrictions on requiring bank customers to purchase more than one service from a bank. Section 773(b) prohibits a bank holding company or its affiliates or subsidiaries from requiring as a condition for providing or renewing any product or service that a customer purchase insurance through a particular insurer or agent. A bank holding company or its affiliates or subsidiaries also may not solicit the purchase of any insurance required under the terms of a proposed loan or extension of credit before a customer has received a written commitment with respect to such loan or extension of credit. A bank holding company or its affiliates may place insurance on any real or personal property if a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or extension of credit.

SECTION 774. INTERSTATE INSURANCE AGENCY ACTIVITIES

Section 774 adds a new section 4(j) to the Bank Holding Company Act. The new section prohibits a subsidiary bank of a bank holding company, or a subsidiary of that bank, from selling insurance as an agent in a State other than its chartering State unless the statute laws of that State expressly authorize such activity. A bank holding company may continue to sell insurance as an agent beyond the borders of the State in which the subsidiary bank is chartered so long as that coverage is of the same type as it was lawfully selling as agent on June 1, 1991. Such sales are subject to State regulation and control.

TITLE VIII—THRIFT-TO-BANK CONVERSIONS

SECTION 801. SHORT TITLE

Section 801 designates title VIII as the "Thrift-to-Bank Conversion Act of 1991."

SECTION 802. STREAMLINING CONVERSION PROCEDURES

A. Amendment to National Bank Act

Section 5154 of the Revised Statutes currently authorizes State banks to become national banks. 12 U.S.C. §35. A State bank converting into a national bank must have unimpaired capital sufficient for a national bank. The conversion must be approved by holders of 51 percent of the bank's capital stock and by the Comptroller of the Currency and must not be in contravention of State law. The directors of the converting State bank may continue to be directors of the national bank until others are elected or appointed in accordance with applicable Federal law. A majority of the directors may execute the articles of association and organization certificate. The certificate must declare that owners of 51 percent of the State bank's capital stock authorized the directors to convert the institution into a national bank and to execute the certificate.

A majority of directors may take all other steps necessary to complete the State bank's conversion into a national bank. The shares of the converting institution may continue to be for the same amount as before the conversion. The Comptroller of the Currency shall give the converting depository institution a certificate of compliance once the provisions of the statute have been met. When the converting institution has the certifi-

cate, it shall have the same powers and privileges and be subject to the same duties and regulations as an institution originally organized as a national bank. The Comptroller, in his discretion, may permit a converting State bank to retain and carry such of its assets as do not conform to the legal requirements of assets acquired and held by a national bank. The Comptroller will determine the carrying value of such assets. Once an institution has converted to a national bank, it must include the word "national" in its name.

B. Amendment to the Home Owners' Loan Act

Section 5(i) of the Home Owners' Loan Act permits Federal savings associations to convert into State savings associations or State savings banks and State savings associations to convert into Federal savings associations. 12 U.S.C. §1464(i). Section 802 amends section 5(i) to authorize Federal and State savings associations to convert directly to national banks and State banks.

1. Conversion of Federal or State savings association to national bank

New section 5(i)(4) governs the conversion of a Federal or State savings association into a national bank. The conversion must comply with all the provisions of new section 5154 discussed above. Such a conversion must be approved by the owners of at least 51 percent of the institution's capital stock or, for a mutually-held institution, by at least 51 percent of the outstanding votes. The conversion is effective upon compliance with all provisions of the Home Owners' Loan Act and section 5154 and the issuance of a certificate of authority by the appropriate Federal banking agency.

The appropriate Federal banking agency may prescribe rules or regulations for a Federal or State savings association that converts into a national bank, including a requirement that the resulting national bank assume and maintain any liquidation account obligations of the converting institution.

A Federal or State savings association converting into a national bank must obtain the approval of the Comptroller of the Currency as prescribed by new section 5154. For a mutual savings association, the Office of Thrift Supervision must specifically approve the conversion of the institution into a national bank with a stock form of ownership. A State savings association converting into a national bank must satisfy all applicable provisions of the law of the State where its home office is located.

2. Conversion of Federal savings association to State bank

New section 5(i)(5) provides for the conversion of Federal savings associations to State banks. A Federal savings association may convert into a bank chartered by the State in which its home office is located if that State's law permits the conversion. Such a conversion must be approved by the institution's members or stockholders as specified by the law of that State. The conversion is effective upon compliance with the Home Owners' Loan Act and issuance of a new charter by the State.

The appropriate State regulator may prescribe rules or regulations for a Federal savings association that converts into a State bank, including a requirement that the resulting bank assume and maintain any liquidation account obligations of the converting institution.

A Federal savings association converting into a State bank generally must obtain the approval only of the appropriate State regulatory authority. For a Federal mutual savings association, the appropriate Federal banking agency must approve that portion of the conversion changing the institution to a stock form of ownership.

3. Conversions by State savings associations to State banks

A State savings association seeking to convert to a State bank need obtain the approval only of the appropriate State regulatory authority of the State in which its home office is located. For a State mutual savings association, the appropriate Federal banking agency must specifically approve that portion of the conversion changing the institution to a stock form of ownership.

SECTION 803. RETENTION OF EXISTING IN-STATE BRANCHES BY SAVINGS ASSOCIATIONS THAT CONVERT TO NATIONAL BANKS

Section 5155(b) of the Revised Statutes permits a State bank that converts to a national bank to retain any branch that might be established as a new branch of the resulting national bank and is approved by the Comptroller of the Currency, that was a branch of a bank on February 25, 1927, or that is approved by the Comptroller for continued operation. 12 U.S.C. §36(b).

Section 803 adds new section 5155(b)(2)-(3). New section 5155(b)(2) permits a Federal or State savings association that converts to a national bank to retain and operate any branch located in the same State as its main office provided the branch had been lawfully and continuously operated by the savings association for two years prior to the conversion. New section 5155(b)(3) provides that if the savings association was a subsidiary of a bank holding company prior to the conversion, the resulting national bank may not retain and operate any branch not otherwise permitted for a national bank. Future branching by the national bank will be subject to the statutory restrictions on national bank branching.

SECTION 804. NO RECAPTURE OF THRIFT RESERVES ON CONVERSION

Under current law, savings associations that qualify as "domestic building and loan associations" (that is, maintain at least 60 percent of their assets in mortgages and mortgage-related investments) receive more favorable tax treatment in computing their bad debt deductions than do commercial banks. A savings association converting to a commercial bank must change its accounting for bad debt deductions, even if it maintains its prior level of housing-related assets, because it has changed its type of charter. This causes a recapture into income of the balance of the existing bad debt reserve and a resulting tax liability for the institution.

Section 804 expresses the sense of the Congress that it would be in the public interest to provide that when a thrift institution converts to a commercial bank, there will be no recapture of the former thrift's bad debt reserves so long as the asset composition of the converted institution continues to meet the requirements of a "domestic building and loan association." The Secretary of the Treasury is directed to submit appropriate draft legislative language to the Senate Finance Committee and House Ways and Means Committee not later than 90 days after the bill becomes law.

TITLE IX—FINANCIAL INSTITUTIONS ENFORCEMENT IMPROVEMENTS ACT

Subtitle A—Termination of Charters, Insurance, and Offices

SECTION 901. SHORT TITLE

Section 901 designates subtitle A of title IX as the "Financial Institutions Enforcement Improvements Act."

SECTION 911. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES

Section 911 contains three parallel provisions. Section 911(a) applies to national banks, section 911(b) to Federal savings associations, and section 911(c) to Federal credit unions. These sections respectively add a new section 5239(c) to the National Bank Act, a new section 5(w) to the Home Owners' Loan Act, and a new section 131 to the Federal Credit Union Act to provide for the following changes.

If a federally insured, federally chartered institution is convicted of money laundering—engaging in a financial transaction involving money or property known to be derived from criminal activity (18 U.S.C. §§ 1956, 1957)—the Attorney General must notify the appropriate Federal banking agency of the conviction. After receiving that notice, the regulator must issue to the institution a notice of intention to terminate the institution's charter. The regulator must then hold a pre-termination hearing.

If a federally insured, federally chartered institution is convicted of an offense under 31 U.S. Code section 5322—records and reports on monetary instruments transactions and structuring violations—the Attorney General must notify the appropriate regulator of the conviction. The regulator may schedule a pre-termination hearing, but is not required to do so. If the regulator decides to schedule a hearing, the regulator must issue a notice to the institution of the hearing and the regulator's intention to terminate the institution's charter.

The regulator has discretion to revoke the institution's charter after considering certain factors: (a) the degree to which senior management officials knew of or were involved in the solicitation of illegally derived funds or the money laundering violation; (b) whether the interest of the local community in adequate depository and credit services would be threatened by revocation of the institution's charter; (c) whether the institution cooperated fully with law enforcement authorities; (d) whether there will be any losses to the deposit insurance funds or the Resolution Trust Corporation; and (e) whether the institution maintained a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures, adequately monitored its employees' activities, and promptly reported suspected violations to law enforcement authorities. The current statutory provisions governing hearings by bank, thrift and credit union regulators will apply to termination hearings held under section 911.

The purchaser of or successor to the interests of an institution that has been convicted of a money laundering or reporting requirement offense is not subject to the charter revocation section if the successor acquired the interest in good faith and not as a means of evading the statute.

The legislation defines "senior management officials" as individuals who have major supervisory control within an institution, including members of the board of directors and individuals who own or control 10% or more of the outstanding voting stock of the institution. If the institution is a Federal branch of a foreign institution, the term "senior management officials" means individuals who exercise major supervisory control within any branch of the institution in the United States. The regulators must specify which officials of depository institu-

tions will be treated as senior management officials for purposes of the bill.

SECTION 912. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OF CASH TRANSACTION REPORTING OFFENSES

Section 912 contains two parallel provisions. Section 912(a) applies to federally insured State depository institutions, including State banks and savings associations and State branches of foreign institutions. Section 912(b) applies to federally insured State credit unions. These sections respectively add a new section 8(v) to the Federal Deposit Insurance Act and a new section 206(t) to the Federal Credit Union Act to provide for the following changes.

If a federally insured, State-chartered institution is convicted of money laundering—engaging in a monetary transaction involving money or property known to be derived from criminal activity (18 U.S.C. §§ 1956, 1957)—the Attorney General must notify the insurer (the FDIC or the National Credit Union Administration) of the conviction. After receiving that notice, the insurer must issue to the institution a notice of intention to terminate the institution's insurance. The insurer must then hold a pre-termination hearing. The insurer must transmit a copy of any notice to the appropriate State supervisory agency.

If a federally insured, State-chartered institution is convicted of an offense under 31 U.S. Code section 5322—records and reports on monetary instruments transactions and structuring violations—the Attorney General must notify the FDIC or NCUA of the conviction. The insurer may schedule a pre-termination hearing, but is not required to do so. If the insurer decides to schedule a hearing, the insurer must issue a notice to the institution of the hearing and the insurer's intention to terminate the institution's insurance. The insurer must transmit a copy of any notice to the appropriate State supervisory agency.

In both cases, the insurer has discretion to terminate the institution's insured status after considering the same factors contained in section 911. If the insurer decides to terminate the institution's insured status, the insurer must notify the the appropriate State supervisory agency (and the Office of the Comptroller of the Currency and the Office of Thrift Supervision as appropriate) at least 10 days before the effective date of the termination and publish a notice. Deposits in a State bank or savings association at the time of the termination remain insured for six months to two years, at the FDIC's discretion. Shares in a credit union at the time of the termination remain insured for one year.

Section 912 contains similar successor liability provisions and definition of "senior management officials" as section 911.

SECTION 913. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS

Section 913 contains two parallel provisions. Section 913(a) applies to FDIC-insured institutions. Section 913(b) applies to credit unions. These sections respectively amend sections 8(e)(2) and 8(g)(1) of the Federal Deposit Insurance Act and sections 206(g)(2) and 206(i)(1) of the Federal Credit Union Act to provide for the following changes.

When the appropriate Federal supervisory agency determines that an institution-affiliated party such as a bank employee, consultant or independent contractor (including attorneys, accountants and appraisers) violated any provision of 31 U.S. Code section 5322 (records and reports on monetary instruments transactions and structuring violations), and the violation was not inadvertent or unintentional, the agency may remove that party from office. When the agency determines that an officer or director of an insured depository institution knew an institution-affiliated party violated the money laundering provisions (18 U.S.C. §§ 1956, 1957) or the reporting requirements (31 U.S.C. § 5322), or the officer or director violated the Depository Institution Management Interlocks Act, the agency may remove that officer or director from office. With respect to an officer or director who knew of an affiliated party's violation, the agency shall consider whether the officer or director took appropriate steps to stop or prevent recurrence of the violation.

If an institution-affiliated party is charged with a crime involving dishonesty or breach of trust punishable by imprisonment for more than one year, with a criminal violation of the money laundering provisions (18 U.S.C. § 1956, 18 U.S.C. § 1957), or a violation of the reporting requirements (31 U.S.C. § 5322), the appropriate Federal banking agency may suspend the party or prohibit his or her further involvement with the institution. The agency may take this action if the party's continued service may pose a threat to depositors' interests or public confidence. Written notice must be given to the party and the depository institution. Such a suspension or prohibition will remain in effect until the charge is disposed of or until terminated by the agency.

If an institution affiliated party is convicted of a crime involving dishonesty or breach of trust punishable by imprisonment for more than one year, the agency may suspend the party or prohibit his or her further involvement with the institution if his or her continued service may pose a threat to depositors' interests or public confidence. If the party is convicted of money laundering or a violation of the reporting requirements, the agency must issue an order removing that party from office or prohibiting his or her further participation in the affairs of the institution without the consent of the agency. Written notice must be given to the party and the depository institution.

SECTION 914. UNAUTHORIZED PARTICIPATION

Section 914 amends section 19(a)(1) of the Federal Deposit Insurance Act to provide that a party convicted of money laundering is automatically barred from participation in the industry unless he or she has the written consent of the FDIC.

SECTION 915. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTION REPORTS

Section 915 amends section 5319 of title 31, United States Code, to allow Federal agencies to share information contained in reports filed under the Bank Secrecy Act with State financial institution supervisory agencies. The Secretary of the Treasury may require reports on the use of such information by State financial institution supervisory agencies for other than supervisory purposes.

SECTION 916. RESTRICTIONS ON STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES

Section 916 amends section 7(d) of the International Banking Act of 1978. New section 7(d) provides that if the Federal Reserve Board finds or receives written notice from the Attorney General that any State agency, State branch that is not an insured branch, State commercial lending subsidiary, foreign bank operating such an agency, branch or subsidiary, or director or senior executive officer of such an agency, branch, subsidiary or foreign bank has been convicted of an offense under 18 U.S. Code sections 1956, 1957 or 1960 or 31 U.S. Code section 5322, the Federal Reserve Board must issue a notice to the agency, branch or subsidiary of the Boards's intention to commence a termination proceeding. "Senior executive officer" has the same meaning as in the Federal Deposit Insurance Act.

Subtitle B—Nonbank Financial Institutions and General Provisions

SECTION 921. IDENTIFICATION OF FINANCIAL INSTITUTIONS

Section 921 adds a new section 5237 to title 31 of the U.S. Code. New section 5327 directs the Secretary of the Treasury by January 1, 1992 to issue regulations requiring depository institutions to identify their customers that are "financial institutions," defined in 31 U.S. Code section 5312 to include unregistered brokers and dealers, currency changers, check cashers, money transmitters and others, that hold accounts with the depository institutions. Depository institutions must report information about such customers as required by the Secretary of the Treasury. The Secretary will then provide these reports to State regulators for supervisory purposes. Section 921 also adds a new paragraph (7)(A) to 31 U.S. Code section 5321, providing for a civil penalty for willful violation of new section 5327. The civil penalty imposed may not exceed $10,000 for each day a report is not filed or an inaccurate report is on file with the Secretary.

SECTION 922. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES

Section 922 adds a new section 1960 to title 18 of the U.S. Code. New section 1960 makes conducting or owning an illegal money transmitting business a Federal felony. An "illegal money transmitting business" is defined as a money transmitting business that affects interstate or foreign commerce and is knowingly operating in a State without an appropriate State license where such operation is punishable under State law as a misdemeanor or a felony. "Money transmitting" includes transferring funds on behalf of the public within the United States and abroad by wire, check, draft, facsimile or courier. Conducting an illegal money transmitting business is made punishable by fines, imprisonment up to five years, or both. Any property, including money, used in violation of new section 1960 is subject to seizure and forfeiture to the United States.

SECTION 923. COMPLIANCE PROCEDURES

Section 923 amends section 5318(a)(2) of title 31, United States Code, to give the Secretary of the Treasury authority to issue regulations to guard against money laundering. Section 923 anticipates "know-your-customer" regulations requiring institutions to institute programs designed to verify the legitimate nature of a customer's business and to ensure that account activity is commensurate with that business.

SECTION 924. NONDISCLOSURE OF ORDERS

Section 5326 of title 31, United States Code, permits the Treasury Department to issue an order requiring financial institutions in a particular geographical area temporarily to report currency transactions under $10,000. (Normally, reports are required only for currency transactions over $10,000). Section 924 amends section 5326 to prohibit financial institutions and their officers, directors, employees and agents from disclosing the existence or terms of such an order to any person,

except as prescribed by the Secretary of the Treasury.

SECTION 925. IMPROVED RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS

Section 21(b) of the Federal Deposit Insurance Act authorizes the Secretary of the Treasury to prescribe regulations regarding maintenance of records by insured depository institutions if useful in criminal, tax, or regulatory investigations or proceedings. 12 U.S.C. §1829(b). Section 925 amends section 21(b) to require the Secretary of the Treasury and the Federal Reserve Board, in consultation with State banking regulators, jointly to issue final regulations, before October 1, 1991, to require depository institutions, money transmitters, check cashers, and businesses that issue or redeem instruments such as money orders and traveler's checks to keep records of international transactions involving direct transfers of funds that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. In devising these regulations the Secretary and the Federal Reserve Board will consider the usefulness of the records in criminal, tax, or regulatory proceedings and the effect of the required recordkeeping on the cost and efficiency of the payments system. Records required to be maintained shall be submitted to the Treasury Department on request.

SECTION 926. USE OF CERTAIN RECORDS

Section 1112(f) of the Right to Financial Privacy Act of 1978 permits a government agency to transfer a financial institution's customer records to the Attorney General without notice to the customer. 12 U.S.C. §3412(f). Section 926 amends section 1112(f) to allow a government agency to transfer the customer's financial records to the Treasury Department for criminal investigative or prosecutive purposes relating to money laundering. The transferring agency must certify in writing that the records may be relevant to a violation of Federal criminal law. When the investigation or prosecution is complete, the records must be returned to the transferring agency.

SECTION 927. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAM

Section 927 adds a new section 5318(g) to title 31, United States Code. New section 5318(g) authorizes the Secretary of the Treasury to require financial institutions to report suspicious transactions relevant to possible violations of law. The financial institution may not notify any person involved in a transaction that a transaction has been reported.

Section 927 further adds a new section 5318(h). New section 5318(h) authorizes the Secretary to require financial institutions to adopt anti-money laundering programs, which would include development of internal controls, designation of a compliance officer, ongoing employee training and an independent audit. The Secretary may promulgate minimum standards for such programs. Any such standards should be comparable to the corresponding regulations applicable to depository institutions.

SECTION 928. REPORT ON CURRENCY CHANGES

Section 928 directs the Treasury Department, in consultation with the Justice Department and the Drug Enforcement Administration, to analyze and report to the House and Senate Banking Committees on proposals to change the size, denomination or color of U.S. currency. The report must also review a proposal to require U.S. currency circulating outside the United States to be a different color than currency circulating in the United States. The report must be submitted within ninety days after the bill becomes law.

SECTION 929. REPORT ON BANK PROSECUTIONS

Section 929 requires the Attorney General, after obtaining views from all interested agencies, to determine whether compliance with the money laundering and reporting statutes (18 U.S.C. §§1956, 1957, 31 U.S.C. §5322) would be enhanced and reporting of suspicious activities by financial institutions encouraged by the issuance of guidelines for the prosecution of financial institutions under these statutes. The guidelines would list factors to be considered when determining whether to pursue prosecutions against financial institutions. The report must be submitted to Congress no later than six months after the bill becomes law.

SECTION 930. ANTI-MONEY LAUNDERING TRAINING TEAM

Section 930(a) requires the Secretary of the Treasury to establish a team of experts to assist foreign governments in developing and expanding their capabilities for investigating and prosecuting violations of money laundering. Section 930(b) authorizes up to $1,000,000 for this purpose.

SECTION 931. MONEY LAUNDERING REPORTING REQUIREMENTS FOR TREASURY AND OTHER AGENCIES

Section 931 requires the President to report annually to Congress on bilateral and multilateral efforts to ensure that countries adopt comprehensive measures against money laundering and cooperate in narcotics money laundering investigations, prosecutions and related forfeiture actions. This report will be submitted with the report required under section 481(e) of the Foreign Assistance Act of 1961. The report will include information on bilateral and multilateral initiatives pursued by the Departments of State, Justice and the Treasury and by other Federal agencies to achieve the anti-money laundering objectives. The report will further include information on relevant bilateral agreements and on actions of international organizations and groups. It will include information on the countries that have ratified the UN Convention on Illicit Traffic in Narcotic Drugs and Other Psychotropic Substances and on measures adopted to implement various money laundering provisions.

The report must also include information on the extent to which each major drug producing and drug transit country has adequate mechanisms to exchange financial records in narcotics money laundering and has adopted laws to prevent and detect narcotics-related money laundering. The report also will include details of significant instances of non-cooperation with the United States in narcotics money laundering and narcotics-related cases. It will include a summary of initiatives taken by the United States or any international organization with respect to a country based on the country's record on narcotics money laundering matters.

The report should be in sufficient detail to assure Congress that agencies are pursuing a common strategy to achieve international cooperation against money laundering, including a summary of United States objectives on a country-by-country basis. The report should also detail that the agencies have agreed upon approaches and responsibilities for implementation of the strategy, including negotiations to achieve treaties and agreements.

TITLE X—ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION

SECTION 1001. SHORT TITLE

Section 1001 designates title X as the "Asset Conservation and Deposit Insurance Protection Act of 1991."

SECTION 1002. AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT

Section 1002(a) adds a new section 42 to the Federal Deposit Insurance Act.

A. Liability limitations

New section 42(a) limits the liability of FDIC-insured depository institutions under any Federal law, such as the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") or the Resource Conservation and Recovery Act, that imposes strict liability for environmental releases. The limitation covers liability relating to: (1) property acquired through foreclosure; (2) property held in a fiduciary capacity; (3) property leased to another pursuant to a lease agreement that is functionally equivalent to an extension of credit; or (4) property that is otherwise subject to the financial control or oversight of the institution pursuant to the terms of an extension of credit.

Title X does not impose liability on any party. Moreover, by expressly limiting the liability of certain parties under specified conditions, Title X rejects any inference that other parties are liable. For example, the fiduciary provisions of title X, by their terms, only apply to insured depository institutions. No implication is intended that nondepository institution fiduciaries would be liable under any strict liability environmental statutes.

The term "property" includes real, personal, and mixed property. The term "property acquired through foreclosure" includes the acquisition of property held as collateral for an extension of credit, through formal or informal means, so long as the depository institution or lender seeks to sell or otherwise divest the property at the earliest practical, commercially reasonable time, and on commercially reasonable terms, taking into account market conditions and legal requirements. *See, e.g.*, U.S.C. §9-504(3).

Property acquired through foreclosure also includes property repossessed or returned to a lessor at the termination of a lease term, or following the breach of a lease agreement.

New section 42(a)(2) provides a limitation on liability under Federal law for mortgage lenders (companies other than depository institutions that are engaged in the business of making mortgage loans to others or that insure or guarantee mortgage loans) with respect to property acquired through foreclosure and property subject to their financial control or oversight. The term "mortgage lender" is defined to include certain Government-sponsored enterprises that are required to make a secondary market in mortgage loans.

The liability of innocent depository institutions and mortgage lenders under these provisions will generally be limited to the "actual benefit" conferred on the institution or lender by a removal, remedial, response or other corrective action, so long as such action is taken pursuant to and consistent with the requirements of applicable Federal law, such as CERCLA or the Resource Conservation and Recovery Act.

New section 42(a)(3) delineates certain safe harbors. Depository institutions or mortgage lenders are protected from liability that

might otherwise be alleged on the basis of having engaged in one or more of the activities described in these safe harbors. The safe harbors are not requirements. The failure to engage in any of the activities described as a safe harbor does not affect protections otherwise afforded by the title.

The safe harbors are: (1) holding a security interest or abandoning or relinquishing (in the case of personal property) a security interest prior to foreclosure; (2) having the unexercised capacity to influence operations at or on property in which the party has a security interest; (3) including in the extension of credit terms or conditions relating to the borrower's compliance with environmental laws; (4) monitoring or enforcing the terms and conditions of the extension of credit; (5) monitoring or undertaking one or more inspections of the property; (6) requiring the borrower to clean up the property prior to or during the term of the extension of credit; (7) providing financial or other advice or counseling in an effort to mitigate, prevent or cure default or diminution in the value of the property; (8) restructuring, renegotiating or otherwise altering the terms and conditions of the extension of credit; (9) acquiring the property through foreclosure; (10) exercising other remedies at law or in equity that might be available for the borrower's breach of any term or condition of the extension of credit.

B. Actual benefit

New section 42(b) provides that the actual benefit conferred on an institution or lender is equal to the net gain, if any, realized by such party as a result of the required corrective action. In no case may the actual benefit realized exceed the fair market value of the property following the required cleanup. Further, a reduction in actual or potential liability is not considered to be an actual benefit realized. Rather, the "actual benefit realized" is the net increased market value of the property, realized by the institution or lender upon its sale or other disposition, and attributable to the action of others in conducting a legally mandated removal, remedial response or corrective action taken in accordance with Federal law.

C. Exclusions

New section 42(c) provides that the protections afforded by title X do not apply to a depository institution or mortgage lender that directly caused the release of the hazardous substance that gave rise to the liability.

These protections also do not apply to any party that, following the foreclosure action, failed to exercise due care to protect the public health and safety with respect to identified releases of hazardous substances that form the basis for the liability. This is intended to ensure the continuation of prudent behavior by the lender after the foreclosure, while continuing to afford protection for the creditor for potentially catastrophic liability. In this context, "due care" refers to the actions that a reasonably prudent person would take in order to prevent an immediate and actual threat to the public health and safety.

Finally, the bill's benefits are not provided to a depository institution or mortgage lender that actively directs or conducts business operations that result in a release or threatened release of a hazardous substance that forms the basis for liability. The intent of this provision is to make clear that, if the institution or lender is so intimately involved in directing business operations resulting in the release giving rise to the liability that it becomes, in effect, an operator of the business, it should be subject to the same liability rules as other operators. However, the release giving rise to the liability must occur during the period that the institution or lender is, in effect, operating the business. Thus, for example, if the lender temporarily takes over the operations of a business post-foreclosure in order to maintain its value pending sale to a third party, this exclusion will not apply unless the release occurred during the period in which the lender was actively directing the operations that resulted in the release. If the release occurred pre-foreclosure, the protections against liability would still apply.

D. Governmental entities

New section 42(d) provides certain Federal banking and lending agencies with limited immunity from liability under Federal, State, or local law that imposes strict liability for environmental releases. The protections apply to enumerated Federal banking and lending entities, such as the FDIC, Federal Reserve Board, Office of the Comptroller of the Currency, Office of Thrift Supervision, National Credit Union Administration, Small Business Administration, and Resolution Trust Corporation, whether these governmental entities are acting in a conservatorship, receivership or corporate capacity, or through employees or agents.

The immunity only applies to property (or a right or interest therein) acquired: (1) in connection with the exercise of receivership or conservatorship functions; (2) in connection with the provision of loans or other assistance; and (3) in connection with property received in civil and criminal proceedings. It does not apply to property held or owned by any Governmental entity in a proprietary capacity, such as an agency office building or computer center.

New section 42(d)(2) provides that, as with depository institutions and mortgage lenders, the protections afforded by title X do not apply if the Governmental entity caused the environmental release that forms the basis for the liability, or if it failed to exercise due care to protect the public health and safety with respect to identified releases of hazardous substances. The explanation of what is meant by "due care" with respect to depository institutions and mortgage lenders applies equally with respect to Governmental entities.

New section 42(d)(3) provides that the immunity given these Governmental entities may be transferred to the next subsequent purchaser of the property from the Government, provided that this purchaser was not previously involved in the pollution, and is not related to any person previously involved with the pollution. In addition, the subsequent purchaser must also exercise due care to protect the public health and safety with respect to identified releases of hazardous substances that give rise to a removal, remedial, response, or other corrective action. Again, the previous explanation of what is meant by this "due care" standard is equally applicable here. The expectation is that the subsequent purchaser will be required to commit to cleaning up the property as a condition of the purchase.

New section 42(d)(4) provides that Federal banking and lending agencies may take actions in response to an emergency without liability, unless the agency is grossly negligent. This is the same protection that currently applies under CERCLA for State agencies.

E. Lien exemptions and exemptions from covenants

New sections 42(e) and (f) provide waivers from certain lien and covenant requirements found in current law that may adversely affect the ability of the Government to sell property.

F. Environmental assessments

New section 42(g) provides that the Federal banking agencies and the Department of Housing and Urban Development must, after consulting with the EPA, promulgate regulations that require insured depository institutions and mortgage lenders to develop and implement adequate procedures to evaluate actual and potential environmental risks associated with collateral or leased property prior to making an extension of credit. These regulations may provide for different types of environmental assessments in order to account for different levels of risk that may be posed by different classes of collateral or leased property. Thus, for example, a very thorough assessment might be appropriate before an institution makes a loan secured by a chemical plant, while a minimal checklist might be sufficient when a loan is secured by a grocery store or for certain other financing. Similarly, the agencies might find that a minimal or even no environmental assessment might be appropriate for residential properties if those properties are not located in areas of known or suspected environmental risk.

G. Definitions

New section 42(h) provides definition for title X. The term "extension of credit" includes a lease that is functionally equivalent to a secured loan, whereby the lessor expects to realize a return of its full investment in the leased property and does not, during the lease term, control the daily operation or maintenance of such property, as under 12 C.F.R. Part 23; 12 C.F.R. §225.25(b)(5).

An "extension of credit" also includes the making or renewal of any loan, a granting of a line of credit or extending credit in any manner, such as an advance by means of an overdraft or the issuance of a standby letter of credit. See, e.g. 12 C.F.R. §215.3.

H. Savings clause

New section 42(i) clarifies that these provisions impose no liability upon any party. Rather, title X circumscribes liabilities that might be imposed under other provisions of law. Thus, if there is no liability that could be independently established under other law, failure to qualify for the protection of title X will not give rise to any liability.

I. Effective date

Section 1002(b) provides that the amendments made by title X become effective upon the date of enactment, except that it shall not affect any administrative or judicial claim that has been formally filed as of that date.

TITLE XI—MISCELLANEOUS

Subtitle A—Presidential Insurance Commission

SECTION 1101. SHORT TITLE

Section 1101 designates title XI as the "Presidential Insurance Commission Act of 1991."

SECTION 1102. FINDINGS

Section 1102 contains various findings by Congress. The property/casualty, life insurance, health insurance and reinsurance industries play a major and vital role in capital formation and lending in the United States economy. At the end of 1989, property/casualty, life and health insurers combined controlled nearly $1.8 trillion of assets in the United States. This represented nearly 18 percent of the financial assets of all non-governmental intermediaries in the United States. Insurers controlled sizable amounts

of various important assets, including 50.7 percent of all United States held corporate and foreign bonds; 13.8 percent of all United States Treasury securities, 12.2 percent of mortgages, and 14.7 percent of corporate equities.

Congress finds that a Presidential commission should be established to assess the condition of the insurance industry, to make recommendations to improve the industry's financial health and competitiveness, and to assure the availability of insurance to consumers at competitive prices.

SECTION 1103. ESTABLISHMENT

Section 1103 establishes a Presidential Commission on Insurance (the "Insurance Commission").

SECTION 1104. DUTIES OF THE COMMISSION

The Insurance Commission shall assess the condition of the property/casualty, life insurance, health insurance and reinsurance industries. The Insurance Commission shall consider the present and projected long-term financial health of those industries; the adequacy of assured payout to policyholders, including the need for any Federal role in assuring insurer solvency; the appropriateness of the extent of solvency protection provided to policyholders; the impact of changes in the State and Federal liability systems on insurer solvency; the effect of the McCarran-Ferguson Act and State regulation on consumer protection including pricing, product development and industry solvency; and the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance and the underlying liability systems.

The Insurance Commission will recommend any necessary legislative and regulatory changes that will improve the domestic and international financial health and competitiveness of the industries and thereby assure consumers of the availability of adequate coverage and the best range of products and competitive prices.

SECTION 1105. MEMBERSHIP AND COMPOSITION

The Insurance Commission shall be composed of 15 members, including the Secretaries of the Treasury, Transportation and Commerce; the Attorney General; the Chairman of the Federal Trade Commission; and 10 members to be appointed by the President from the private sector and having expertise in insurance, financial services, antitrust and liability law, at least one of whom has expertise in state regulation of insurance and at least 2 of whom have expertise in consumer issues. The President will select one of his appointees to serve as Chairperson of the Commission. The Secretaries, the Attorney General and the Chairman of the FTC may select designees to serve in their places. The Secretary of the Treasury must consult with the Chairman of the Federal Reserve Board, the Chairperson of the FDIC, and the Chairman of the SEC with respect to all matters under their jurisdictions that are considered by the Insurance Commission.

No member or officer of Congress, the Executive Branch, or any State government may be a member. Each member shall be appointed for the life of the Insurance Commission; a vacancy will be filled in the same manner as the original appointment.

Presidential appointments to the Insurance Commission shall be compensated at a rate equal to the annual rate for GS-18 of the General Schedule. Each member shall receive travel expenses.

The Insurance Commission shall meet at the call of the Chairperson or a majority of its members. A majority of the members shall constitute a quorum, although a lesser number may hold hearings. All recommendations and reports of the Insurance Commission must be approved by a majority vote of a quorum.

SECTION 1106. POWERS OF THE COMMISSION

The Insurance Commission may hold hearings, take testimony and receive evidence as it considers appropriate. The Insurance Commission may administer oaths to witnesses appearing before it. The Insurance Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence at any designated place of hearing within the United States. Subpoenaed witnesses will be paid the same fees and travel mileage as witnesses in the Federal courts. The Insurance Commission will not be liable for any other expenses incurred in connection with the production of evidence.

If a person refuses to obey a subpoena, the Insurance Commission may apply to a United States district court for an order requiring a witness's appearance or the production of evidence. The application may be made within the judicial district where the hearing is conducted or where the person is found, resides or transacts business. Failure to obey the order of the court may be punished as contempt.

Subpoenas of the Insurance Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure. Process of a court to which application is made may be served in the judicial district where the person resides or is found.

Information obtained that is deemed confidential or with reference to which a request for confidential treatment has been made by the person furnishing the information shall be exempt from disclosure under section 552 of Title 5, United States Code. Such information shall not be disclosed unless the Insurance Commission determines that withholding the information is contrary to the national interest.

The Insurance Commission may obtain information necessary to carry out its duties directly from any department or agency of the United States. Upon the request of the Chairperson of the Insurance Commission, the head of that department or agency will furnish the information. The Insurance Commission may use the mails under the same condition as other United States agencies and is entitled to administrative support services from the General Services Administration on a reimbursable basis.

SECTION 1107. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

The Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate. The Insurance Commission staff may be appointed without regard to the competitive service provisions of the United States Code and may be paid without regard to classification and General Schedule pay rates, except that an individual staff member may not be paid in excess of the annual rate of basic pay for GS-18 of the General Schedule.

The Chairperson may procure temporary and intermittent services for the Insurance Commission at rates for individuals not to exceed the annual rate of basic pay for GS-18 of the General Schedule. The Chairperson may request the head of any Federal department or agency to detail any personnel of that department or agency to the Insurance Commission on a reimbursable basis.

SECTION 1108. REPORT

The Insurance Commission must submit to the President and Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action, no later than January 31, 1993.

SECTION 1109. TERMINATION

The Insurance Commission will terminate within 60 days following the submission of its final report.

SECTION 1110. AUTHORIZATION OF APPROPRIATIONS

The sum of $3 million is authorized to carry out the purposes of this subtitle.

Subtitle B—General Provisions

SECTION 1121. CREDIT UNIONS

A. Full faith and credit

Section 1121(a) amends the Federal Credit Union Act to specify that the full faith and credit of the United States is pledged to pay accounts insured under the Act.

B. Investment in other financial institutions

Section 107(7)(G) of the Federal Credit Union Act authorizes a Federal credit union to invest its funds in shares or deposits of any central credit union in which such investments are specifically authorized by its board of directors. 12 U.S.C. §1757(7)(G). Section 1121(b)(1) eliminates section 107(7)(G) effective one year after the bill becomes law.

Section 107(8) of the Federal Credit Union Act currently authorizes a Federal credit union to make deposits in national banks; in state banks, trust companies and mutual savings banks operating under the laws of the state in which the credit union does business; and in FDIC insured institutions. 12 U.S.C. §1757(8). Federal credit unions and Department of Defense credit unions operating offices on American military installations in foreign countries and trust territories may also maintain demand deposits in correspondent banks located in those places subject to regulations issued by the National Credit Union Administrations ("NCUA"). Section 1121(b)(2) amends section 107(8) to prohibit Federal credit unions from making deposits in State-chartered institutions unless those institutions are insured by the FDIC.

Section 120(a) of the National Credit Union Act authorizes the NCUA Board of Directors to prescribe rules and regulations for the administration of the Act. 12 U.S.C. §1766(a). Section 120(a) subjects any central credit union chartered by the NCUA to such rules, regulations, and orders as the Board deems appropriate and shall be vested with the same rights, privileges and restrictions as apply to all Federal credit unions. Section 1121(b)(3) amends section 120(a) to provide that corporate credit unions, as defined by the NCUA, shall be subject to such rules, regulations and orders as the Board deems appropriate and shall be vested with the same rights, privileges and restrictions as apply to all Federal credit unions. They therefore must be federally-insured. The NCUA is directed to establish limits on loans to one borrower by a corporate credit union and minimum capital requirements for corporate credit unions.

C. Strengthening National Credit Union Share Insurance Fund

Section 1121(c) makes a number of amendments to section 202 of the National Credit Union Act (12 U.S.C. §1782). Section 202(c)(1)(A) requires each insured credit union to maintain with the National Credit Union Share Insurance Fund a deposit equal to 1 percent of the credit union's insured shares. Section 202(c)(1)(A)(ii) allows the NCUA in its discretion to authorize insured

credit unions initially to fund the 1 percent deposit over a period of time in excess of one year if necessary to avoid adverse effects. Section 1121(c) eliminates section 202(c)(1)(A)(ii).

Section 202(c)(2) currently requires each insured credit union to pay an insurance premium charge of one-twelfth of one percent of the total amount of its insured shares at the close of the preceding insurance year. Section 1121(c) amends section 202(c)(2) to provide, effective July 1, 1992, that at such times as the NCUA prescribes, up to twice a year, each insured credit union shall pay an insurance premium charge. The insurance premium charge shall be the same percentage of insured shares for all insured credit unions. The premium may not exceed one-twelfth of one percent of insured shares except by unanimous vote of the NCUA Board of Directors. If the equity level of the Share Insurance Fund is less than 1.2 percent of insured shares, the NCUA must assess a premium necessary to restore the Fund to and maintain it at the 1.2 percent level. If the equity level of the Share Insurance Fund is 1.2 percent of insured shares or greater, the NCUA may assess a premium only by unanimous vote and in an amount not exceeding one-twelfth of 1 percent of insured shares. The NCUA may assess a premium only if the equity level of the Share Insurance Fund is below 1.3 percent of the aggregate amount of the insured shares in all insured credit unions and the premium does not exceed the amount necessary to restore the Share Insurance Fund to the 1.3 percent level.

Section 202(c)(3) of the Federal Credit Union Act currently requires the NCUA to effect a pro rata distribution to insured credit unions of an amount sufficient to reduce the equity in the Share Insurance Fund to its normal operating level when, at the end of an insurance year, any loans to the Fund by the Federal government and interest on those loans have been repaid and the equity of the Fund exceeds the normal operating level. Section 1121(c) amends section 202(c)(3) to require the NCUA to effect a pro rata distribution to insured credit unions of the maximum possible amount that does not reduce the Share Insurance Fund below its normal operating level when, at the end of an insurance year, any loans to the Fund by the Federal government and interest on those loans have been repaid and the Fund exceeds its normal operating level.

Section 202(h)(2) of the Federal Credit Union Act currently defines the "normal operating level" of the Share Insurance Fund as 1.3 percent of insured shares in all insured credit unions or such lower level as the NCUA may determine. Section 1121(c) amends section 202(h)(2) to define the Fund's "normal operating level" as an amount of Fund equity established by the NCUA equal to at least 1.2 percent of insured shares and up to 1.5 percent of insured shares. Section 1121(c) further adds definitions of "available assets level" and "equity level" of the Share Insurance Fund. "Available assets level" is the sum of the Fund's cash and unencumbered investments minus direct liabilities and contingent liabilities for which no provision for losses has been made, stated as a percentage of insured shares. "Equity level" is the Fund's capitalization, including the 1 percent capitalization deposit by insured credit unions and the Fund's retained earnings balance, stated as a percentage of insured shares.

D. Minimum capital requirement

Section 116(a) of the Federal Credit Union Act requires each insured credit union in operation for more than 4 years and having assets of at least $500,000 to set aside a percentage of gross income until its regular reserve equals 6 percent of total outstanding loans and risk assets. 12 U.S.C. §1762(a). Such a credit union must set aside 10 percent of gross income until its reserve equals 4 percent of outstanding loans and risk assets and then 5 percent of gross income until the reserve reaches the 6 percent level. Effective January 1, 1993, section 1121(d) requires such a credit union to set aside 3.5 percent of gross income until the reserve reaches 7 percent of total outstanding loans and risk assets.

Section 1121(d) further adds a new section 116(a)(4) providing that a credit union in existence for more than 5 years with reserves and undivided earnings less than a minimum capital level established by the NCUA shall be subject to a formal written supervisory agreement with the NCUA. The agreement shall include an operating plan for the credit union to reach the minimum capital level within a period established by the NCUA. In establishing minimum capital levels, the NCUA shall consider the differences among credit unions and will give recently formed credit unions a reasonable time to build capital through retained earnings.

E. Loan to one borrower limit

Section 107(5)(A) of the Federal Credit Union Act requires loans by a Federal credit union to be approved by the institution's credit committee or a loan officer. 12 U.S.C. §1757(5)(A). It further limits loans by the institution to any one member to an aggregate amount of 10 percent of the credit union's unimpaired capital and surplus. Effective 180 days after enactment, section 1121(e) amends section 107(5) to provide that loans by a credit union to any one member may not in the aggregate exceed the greater of $100,000, 20 percent of the credit union's reserves and undivided earnings, or 1.5 percent of the credit union's assets. The NCUA may establish other limits for certain credit unions or classes of loans consistent with protecting the Share Insurance Fund. Credit unions of which the membership consists substantially of farmers or fishermen may make loans of up to 3 percent of their assets for farming and fishing purposes to persons deriving their livelihood primarily from farming or fishing. Any loan on which the United States, its agencies or any state has fully guaranteed the principal and interest shall not count toward the loan to one borrower limitation. For any other loan guaranteed by the United States, its agencies or any state, one-half of the portion guaranteed shall not count toward the loan to one borrower limitations.

F. Authority to authorize NCUA board to place federally insured, State-chartered credit unions into liquidation

Section 207(a)(1) of the Federal Credit Union Act directs the NCUA to close a federally-chartered, federally-insured credit union and appoint itself liquidating agent upon a finding that the institution is bankrupt or insolvent. 12 U.S.C. §1787(a)(1). Section 1121(f) amends section 207(a)(1) to authorize the NCUA to appoint itself liquidating agent for a federally-insured, State-chartered credit union if it determines the institution is insolvent or bankrupt. The NCUA shall have the same power and duties over liquidations of State credit unions as over liquidations of Federal credit unions. Except as described below, the NCUA may not close a State credit union without the written approval of the State official having jurisdiction over the institution that the grounds specified for the action exist. If such approval has not been received within 30 days of receipt by the State that the NCUA has determined that such grounds exist and the NCUA has responded in writing to any written reasons of the State for withholding approval, the NCUA may by unanimous vote proceed without State approval.

G. Central liquidity facility

Section 307(a) of the Federal Credit Union Act authorizes the NCUA to prescribe the manner in which the general business of the NCUA Central Liquidity Facility is conducted. 12 U.S.C. §1795f(a). Section 307(a)(4)(A) authorizes the NCUA to borrow from any source on behalf of the Central Liquidity Facility up to 12 times the capital stock and surplus of the Facility. Section 1121(g) amends section 307(a)(4)(A) to permit the NCUA to borrow up to 2 times the capital stock and surplus of the Facility.

Section 307(a)(16) authorizes the NCUA to advance funds on behalf of the Facility on a fully secured basis to a State credit union or deposit insurance corporation. Such an advance may not exceed 12 months in maturity, shall be reloaned at an interest rate not exceeding that imposed by the Facility, and shall not be renewable. Section 1121(g) eliminates section 307(a)(16).

H. Strengthening removal and prohibition authority

Section 206(g)(1) of the Federal Credit Union Act currently authorizes the NCUA to serve a written notice of its intention to remove an institution-affiliated party from office or to prohibit his or her further participation in the affairs of an insured credit union. 12 U.S.C. §1786(g)(1). The NCUA must first determine that the party has violated a law or regulation, a final cease-and desist order, a condition imposed by the NCUA in writing, or any written agreement between the credit union and the NCUA; has engaged or participated in an unsafe or unsound practice in connection with an insured credit union or business institution; or has committed or engaged in a breach of fiduciary duty. Second, the NCUA must determine that by reason of such violation, practice or breach the insured credit union or business institution has suffered or will probably suffer financial loss or other damage; the interests of the credit union's members have been or could be prejudiced; or the party has received financial gain or other benefit by reason of the violation, practice or breach. Third, the NCUA must determine that the violation, practice or breach involves dishonesty by the party or demonstrates unfitness to serve as a director or officer of or to participate in the affairs of the credit union.

Section 112(h) amends section 206(g)(1). Before issuing a notice of its intention to remove a party, the NCUA must make the same determination regarding the party's violation, practice or breach as required by current law. However, the NCUA need not make determinations under both the second and third prongs of the current test. The NCUA must determine *either* that by reason of the violation, practice or breach the credit union or business institution suffered or is likely to suffer financial loss of other damage that may have a significant effect on the financial condition of the credit union; the interests of the credit union's members have been or could be prejudiced in a manner that may have a significant effect on the financial condition of the credit union; or the party has received financial gain from such violation, practice or breach; *or* that the vio-

lation, practice or breach involves personal dishonesty or a willful or continuous disregard for the safety or soundness of the insured credit union or business institutions.

I. Repeal of authority to borrow from farm credit banks

Section 107(9) of the Federal Credit Union Act authorizes a Federal credit union to borrow from any source in accordance with regulations prescribed by the NCUA up to 50 percent of its paid-in and unimpaired capital and surplus. 12 U.S.C. §1757(9). A federal credit union further may discount with or sell to any Federal intermediate credit bank any eligible obligations up to the amount of its paid-in and unimpaired capital. Section 1121(i) eliminates this latter authority.

SECTION 1122. STRENGTHENING FEDERAL BANKING AGENCIES' AUTHORITY TO REMOVE PERSONS GUILTY OF MISCONDUCT

Section 8(e)(1) of the Federal Deposit Insurance Act requires each appropriate Federal banking agency to serve a written notice of its intention to remove an institution-affiliated party from office or to prohibit his or her further participation in the affairs of an insured depository institution. 12 U.S.C. §1818(e)(1). The appropriate Federal banking agency must first determine that the party has violated a law or regulation, a final cease-and desist order, a condition imposed by the agency in writing, or any written agreement between the insured institution and the agency; has engaged or participated in an unsafe or unsound practice in connection with an insured depository institution or business institution; or has committed or engaged in a breach of fiduciary duty. Second, the appropriate Federal banking agency must determine that by reason of such violation, practice or breach the insured institution or business institution has suffered or will probably suffer financial loss or other damage; the interests of the insured institution's depositors have been or could be prejudiced; or the party has received financial gain or other benefit by reason of the violation, practice or breach. Third, the appropriate Federal banking agency must determine that the violation, practice or breach involves dishonesty by the party or demonstrates unfitness to serve as a director or officer of or to participate in the affairs of the insured institution.

Section 1122 amends section 8(e)(1). Before issuing a notice of its intention to remove a party, the appropriate Federal banking agency must make the same determination regarding the party's violation, practice or breach as required by current law. However, the agency need not make determinations under both the second and third prongs of the current test. The appropriate Federal banking agency must determine *either* that by reason of the violation, practice or breach the insured depository institution or business institution suffered or is likely to suffer financial loss or other damage that may have a significant effect on the financial condition of the insured institution; the interests of the insured institution's depositors have been or could be prejudiced in a manner that may have a significant effect on the financial condition of the credit union; or the party has received financial gain from such violation, practice or breach; *or* that the violation, practice or breach involves personal dishonesty or a willful or continuous disregard for the safety or soundness of the insured institution or business institution.

SECTION 1123. EMERGENCY LIQUIDITY

Section 13 of the Federal Reserve Act authorizes any Federal Reserve Bank to discount notes, drafts and bills of exchange arising out of actual commercial transactions for any of its member banks. (12 U.S.C. §343). This is the mechanism by which member banks borrow funds from the Federal Reserve system at a discounted rate. Notes, drafts or bills covering investments in or issued for the purpose of trading in stocks, bonds or other securities are not eligible for discount.

Section 13 further authorizes the Federal Reserve Board, in unusual and exigent circumstances and upon an affirmative vote of at least five Governors, to authorize any Federal Reserve Bank to discount notes, drafts and bills of exchange of the kinds and maturities made eligible for discount for member banks for any individual, partnership or corporation. The notes, drafts or bills must be secured to the satisfaction of the Federal Reserve Bank. The individual, partnership or corporation must demonstrate its inability to secure adequate credit from other banking institutions. While apparently not used since the 1930's, section 13 allows the Federal Reserve to serve as "lender of last resort" for borrowers other than member banks.

Section 1123 amends section 13 to allow the Federal Reserve Board to authorize a Federal Reserve Bank to discount any notes, drafts and bills of exchange for any individual, partnership or corporation; the instruments need no longer be of the kinds and maturities made eligible for discount for member banks. Stocks, bonds and other investment securities will thus be eligible for discount. The notes, drafts and bills must still be secured to the satisfaction of the Federal Reserve Bank and the individual, partnership or corporation must still demonstrate its inability to secure adequate credit elsewhere. Section 13 therefore allows access to liquidity to be made directly available to a securities dealer to help preserve market liquidity in unusual and exigent circumstances that might disrupt the financial system and markets.

SECTION 1124. DISCLOSURE OF SECURITIES INVESTOR PROTECTION ACT COVERAGE

Section 1124 amends section 15 of the Securities and Exchange Act of 1934 to add a new section 15(i). 15 U.S.C. §78o. New section 15(i)(1) renders it unlawful for any broker, dealer or person associated with a broker or dealer (other than a natural person) to participate in effecting, to purport to effect, to induce or to attempt to induce a securities transaction by any customer except in accordance with new section 15(i) and the regulations prescribed by the SEC thereunder.

New section 15(i)(2) directs the SEC to promulgate rules requiring that securities brokers, dealers and persons associated with a broker or dealer (other than a natural person) disclose certain facts to their clients. Such persons must disclose membership status in the Securities Investor Protection Corporation ("SIPC"). They must also provide a general description, prescribed by SIPC, of the operation of the Securities Investor Protection Act ("SIPA"), the method and extent of customer protection provided under SIPA, the transactions that are not protected under SIPA, and a statement that SIPA does not protect against a decline in the market value of securities. A person other than a natural person associated with a broker-dealer that is not a SIPC member must obtain the customer's signature acknowledging receipt of the required disclosure.

These disclosures must be provided and signatures (where required) obtained in connection with establishing a new account by a customer with a broker-dealer or an associate. Where a customer account is already established, the SEC must require the firm to comply with the new regulations within 6 months after the rules go into effect. New section 15(i) requires the SEC to define the term "customer" for the purpose of the section, and specifies that the definition shall not include brokers, dealers, municipal securities dealers, or other persons that the SEC must exclude to carry out the intent of the section. New section 15(i) also gives the SEC authority to make exemptions from the section, in order to address the problems noted without placing an unnecessary burden on the industry.

SECTION 1125. HIRING AND COMPENSATION AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION

Section 4(b) of the Securities Exchange Act authorizes the SEC to appoint and fix the compensation of such officers, attorneys, examiners and other experts as are necessary for carrying out its functions. 15 U.S.C. §78d(b). Section 4(b) further authorizes the SEC to appoint and compensate such other officers and employees as are necessary in the execution of its functions subject to the civil service laws.

Section 1125(a) amends section 4(b) to authorize the SEC to appoint and fix the compensation of all employees of the SEC. The SEC may set rates of pay without regard to the civil service laws. The SEC may provide additional compensation and benefits to SEC employees if the same type of benefits or compensation are or could be provided by a Federal bank regulatory agency (the Federal Reserve Board, the FDIC, the OCC, the OTS, and the NCUA). The SEC shall seek to maintain comparability with the Federal bank regulatory agencies in setting and adjusting benefits for SEC employees.

Section 1125(b) makes conforming changes to section 3132(a)(1) and section 5373 of Title 5, United States Code.

SECTION 1126. TIME LIMITATION ON PRIVATE RIGHTS OF ACTION UNDER THE SECURITIES EXCHANGE ACT OF 1934

Section 1126 amends the Securities Exchange Act to add a new section 36. New section 36 requires, except as otherwise provided by the Securities Exchange Act, any private right of action arising from a violation of the Securities Exchange Act to be brought by the earlier of 5 years after the date on which the violation occurred or 2 years after the violation was discovered. New section 36 shall apply to all proceedings pending on or commenced after June 19, 1991. Except as otherwise provided by the Securities Exchange Act, any private civil action that was dismissed on or after June 19, 1991 which would have been timely filed under the laws applicable in the jurisdiction on June 19, 1991 and under new section 36 may be refiled up to 60 days after the bill becomes law.

SECTION 1127. CONVERSIONS DURING MORATORIUM

Section 5(d)(2) of the Federal Deposit Insurance Act, as amended by FIRREA, established a five-year moratorium beginning August 5, 1989 on conversion transactions by FDIC-insured institutions. 12 U.S.C. §1815 (d)(2). "Conversion transactions" are defined to include an institution's change of status from Bank Insurance Fund membership to Savings Association Insurance Fund membership and vice versa and the merger or consolidation of a Bank Insurance Fund member with a Savings Association Insurance Fund member. Section 5(d)(2)(C) allows

the FDIC to approve a conversion during the moratorium if the transaction affects an insubstantial portion of the total deposits of each institution participating in the transaction; if the conversion occurs in connection with the acquisition of a Savings Association Insurance Fund member in default or in danger of default and the FDIC determines with the RTC's concurrence that the estimated financial benefits to the Savings Association Insurance Fund or RTC equal or exceed the FDIC's estimate of the loss of assessment income; or if the conversion occurs in connection with the acquisition of a Bank Insurance Fund member in default or in danger of default and the FDIC determines that the estimated financial benefits to the Bank Insurance Fund exceed the FDIC's estimate of the loss of assessment income.

Section 1127 amends section 5(d)(2)(C) to allow the FDIC to approve a merger of a Bank Insurance Fund member with a Savings Association Insurance Fund member, the assumption of any liability by a Bank Insurance Fund member to pay any deposits of a Savings Association Insurance Fund member or vice versa, or the transfer of assets from a Bank Insurance Fund member to a Savings Association Insurance Fund member or vice versa in consideration of the assumption of liabilities for any portion of the institution's deposits. The resulting or assuming bank or savings association agrees to make pro rata insurance premium payments to both the Bank Insurance Fund and the Savings Association Insurance Fund at the applicable assessment rates. Each insurance fund will assess the percentage of the combined deposits assessable by each fund at the time of the conversion transaction. Any losses arising from any failure of the combined institution will be apportioned between the insurance funds using the same percentage. Section 1127 further amends section 5(d)(2)(e) to provide that an institution participating in such a conversion transaction need not pay exit and entrance fees to the insurance funds.

SECTION 1128. QUALIFIED THRIFT LENDER TEST

Section 10(m) of the Home Owners' Loan Act, enacted by FIRREA, establishes a "qualified thrift lender test" intended to measure a thrift institution's involvement in financing housing. 12 U.S.C. §1467a(m). From August 9, 1990 to July 1, 1991, the qualified thrift lender test required that a savings association's qualified thrift investments equal or exceed 60 percent of the savings association's portfolio assets. "Qualified thrift investments" include the aggregate amount of loans, equity investments, or securities held by the savings association or its subsidiaries that are related to residential real estate or manufactured housing. "Portfolio assets" include the total assets of a savings association less goodwill and other intangible assets, the value of property used by the institution to conduct its business, and liquid assets up to 10 percent of total assets. Effective July 1, 1991, the qualified thrift lender test has required that a savings association's qualified thrift investments equal or exceed 70 percent of its portfolio assets.

Section 1128(a) reduces the test from 70 percent to 65 percent of portfolio assets. Section 1128(b) increases the amount of liquid assets that may be excluded from portfolio assets from 10 percent of total assets to 20 percent of total assets.

Section 10(m) includes loans for personal, family, household, or education purposes as qualified thrift assets in an amount up to 5 percent of the savings association's portfolio assets. Section 1128(c) increases the amount of such consumer loans that may qualify as thrift assets from 5 percent to 10 percent of the institution's portfolio assets.

Section 10(m) includes as qualified thrift assets, without limit, all loans held by the savings association that were made to purchase, refinance, construct, improve, or repair residential or manufactured housing; all home-equity loans; all mortgage-backed securities; and all existing or new obligations of the FDIC, the FSLIC, the FSLIC Resolution Fund, and the RTC. Section 1128(d) amends section 10(m) to include all shares of stock issued by a Federal home loan bank as qualified thrift assets so long as the same assets are not counted more than once in determining the amount of a savings association's qualified thrift assets.

Section 10(m) generally requires savings associations to calculate their qualified thrift investments on a daily or weekly average. Section 1128(e) adds a new section 10(m)(8) allowing savings associations with total assets of less than $1 billion to calculate their qualified thrift investments based on monthly averages.

SECTION 1129. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS

Section 5(c)(2)(D) of the Home Owners' Loan Act, as amended by FIRREA, limits a Federal savings association's loans for personal, family or household purposes and investments in commercial paper and corporate debt securities to 30 percent of its assets. 12 U.S.C. §1464(c)(2)(D). Section 1129 amends section 5(c)(2)(D) to raise this limit to 35 percent of a Federal savings association's assets.

SECTION 1130. NONCONTROLLING INVESTMENTS IN BANKS AND BANK HOLDING COMPANIES BY CERTAIN INVESTMENT FUNDS

Section 1130(a) amends section 2 of the Bank Holding Company Act to add definitions of "qualified investor" and "limited advisor." (12 U.S.C. §1841). "Qualified investor" is defined as an investment company (whether or not registered under the Investment Company Act), investment partnership, endowment, pension fund, or any other company determined by the Federal Reserve Board to be engaged principally in investing. A qualified investor may not be controlled by any company other than a qualified investor or a limited advisor. A "limited advisor" is a company that has been determined by the Federal Reserve Board to be engaged principally in investing and providing investment advice; acts as advisor to a qualified investor in connection with an investment in a bank or bank holding company; does not own or control for its own account 10 percent or more of any class of voting shares of the bank or bank holding company; does not have power to vote in any capacity 25 percent or more of the voting shares of the bank or bank holding company; does not have an economic interest in 25 percent or more of the profits of the bank or bank holding company or of the profits due to a qualified investor; does not have any director, officer or employee in common with or representative serving in such capacity at the bank or bank holding company; does not advise the bank or bank holding company regarding any management or policy decision, whether or not on behalf of a qualified investor; and does not have, and is not affiliated with a company that has, any significant business relationship with the bank.

Section 2(a) of the Bank Holding Company Act prohibits any company from taking any action that causes it to become a bank holding company without the prior approval of the Federal Reserve Board. Section 1130(b) amends section 2(a) to add new sections 2(a)(G) and 2(a)(H). New section 2(a)(G) provides that no qualified investor is a bank holding company solely by virtue of its ownership or control of voting shares of a bank or bank holding company if it owns, controls or has power to vote less than 25 percent of the shares of any class of voting securities of the bank or bank holding company and less than 25 percent of its total equity; remains a passive investor in the bank or bank holding company and does not participate in the management or operations of the bank; does not have and is not affiliated with any company that has a significant business relationship with the bank or bank holding company; and does not have any director, officer or employee in common with or representative serving in such capacity at the bank or bank holding company, except that a qualified investor that owns less than 15 percent of the voting shares of a bank or bank holding company may have no more than one representative serving as a director.

New section 2(a)(H) provides that no company is a bank holding company solely by virtue of its role as advisor to a qualified investor if it remains a limited advisor with respect to the investment and the qualified investor or investors do not own, control or have power to vote 25 percent or more of any class of voting shares of the same bank or bank holding company or 25 percent or more of its total equity. If the qualified investor or investors seek to own, control or have power to vote 25 percent or more of any class of voting shares of the same bank or bank holding company or 25 percent or more of its total equity, the limited advisor will not be a bank holding company if each qualified investor retains the right to vote and dispose of his shares in the bank or bank holding company; the limited advisor does not communicate in any way with the management or other shareholders of the bank or bank holding company regarding management or policies; the limited advisor does not provide any advice to the qualified investors following the acquisition of shares regarding management or policies of the bank or bank holding company; and does not own, control or have power to vote 5 percent or more of any class of voting securities of the bank, bank holding company, or any qualified investor. A limited advisor will be deemed a bank holding company if the Federal Reserve Board determines, after notice and a hearing, that the limited advisor or any investor advised by the limited advisor exercises a controlling influence over the management or policies of a bank or bank holding company.

SECTION 1131. LIMITING LIABILITY FOR FOREIGN DEPOSITS

Section 1131(a) amends section 25 of the Federal Reserve Act (12 U.S.C. § 601) to add a new section 25(11). New section 25(11) provides that a member bank is not required to repay any deposit made at the foreign branch of the bank if the branch cannot repay the deposit because of an act of war, insurrection or civil strife or an action by a foreign government in the country where the branch is located unless the bank has expressly agreed in writing to repay the deposit under those circumstances.

Section 1131(b) amends section 18 of the Federal Deposit Insurance Act (12 U.S.C. §1828) to add new section 18(t). New section 18(t) applies new section 25(11) to all nonmember insured banks.

Section 3(1)(5) of the Federal Deposit Insurance Act (12 U.S.C. §1813(1)(5)) currently ex-

cludes from the definition of "deposit" any obligation of a bank or savings association payable only at an office of the institution located outside the United States. Section 1131(b) amends section 3(l)(5) to exclude from the definition of "deposit" any obligation of a depository institution carried on the books and records of an office of such institution located outside the United States unless such obligation would be a deposit if it were payable at an office located within the United States and the contract evidencing the obligation expressly provides for payment at an office located within the United States.

The amendments made by section 1131 do not affect any claim arising out of actions taken by a foreign government before the bill becomes law.

SECTION 1132. CERTAIN WRONGFULLY WITHDRAWN DEPOSITS TREATED AS INSURED DEPOSITS

Section 1132 amends section 3 of the Federal Deposit Insurance Act (12 U.S.C. §1813) to add a new section 3(m)(3). New section 3(m)(3) requires the FDIC, as conservator or receiver of an institution, to treat any deposit wrongfully or fraudulently withdrawn by a person other than the depositor without the depositor's knowledge or consent as an "insured deposit" if the withdrawal was permitted by the negligence or misconduct of the institution or its employees. The depositor must have sought recovery from the perpetrator of the wrongful withdrawal and must have been able to receive relief from the institution before its acquisition by the FDIC.

New section 3(m)(3) shall apply to any wrongful or fraudulent withdrawal of deposits occurring after January 1, 1987.

Section 21A of the Home Owners' Loan Act establishes the powers of the Resolution Trust Corporation ("RTC") and the Oversight Board. (12 U.S.C. §1441a). Section 1133 amends section 21A to add a new section 21A(q). New section 21A(q) requires any person obligated to provide services to an insured depository institution at the time the RTC is appointed conservator or receiver to continue providing those services to any person to whom the RTC has transferred the right to receive those services. A person obligated to provide services may refuse to provide those services to a transferee if the transferee fails to comply with any material term or condition of the original obligation. New section 21A(9) does not limit the RTC's authority as conservator or receiver.

SECTION 1134. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS

Section 1134 requires the Attorney General, in consultation with the Secretary of the Treasury, the Federal Reserve Board, and other appropriate banking regulatory agencies, to study the effect of amending the Right to Financial Privacy Act to allow reimbursement to financial institutions for providing financial records on corporations and other entities not currently covered under section 115(a) of that Act. The study shall include analysis of the effect of allowing licensed nondepository transmitters of funds to be reimbursed to the same extent as financial institutions. The Attorney General must submit a report on this study to Congress within 180 days after the bill becomes law.

SECTION 1135. REMOVING COST LIMITATION ON CONSTRUCTION OF FEDERAL RESERVE BANK BRANCH BUILDINGS

Section 10 of the Federal Reserve Act effectively limits construction costs for all Federal Reserve Bank branches to $140 million. 12 U.S.C. §522. Section 10 prohibits a Federal Reserve Bank from entering into any contract for the erection of any bank branch building if the cost of the building itself is in excess of $250,000. This limitation does not apply so long as the aggregate of all costs for Federal Reserve Bank branches incurred with the approval of the Federal Reserve Board after July 30, 1947 does not exceed $140 million. Section 1135 amends section 10 to remove the cost limitation. New section 10 prohibits a Federal Reserve Bank from entering into any contract for the erection of any building without the prior approval of the Federal Reserve Board.

SECTION 1136. $1 COINS

Section 5112(b) of Title 31, United States Code, currently provides for the minting of dollar coins of the same color and composition as the half dollar, quarter and dime coins. Section 1136 amends section 5112(b) to provide for minting new $1 coins that are golden in color and have tactile features to aid the visually handicapped to differentiate the $1 coin from other coins. The new $1 coin will have similar metallic anticounterfeiting properties as current coins. The obverse side of the new $1 coin will have a design symbolizing the 500th anniversary of Christopher Columbus's exploration of the New World.

The new $1 coins must be placed into circulation within 18 months after the bill becomes law. Seigniorage resulting from production of the new $1 coins will be used first to offset the reverse seigniorage resulting from the destruction of Susan B. Anthony $1 coins in Government storage and next to retire the national debt.

SECTION 1137. PURCHASED MORTGAGE SERVICING RIGHTS

Section 5(t)(4) of the Home Owners' Loan Act, as amended by FIRREA, allows a savings association to include 90 percent of the fair market value of readily marketable purchased mortgage servicing rights in calculating leverage, risk-based and tangible capital. 12 U.S.C. §1464(t)(4). Section 5(t)(4) further allows the FDIC to prescribe a maximum percentage of the tangible capital requirement that can be satisfied by including purchased mortgage servicing rights in the calculation. Section 1137 allows each Federal banking agency, notwithstanding section 5(t)(4), to prescribe for insured institutions for which it is the appropriate Federal banking regulator a maximum percentage of tangible capital, risk-based capital and leverage limit that may be satisfied by including purchased mortgage servicing rights in the calculation. As currently, the purchased mortgage service rights must be readily marketable and may not be valued at 90 percent of fair market value.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending exceeds the budget resolution by $6.4 billion in budget authority and by $5.9 billion in outlays. Current level is $3.0 billion above the revenue target in 1992 and $3.5 billion above the revenue target over the 5 years, 1992–96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $354.1 billion, $2.9 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 19, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through February 18. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated February 3, 1992, the Congress has cleared and the President has signed the Emergency Unemployment Compensation Extension (P.L. 102–244) and the American Technology Preeminence Act (P.L. 102–245). These actions changed the estimates of budget authority, outlays and revenues.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., AS OF FEB. 18, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level [1]	Current level +/− resolution
On-budget:			
Budget authority	1,270.6	1,277.0	+6.4
Outlays	1,201.6	1,207.5	+5.9
Revenues:			
1992	850.4	853.4	+3.0
1992–96	4,832.0	4,835.5	+3.5
Maximum deficit amount	351.2	354.1	+2.9
Debt subject to limit	3,982.2	3,706.6	−275.6
Off-budget:			
Social Security outlays:			
1992	246.8	246.8	
1992–96	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–96	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS FEB. 18, 1992

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			853,364
Permanents and other spending legislation			
Appropriation legislation	686,331	703,643	
Continuing resolution authority	13,992	5,454	
Mandatory adjustments[1]	(1,041)	1,105	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted	1,274,306	1,204,844	853,364

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS FEB. 18, 1992—Continued

	Budget authority	Outlays	Revenues
ENACTED THIS SESSION			
Emergency unemployment compensation extension (Public Law 102-244)	2,706	2,706	
American technology preeminence (Public Law 102-245)			(2)
Total current level	1,277,012	1,207,550	853,364
Total budget resolution	1,270,612	1,201,600	850,400
Amount remaining:			
Over budget resolution	6,400	5,950	2,964
Under budget resolution			

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the concurrent resoluiton on the budget. (H. Con. Res. 121).
[2] Less than $500,000.•

COMMEMORATING BLACK HISTORY MONTH

• Mr. McCAIN. Mr. President, as you know, February is Black History Month, which our Nation has devoted to honoring the achievements of African-Americans and their culture in our Nation. The origins of this celebration can be traced back to Carter G. Woodson, a noted historian and author. In 1926, Woodson, who is considered by many to be the father of black history, began setting aside a week each February to honor the achievements of African-Americans.

Several of my colleagues have addressed this body earlier this month to extoll the accomplishments of African-Americans in their States'. Last year, I joined my colleagues by discussing the rich history of African-Americans in my home State of Arizona. This year, however, I feel that I cannot speak of the accomplishments of the past. As we move into the 1990's, I feel that it would be more appropriate to use this opportunity to stress the importance of economic advancement in the African-American community.

The economic disparity between African-Americans and the rest of America is appalling. In 1988 the Census Bureau reported that the median black family income was $19,329. While the median family income of white families that year was $33,915, a $14,586 disparity. Unfortunately, this gap has been widening since 1978, and it shows no sign of narrowing in the near future. When we examine per capita income between African-Americans and whites, we see the same disparity. In 1988, the average African-American worker only earned 60 cents for every dollar that white workers earned.

While racism still exists and is an obvious contributor to many of the problems affecting the African-American community we must not ignore the role of other significant factors. Our attention must turn to encouraging economic self-sufficiency.

It is not difficult to see the correlation between economic conditions and other social problems which disproportionately affect the African-American community. We must face the problems of teen pregnancy, increasing high school dropout rates, and illiteracy as well as many of the other ills affecting the community.

In 1990, a study of African-American males and the criminal justice system revealed some startling information. On any given day, almost 1 in 4, of African-American males in the age group 20 to 29 is either in prison, on probation, or on parole. For white males in the same age group only 1 in 16 or 6.2 percent were under the control of the criminal justice system. The study also points out that the total number of young African-American males in the criminal justice system, 609,690, is greater than the total number of African-American men, 436,000, in higher education. It is obvious to me, that this crisis requires the Nation's urgent attention.

While our society has made great strides in the past 30 years, the economic conditions of many African-Americans in our Nation have not changed. The subject of economic empowerment is by no means a new topic of debate. People who have opposed making this a priority have dismissed this as merely a Republican smoke screen to hide from a strong civil rights program. Nothing could be farther from the truth. Throughout history many African-Americans have stressed the importance of economic advancement—Booker T. Washington, Marcus Garvey, and Adam Clayton Powell to name just a few. Claims that this is Republican politicking dishonors these people and deprives them of their rightful place in history.

Indeed, the full inclusion of African-Americans in our Nation's economy is one of the most important issues on our Nation's unfinished civil rights agenda. It is crucial to the African-American community as well as our Nation. By the year 2000, 4 out of 5 people entering the job market are expected to be minorities or women. African-Americans are a vital resource which our Nation must utilize if we are to continue our role as an economic superpower.

Mr. President, increasing our attention to the economic problems facing the African-American community is an important topic of debate today in the African-American community. Arguments have been made that the civil rights community in the past has not made as great an effort to improve the economic condition of African-Americans as it has in its fight against racism.

This week, William Raspberry, a well known and respected columnist, wrote an article regarding Benjamin Hooks and his retirement from the NAACP at the end of this year. I, like many of my colleagues will be saddened to see him leave. However, Mr. Raspberry points out that this is an excellent opportunity for the NAACP to take on a new direction.

Mr. Raspberry writes: "Our civil rights generals are fighting the last war, demanding that Government create and fund the programs we need, that the courts protect our interests, and that white America get religion, even while we are losing our own." Mr. Raspberry goes on to urge the NAACP to begin focusing more of its resources on economic development.

Mr. President, I ask that the rest of Mr. Raspberry's article appear in the RECORD after my statement.

We must continue to be vigilant in our fight against racism, but it is time that we put forth the same level of commitment toward economic empowerment.

It is important that we realize that the fate of our Nation is linked to the plight of African-Americans and other minorities in our society. Unless we accept this and come together as a nation to correct these problems, the conditions of African-Americans will continue to worsen, and our Nation will be the poorer for our failure.

Through the efforts of the civil rights community, this Nation came to fully understand its Declaration of Independence: That all men are created equal under God. For a long time in our Nation's history these words rang hollow for many of our citizens. We are at the doorway of a new era in our Nation's history. Let us be wise enough to summon the will to advance through it.

The article follows:

NAACP: TIME FOR A CHANGE

(By William Raspberry)

Benjamin L. Hooks is stepping down at the end of the year, and the National Association for the Advancement of Colored People will have to find a new executive director.

But first (if I may be so presumptuous), it needs to find a new *direction*.

That's not meant to be unkind. Both Hooks and the organization he has headed for 15 years have been vital to the cause of justice for black America. But the problems we face today are not the problems on which Hooks and his generation built their expertise. Things are different—due in no small way to the work of Hooks and his predecessors in office.

Twenty or 25 years ago a black person who got into trouble with a racist police officer, or who was denied a merited job or promotion, or who was barred from a "white" club or restaurant, would automatically call the local NAACP office—to launch an investigation, to consider the possibility of a lawsuit or just to have someone bring pressure on local elected officials.

Thanks to the success of the civil rights movement—in voting rights and in government and in private employment—the phone call is likelier now to go to a black (or racially sensitive) city official, police executive or journalist.

That's one change. Here's another: For Hook's generation, the major threat to black

progress was racism: police brutality, school segregation, housing discrimination, race-based job denial. All these things still happen, but mostly here and there, now and then. The big threat to our progress—to our *survival*—is now more internal than external, and mostly beyond the reach of legislation and court decrees.

Our children, particularly those with the bad luck to be born to poor parents, are too likely to become school dropouts, adolescent parents, drug peddlers or users, or criminals. The leading cause of death of young black men is not the Klan but young black men themselves. Our neighborhoods are terrorized not by white-sheeted nightriders but by drive-by gunmen who look like our own children.

And here's the point: Our civil rights generals are still fighting the last war—demanding that government create and fund the programs we need, that the courts protect our interests and that white America get religion, even while we're losing our own.

Our problems fester within our community, but our focus remains outside, on those who no longer see much justice in our demands. As the Rev. Buster Soaries of Trenton once put it, "We are still telling old Pharaoh to 'let my people go,' when what we need are leaders with the courage to say, 'My people; Let *Pharaoh* go.'"

By announcing in February his intention to retire at the end of the year, Ben Hooks has given black America's flagship organization the opportunity to set new priorities, to chart a new course.

And what might the new directions be? For me, the answer is easy: Our children and our economic development. We are losing our children—our legacy and our future—and the pressing need is to rescue them and put them to useful work. It isn't necessary that Hooks' successor be someone who's figured out precisely how to accomplish that rescue. The fact is that Hooks and his predecessors took such good care of the organization's image and reputation that it would take only an invitation from the NAACP to assemble the best minds in black America to work out a rescue and economic development plan.

And not just black America. Top-flight sociologists, economists and psychologists of all colors would say yes to such an invitation. Major universities—historically black or not—would join in undertaking the necessary research. Philanthropists or philanthropic foundations would help with the funding if money turned out to be the critical barrier to what must be done. Not even a conservative administration could look the other way.

But the effort has to begin with us—with the NAACP, the Urban League, the Congressional Black Caucus and the dozens of smaller, local organizations, most of which already are doing at least some of the work I'm describing.

My notion is that the NAACP has the opportunity to make this black America's primary focus. We don't need to abandon the efforts to reduce racism (or at least to ameliorate its effects). We don't have to ignore discrimination in the corporate board room or on the ghetto street.

We simply need to focus first on the things that will make the most difference.●

ORDER FOR RECORD TO REMAIN OPEN UNTIL 2:30 P.M.

Mr. MITCHELL. I ask unanimous consent that the RECORD remain open today until 2:30 p.m. for the introduction of statements and legislation.

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

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 219, the Cooperative Research Act Extension.

Mr. DOLE. Mr. President, I am not in a position to grant that request at this time. Maybe at a later date I can do that. I will object.

The PRESIDING OFFICER. Objection is heard.

NATIONAL COOPERATIVE RESEARCH ACT OF 1991

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move to proceed to Calendar No. 219, S. 479, the National Cooperative Research Act Extension of 1991.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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 the consideration of S. 479, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States:

Patrick Leahy, Max Baucus, Joe Biden, Kent Conrad, George Mitchell, Wendell Ford, Brock Adams, Dale Bumpers, Don Riegle, Terry Sanford, Timothy E. Wirth, Richard Bryan, J.J. Exon, Barbara A. Mikulski, Claiborne Pell, John Glenn, Fritz Hollings, Strom Thurmond, Herb Kohl.

ORDER OF PROCEDURE FOR TUESDAY, FEBRUARY 25, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Tuesday, February 25, immediately upon the disposition of the conference report on H.R. 2212, there be 1 hour for debate on the motion to invoke cloture on the motion to proceed to S. 479, with the time equally divided and controlled in the usual form; that when the time is used or yielded back, without intervening action or debate, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to S. 479, with the mandatory quorum under rule XXII waived.

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

ORDERS FOR TUESDAY, FEBRUARY 25, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., on Tuesday, February 25; that following the prayer the Journal of the proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; and that there be a period for morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak as indicated: Senator SASSER for up to 15 minutes and Senator SIMPSON or his designee for up to 5 minutes.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Senator SIMPSON be recognized to address the Senate for 10 minutes and that upon the completion of his remarks the Senate stand in recess as previously ordered.

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

The Chair recognizes Senator SIMPSON.

Mr. SIMPSON. Mr. President, I thank the majority leader for his courtesies.

RURAL HEALTH CARE INITIATIVE

Mr. SIMPSON. Mr. President, let me just state that we had a very interesting vote today on an issue with regard to the Veterans' Administration rural health care initiative.

Because last night we only had a brief amount of time to discuss the amendment concerning the rural health care initiative, I wanted to come to the floor today, since I was one of 3 hardy souls who voted against that measure, to discuss why I did not vote in favor of the amendment, and what I would like to see done to remedy the situation, and to clarify some comments I made yesterday regarding the rural health care initiative in view of some remarks subsequently made by my very good friend Senator JOHN MCCAIN. He is a truly remarkable veteran, and a man for whom I have great admiration and respect. He certainly speaks for the veterans on so many issues, and does a beautiful job with the prisoner of war/MIA issue, as only he could with his personal background and the awesome situation that he was placed in when he was a prisoner of war.

But the rural health care initiative has many, many valid points and a

great deal of merit, and that somehow got lost in all that emotion. I was very disappointed to see it become hostage to election-year politics at the hands of the ever-powerful, what I call, "professional fundraising veterans' organizations."

I will say that I, too, was initially very concerned that this initiative would start a precedent for "non-vet" health care at VA hospitals. But, once I studied the initiative very carefully and its limited nature, I found that there is just no reasonable cause to believe it would harm veterans in any way. Yet that is the cry that went out through the land, heavily, very heavily.

And as a matter of fact, I found there are already in existence some 600 Veterans' Administration sharing programs with other agencies that total about $550 million. Please hear that. That is already being done. This authority is presently granted to the Secretary of Veterans Affairs under title 38 of the U.S. Code, and he uses it, and uses it well.

This initiative—if it were allowed to proceed—would have very likely even expanded veterans' services and health care by allowing veterans to be seen by a non-VA physician at a federally funded primary clinic where there are no VA facilities located. Surely, there is definitely merit in that, I think, any veteran would admit.

Please understand what I am saying. The rural health care initiative that we rejected by a huge vote—only three supporters—would have allowed veterans to be seen by non-VA physicians where there currently exist no VA hospitals. That is the case in the Salem, VA, test site. What is wrong with that? That would expand veterans' access to health care—not limit it.

I am very saddened because I especially believe that the Tuskegee, AL, project site had a considerable amount of merit. This VA medical center is the only acute care medical center within a 30-mile radius, and this was the only proposal that involved the primary use of the VA center itself.

The occupancy rate of that VA medical center is under 84 percent and there are an average of 15 inpatient and 30 outpatients which are seen on a daily basis. There are more than adequate beds to care for all veterans who seek care as well as the small number of poor, and often minority, nonveterans.

There is an area whose population consist largely of poor, black Americans. The VA is the only hospital in the county. All veterans would have received priority care over non-veterans. And the VA would not have had to pay a nickel for the care of the non-veterans—not a nickel. All of it would have been paid by Health and Human Services.

So through this pilot project we could have helped less fortunate, minority Americans while still serving—on a full priority, first come first serve basis—our deserving veterans. That is why I voted against the amendment that effectively killed the rural health care initiative.

These veterans service organizations will one day realize that VA hospitals will have to be utilized in some similar manner in order to remain a mainstay in our society. This initiative would have protected and solidified those same underused VA hospitals in the VA health care system.

Without a sufficient bed level, without appropriate occupancy rates, many underused VA hospitals will now lose support. And that is a simple fact. The staffs are there. We are not going to allow that to continue in the budget crunch. And we give our veterans $32.5 billion this year. There are 27 million of us.

I am very proud to be a veteran, proud to be a lifetime member of the VFW and the American Legion, and also a member of Amvets and to have received their highest award, the Silver Helmet Award.

Let me tell you that this is an engine driven by some of the executive director types and not by the grassroots veteran. Because if a grassroots veteran knew that his or her organization was simply trying to ignore poor and minority people in America in two test sites, they would be embarrassed and they ought to be very embarrassed.

Secretary Derwinski and Secretary Louis Sullivan have presented us with an extremely valid initiative that would have supported these underused VA hospitals as well as lending support to poor, rural, white and black Americans.

Urging the termination of the rural health care initiative was extremely shortsighted. We did not even bother to allow the limited pilot project a chance to demonstrate its merits. We canceled it without knowing what benefits would come from the program.

In the short term, these same fundraising veterans can claim a victory over the Secretary of Veterans Affairs. They will. They will chortle about that. They wanted his head, and the way they sought to go about it was unbecoming to witness.

In the long term, an opportunity to see the result of the emergence of good policy and compassion and caring to veterans and to a few poor, rural black and white nonveterans, might well be lost for good.

I believe their efforts to "take on Secretary Derwinski" will prove to be a grave mistake. It is the same head-hunting that has been going on by some of these groups for a long, long time. It is wholly counterproductive, and very crude to watch.

The rural health care initiative would have benefited poor rural black Americans. Poor rural white Americans would have benefited as well. The American veterans would have benefited. The Departments of Veterans Affairs and Health and Human Services would have benefited as well.

So in the future I will work closely and try to work diligently with the Veterans Department; Secretary Sullivan at HHS; my colleagues, Senator SPECTER, Senator SHELBY, Senator MCCAIN, and others; as well as the veterans organization groups, to study the avenues to implement administratively a sharing agreement at the Tuskegee, AL site.

In other words, I am giving notice that I intend to do my part in trying to salvage at least some aspect of this much-maligned, wholly distorted—and yet very worthy initiative. That can be done at Tuskegee. We will pursue that. I want my colleagues to join in that and at least enter the debate.

Then let me conclude my remarks about the VFW, and the rural health care initiative. I did not state yesterday that veterans in general were greedy. What I did say is that "professional fundraising veterans" demonstrated "pure, unadulterated greed" regarding the rural health care initiative. In order to raise money they have not told their members the whole truth about the rural health care initiative. Their failure to do so, or their failure to even try to understand the initiative, coupled with their flagrant abuse of and disrespect for Secretary Ed Derwinski, is not consistent with what I believe are the high standards that individual members of organizations like the VFW stand for. I have been a member for over 30 years and I have never been more embarrassed at their antics.

Senator MCCAIN is correct. There is a widespread perception that the rural health care initiative is bad policy. It is only a perception because the professional fundraising veterans have not told the truth or allowed all the facts to reach the grassroots veterans. And Secretary Derwinski did indeed communicate and negotiate in good faith with the veterans' service organizations prior to signing on to the rural health care initiative. That is why there are only two test sites and not five as Secretary Derwinski had initially proposed. He compromised on that issue when the veterans' organizations requested a limited pilot project.

This is not a question of the eligibility of veterans to be treated at VA hospitals. It is a question of helping poor rural Americans, people less fortunate than most veterans.

This is the only country on the face of the Earth that is so generous with entitlements and benefits to nonservice connected veterans. Congress continues to mandate entitlements that we have no way of paying for. Then we revoke those same entitlements once we realize we have no way

of paying for them. I do not blame veterans for being mad as hell. I blame Congress. We pass these entitlements and we know there is no way to pay for them. But there is not a person on this floor who will vote against a veterans' issue.

So I do believe the majority of veterans are good, honorable, decent men and women, but I surely take exception to some of the shrill rhetoric that interest groups are fond of using to excite their members, offer to try to insure an increase in membership so that they can fend off an "ignorant" and "heartless" Congress. What drivel. That is a poor way to do business. And I have watched it for many, many years. It is disgusting.

Thank you, Mr. President.

RECESS UNTIL TUESDAY, FEBRUARY 25, 1992, AT 10 A.M.

The PRESIDING OFFICER (Mr. ROBB). Under the previous order, the Senate now stands in recess until 10 a.m. on Tuesday, February 25, 1992.

Thereupon, the Senate, at 2:14 p.m., recessed until Tuesday, February 25, 1992, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 21, 1992:

DEPARTMENT OF TRANSPORTATION

ANDREW H. CARD, JR., OF MASSACHUSETTS, TO BE SECRETARY OF TRANSPORTATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING JAMES M. LEITNER, AND ENDING RAYMOND W. BLOWITSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 1992.

COAST GUARD NOMINATIONS BEGINNING DANIEL N. WOOD, AND ENDING MATTHEW L. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 22, 1992.