SENATE—*Tuesday, August 2, 1994*

(Legislative day of Wednesday, July 20, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

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

For what the law could not do, in that it was weak through the flesh * * *.—Romans 8:3.

Eternal God, the apostle Paul reminds us there are some things law cannot do. Even the perfect Law of God, as in the Ten Commandments, is limited in its power, because of the weakness of the flesh.

Thou knowest the frustration—the sense of futility—which must touch the hearts and minds of the Senators and their committees. Long hours of hard work and debate finally produce a law as good as the human mind can conceive. And yet, the problem which the law was supposed to address not only does not stop, but grows.

Patient God, help Your servants to see that the real problem is human nature itself—"the flesh," as Paul calls it. And that social and cultural disintegration are rooted in human weakness. Help them to see that the Bible addresses itself to this fundamental problem in history with solutions which are grounded in faith.

In the name of Him who came to fulfill the law. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 2, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CAMPBELL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1513, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1513) entitled "Improving America's Schools Act of 1993."

The Senate resumed consideration of the bill.

Pending:

Smith amendment No. 2433, to prohibit the use of instructional materials, instruction, counseling, or other services on school grounds, from being used for the promotion of homosexuality as a positive lifestyle alternative.

Kennedy amendment No. 2436 (to amendment No. 2433), to prohibit the use of funds to make condoms available in a public school unless the program under which such condoms are distributed meets certain local control criteria.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2436, AS MODIFIED, TO AMENDMENT NO. 2433

Mr. KENNEDY. Mr. President, I send a modification to the desk.

The ACTING PRESIDENT pro tempore. The Senator has a right to modify his amendment. It is so modified.

The amendment (No. 2436), as modified, is as follows:

At the end of the pending amendment, insert the following:

SEC. . LIMITATION.

None of the funds authorized to be appropriated under this Act may be used to make condoms available in a public school.

Mr. KENNEDY. Mr. President, I see our friend and colleague from Idaho is on the floor. As we had briefly outlined last evening, we will go to the Senator's amendment. Just for the awareness of our Members, we have agreed to a time limit of 1 hour; 45 minutes under the control of the Senator from Idaho and 15 under the control of myself and Senator JEFFORDS. That is, we will ask consent to formalize that, but that is our understanding at the present time. We will proceed on our side as if that agreement is in effect. We will formalize it in just a few moments.

I thank the Senator for his cooperation and look forward to the debate.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the two pending amendments? If not, it is so ordered. The Senator from Idaho [Mr. CRAIG] is recognized.

AMENDMENT NO. 2437

(Purpose: To modify the fair wages provisions)

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

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 2437.

The amendment is as follows:

On page 1244, line 10, before the period, insert the following: "if the Federal share of the financing of such a repair, renovations, alteration, or construction project is greater than 25 percent of the total cost of the project."

Mr. CRAIG. Mr. President, I allowed the full reading of the amendment this morning because I think it speaks so clearly for itself.

As we attempt to deal with S. 1513 and as this Congress struggles to find dollars to assist States and local units of government in funding education, our No. 1 priority ought to be to make sure that those dollars go just as far as they possibly can go. This is, of course, not just educational facilities of the kind that we would think about—by that I mean schools and school-associated facilities—it is also libraries and other things within our communities across this country that serve in the expanding and the broadening of the human mind. It is something our country has always done so well.

So, as we struggle with the $200-plus billion deficit and a $4 trillion debt, should we not as a Congress be working to make sure the money we provide to assist States goes just as far as it possibly can? The amendment today addresses that most important issue. The amendment amends section 1501(o) of title XV, which applies the Davis-Bacon Act to new programs of educational infrastructure grants. I repeat, "new programs of educational infrastructure grants."

● 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

Title XV grants are for repairs, renovation, alteration and construction of public, elementary and secondary school libraries, media centers and facilities used by academic and vocational instruction.

The title XV grant program is authorized at $400 million, and that is this year as it relates to S. 1513, and $200 million is already included in the fiscal year 1995 Labor-HHS-Education appropriations bill about to come to the floor.

So we are talking about approximately half a billion dollars that we will spread across 50 States. A local elementary agency, or an LEA, as we call them, is eligible for a grant of the dollars we are talking about if they submit an application showing urgent need, and that, of course, is what is important in these dollars.

These are not within the normal flow of the educational or the HHS dollars we are talking about, but those who express an urgent need because they have an inadequate facility as it deals with the media centers, the secondary school libraries or the academic and vocational instruction facilities.

The local education agency can also apply for a grant if it serves large numbers of disadvantaged children. It can also apply for a grant to address conditions that compromise learning, health and safety. So, in other words, over the last good number of years, as we have been renovating our school facilities to get rid of asbestos, one of the ways this grant could be applied is to assist in providing a few dollars to mix with the local county or school district dollar and the State dollar to assist in renovating and making an educational facility more healthy and safe for the students involved. And if the facility lacks capacity, including the ability to raise funds to undertake the project without some Federal assistance, and they can display need, that is what this section of this bill and this section of the Federal law is all about.

So my amendment states that Davis-Bacon applies to title XV grants that finance the local education agency project in whole or in part. Education groups who have worked for creation of the grant program anticipate that, in many cases, the Federal share of the project will be very small, but it is that extra bump, it is that extra boost that the local and the State cannot come up with.

As we know, in working with our States and local governments, in many of these programs where there is a Federal mandate or where there is a Federal law to be addressed to bring about adequate education based on Federal standards, or safety in facilities based on Federal standards, that our local units of government bring together a combination of dollars. It is not a single fund or a single source. It is a little bit of a grant here and a little bit of a grant here in some of our more impoverished communities, both urban and rural, to make sure that they can comply and meet the standards of the Federal law.

While implementing regulations for title XV grants are far in the future, the likelihood certainly exists that small amounts of Federal funding will be used to leverage significant larger amounts of State and local funds. And that is exactly what I was talking about. The total pool of primary and secondary school spending for new construction, additions and modernizations in 1993 was about $10 billion, according to the American School and University Magazine of May 1994.

So this simple amendment, when you look at that kind of impact, if a local education agency finances more than 75 percent of the total cost of a project and a Federal infrastructure grant contributes less than 25 percent, Davis-Bacon will not apply. If the Federal Government makes only a minimal contribution to a construction or a repair project, it is not a Federal project, and we should not mandate all the same labor regulations that apply to Federal projects.

I think this Congress clearly understands the significance of that difference. If it is not a Federal project, if it is truly a local project, why then, because of a small amount of Federal money being involved, should we force a local education agency into a substantial greater amount of funding that has to come from the taxpayers of the local unit just to meet these Federal standards?

I believe that this is a reasonable and very modest amendment. I would have preferred to simply exempt the new grants from the outright impact of Davis-Bacon, but I realize that many of my colleagues want Davis-Bacon to apply where there is a significant Federal spending of a construction or repair dollar. So I am not going to argue that today. We are not talking significant amounts of money in the sense of the project itself.

The ranking member, NANCY KASSEBAUM, did offer a strike amendment in the committee for Davis-Bacon, and it was defeated 12 to 5. I can count. I know the numbers. But I do believe this Congress needs to be rational and responsible in the expense of Federal dollars, and what we are saying here is that where Federal dollars are not the primary source, where it is simply the impetus to get the local community and the State dollar over the hump, if you will, in the ability to multiply the combination of dollars to bring about the requirement of the need for an educational facility.

So rather than prolonging the debate or diverting it to a long discussion about Davis-Bacon, this is a very simple approach.

Last week, I went before Chairman SIMON's subcommittee and debated Davis-Bacon. We want reform of Davis-Bacon. This is not the place to debate that reform. By that, I mean we need broad, sweeping, significant reform to bring this very old and antiquated law into the 21st century, but of course, this Congress, by phenomenal pressure, has been unwilling to do so.

This 25-percent-matching-funds trigger is a modest part of my comprehensive reform bill, S. 916. So what I am suggesting to the Senate today is that if we cannot accept or look at the whole of the reform, let us not penalize local communities, let us not penalize local taxpayers who want to do the very best for their children, by saying you are going to have to spend an extra 3 to 15 percent of the cost of construction merely to comply with a 1930's Federal law that does not make any sense today.

The type of modest reform that belongs on grant programs that will finance essential local products is what we are talking about. I do not even think it is a Davis-Bacon issue. It should not be thought of in that context. But because the law is pervasive, this bill is not specific in its exemption, that is what I am talking about today. If less than 25 percent of the money is Federal money, it just is not reasonable to apply the labor regulations designed for Federal procurement contracts.

We are trying to prevent simply the tail from wagging the whole dog, in this instance; trying to protect needy school districts from an expensive Federal mandate on how they use their money, not public money in the national sense, but public money in the sense of a small community of 1,000, 2,000, 5,000 people. Or the inner city where we know city fathers and school districts are doing their very best to provide an educational opportunity for the young people of that area and struggling every day to meet the unique demands of that particular locale.

Some colleagues may argue that a large Federal contribution justifies attaching costly strings. I will let them argue that because that is not what I am arguing. I am talking about a small Federal contribution of, it could be, a few thousand dollars, and yet it would shove the whole process to cost substantially more. But it is certainly, I think, reasonable to talk about this and to bring it once again before this Congress for the kind of contribution that they ought to make in the consideration of this issue.

The same point, excessive strings tied to a minimal contribution which oftentimes can amount to the project not going forward, I think that is significant to bring up.

Several years ago, I was involved in a water treatment program in the north end of my State. Because there was a small Federal grant involved and the

city, in this instance, had failed to calculate Davis-Bacon into it, that water treatment project simply did not go forward. As they were ready to let the bids out, they realized they had calculated improperly and they had to back away. There would have been hundreds of thousands of dollars spent, jobs created and a cleaner source of discharge water flowing into the Spokane River and, yet, because of a 1930's obsolete law, that project did not go forward.

Now, that happens every day across America, and it ought to be changed. I am proposing a change in S. 916. But today, when we struggle to educate our children, to provide the facilities and the opportunities, why cannot this Congress just back away a little bit, just blink on the few thousands of dollars that would be spread project by project across this country and say the prevailing wage in the sense of Davis-Bacon simply would not have to apply.

Now, nationally, on average, Davis-Bacon adds about 3.1 percent of the total of a construction cost, according to CBO. And including the effects of a ban on the use of helpers inserted every year in the Labor-HHS-Education appropriations, which is already there, coincidentally, the $400 million that I mentioned authorized for title XV grants in S. 1513 amounts to about 3.7 percent of the $10.778 billion totally spent on education and secondary school construction, additions, and modernizations.

The exact Davis-Bacon cost premium CBO found in 1983, before several Reagan Department of Labor regulations started saving taxpayers money, that premium cost was about 3.1 percent. That is what I am talking about here, in very clear, simple, straightforward terms, less than 3.1 percent of the total amount of money that will be spent across this country this year to construct, to modernize, or to add to educational facilities. And yet the failure of this Senate to pass this amendment and put this issue into the education conference may deny small school districts in my State and your State, Mr. President, the opportunity to go forward with that one addition, that expansion of the vocational education shop, the buying of additional equipment in their media centers. All of that is what I am talking about, and it is a very straightforward approach.

Costs vary widely from community to community. In some, Davis-Bacon seems to have no impact simply because they are a wealthy district, but not all school districts are wealthy. And in others, it could mean a lot. It is reported to add up in some areas to over 50 percent of the total construction cost to ultimately end up denying the ability to construct. The General Accounting Office found that when Davis-Bacon does increase the cost, the typical range of inflation runs from about 5 to 15 percent.

Past a certain point, even supporters of Davis-Bacon I hope will realize that applying it to financially strapped schools is counterproductive. A University of Oregon study found that Davis-Bacon typically increases total construction cost in rural areas by 26 to 38 percent. Why? Because the wage is less in rural areas in part, and that is the opportunity, that is the advantage that a rural school district sometimes has, to be able to build a better program, to be able to expand the school, to be able to offer rural children a similar opportunity that urban children have and that more wealthy school districts have. Obviously, in many rural areas, a 25 percent Federal contribution will do nothing more than pay for Davis-Bacon requirements, if the University of Oregon study is accurate.

I believe it is unfair—I have expressed that, I hope, clearly this morning—to impose that heavy a burden, much less a heavier one than can be handled.

In Philomath, OR, a community that several years ago was strapped because of a decision on the part of the Endangered Species Act to disallow the cutting of old growth timber that put a lot of our loggers out of work—and everyone in the West knows what I am talking about; it was called the spotted owl crisis—that community, in an effort to pull itself up by its bootstraps, said they were going to do something for themselves. The local sawmill donated the lumber and the local labor force wanted to donate their time but because the library district, in its effort to put money together in a tax-strapped, poor district, now got a little Federal grant, they could not do it. In other words, the employees could not volunteer their time.

It took that library district 2 years of fighting and the efforts of Senator HATFIELD and Senator PACKWOOD personally taking their time with the Bush administration to find a little loophole in the law to squeeze through so that this poor district, strapped by a Federal law that put thousands of its people out of work, could make an effort to pull itself up by its bootstraps and construct a library and say to the country around it: Look what we are doing for ourselves. And because our infrastructure is now stronger and because we have a better public library, why not come and bring your employment and bring your jobs and put our people back to work.

What am I talking about? I am talking about a misdirected, obsolete law in this country called Davis-Bacon that caused that very thing to happen. So when we are talking title XV infrastructure grants to do the simple little things like building libraries in our schools, expanding libraries in our schools, how can we, straight faced, stand on the floor of this Senate and uniquely, by failure to pass this amendment, deny these school districts that opportunity?

Some years ago, the Loudon County, VA, school board—right here in this immediate area—was ready to build a vocational education facility, until they realized that Davis-Bacon strings were attached to the Federal contribution and that actually made the project so much less viable that the board decided to drop the project. And sure enough, title XV infrastructure grants are supposed to help construct and repair vocational education facilities. Loudon County, VA, had to say no. The young people of that county had less opportunity because of the very law we are talking about.

Mr. President, could I ask how much time I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has used 20 minutes.

Mr. CRAIG. An important precedence for this 25 percent matching fund trigger, the same 25 percent matching fund trigger is in the conference report on the crime bill. Mr. President, Members of the Senate, please listen. By midweek this week, we will be debating the crime bill conference report.

Mr. President, I ask the Senator from Massachusetts [Mr. KENNEDY] to please listen. The very provision I am asking today to be put in the education bill the Senate has just now put in the crime bill because as we are concerned about education, but we are also concerned about our communities' and our States' abilities to expand and improve their criminal detention facilities. We were wise enough, in the crime report, to put in the identical amendment. So that is now in there.

We are going to use absolutely the same language and the same guidelines for that very finite amount of money that we are going to try to put into crime control in our country to expand the ability of our local and State law enforcement facilities to do the same thing that we want done here. But in this case, we are not taking criminals off the street. We are hopefully putting educated young citizens on the street with a better opportunity.

That is why I had hoped maybe the ranking member and the chairman would just accept this amendment. We would not have to go to a full debate. We would not have to bring it up for a vote. But, of course, that is not the case. I am saddened by that because I think that what we are offering here just makes an awful lot of sense for America and for the taxpayers of this country who continually argue with us and demand of us that we be more prudent and efficient with the dollars that we ask from them to provide for the greater good of this country.

In the old General Revenue Sharing Act, Congress explicitly recognized exactly the principle underlying in this amendment and, of course, that was money going out to the States and to the counties.

I come from a big rural county, and I know how that revenue sharing got spent and how it gets spent today. It does all kinds of things for people, as a general tax dollar would be used in a very rural county where there are 7,000 or 8,000 people in a county that is almost the size of the State of Connecticut. There are no people there to speak of. Seventy percent of the land is public land. And as a result of that, the tax base is very limited.

So we were smart enough when we created the General Revenue Sharing Act to provide this kind of an exemption because we said once that dollar is out there blending with the State and local money, it really becomes part of the local base. Why, therefore, then should we force that community to comply with a much broader Federal base? Eighteen States either have not enacted or have repealed what is known as the "little Davis-Bacon."

My State of Idaho once had a little Davis-Bacon. We simply are not wealthy enough to extend that much of the largess to expand the cost of our construction program beyond what is the normal charge for labor in a community of, say, 25 or 30 percent. We are simply not that wealthy. Idaho knows that.

Alabama, Arizona, Colorado, Florida, Georgia, my State of Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, South Carolina, South Dakota, Utah, Vermont, and Virginia have now all recognized this and either have not passed or have repealed little Davis-Bacon for all the reasons I have just given.

So what we are asking here is straightforward: To give these States the chance, and to expand that Federal dollar, and to make it wiser. Three States completely exempt school construction from little Davis-Bacon State prevailing wage laws: Arkansas, Kentucky, and New Mexico, once again State legislatures that were faced with the reality that there just is not that much money out there to do all we want to do, and we have to make it stretch just a little further.

Maryland exempts school construction from little Davis-Bacon law unless the State's share of the project is more than the whole of 75 percent. So that is the reality. That is the substance of the debate.

Let me ask unanimous consent at this moment that I be allowed to enter into the RECORD a letter to Senator BENNETT JOHNSTON from the Associated Professional Educators of Louisiana asking the Senator to support this amendment.

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

ASSOCIATED PROFESSIONAL EDUCATORS OF LOUISIANA,
Baton Rouge, LA, July 27, 1994.

Senator J. BENNETT JOHNSTON,
Senate Office Building,
Washington, DC.

DEAR SENATOR JOHNSTON: The Associated Professional Educators of Louisiana (A&PEL) opposes provisions in the "Improving America's Schools Act," S. 1513 by Senator Edward Kennedy of Massachusetts, which extends coverage of the federal Davis-Bacon Act to school "repair, renovation, alteration or construction, including painting and decorating any building or work that is financed in whole or in part by a grant under this title . . .".

This would represent a massive expansion of the coverage of the Davis-Bacon Act and would be a major federal intrusion into state activity. Furthermore, this provision could increase the cost of school construction to state and local taxpayers of Louisiana at a time when educational dollars are scarce and taxpayers are begrudging any added costs for public schooling.

As an organization of 5,000 Louisiana teachers, we ask that you support amendments that will be offered on the Senate floor to strike this provision or to alter the language to make it less intrusive.

Your support in this action will be most appreciated.

Sincerely,

RUTH PETRY,
State President.

Mr. CRAIG. Mr. President, let me also ask unanimous consent that the letter to Senator PAUL COVERDELL from the Professional Association of Georgia Educators be entered into the RECORD—same argument, same concern.

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

PROFESSIONAL ASSOCIATION OF GEORGIA EDUCATORS,
Clarkston, GA, July 28, 1994.

Senator PAUL COVERDELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: The Professional Association of Georgia Educators (PAGE) urges you to vote against the bill, "Improving America's Schools Act" (S. 1513). The bill contains unneeded provisions which would improperly extend the Davis-Bacon Act regarding "repair, renovation, alteration or construction, including painting and decorating any building or work that is financed in whole or in part by a grant under this title. . . ."

The proposed expansion of the Davis-Bacon Act would give the federal government intrusive power to involve itself in state responsibilities. But, most damaging of all, the extension would further inflate the cost of school construction projects in Georgia. Since recent flood damage to our schools is massive, much reconstruction must take place. The bill, sponsored by Senator Edward Kennedy (S. 1513), would trigger higher wages where the Davis-Bacon Act applies. This would cause a heavier tax burden for all taxpayers in Georgia.

We urge you to support amendments that would strike the S. 1513 provision or alter it in ways that would make it inoperative with respect to the repair, renovation, alteration or construction, including painting and decorating any building or work that is financed in whole or in part by a grant from the federal government.

Thank you for your prompt consideration.

Sincerely,

ELLEN COODY,
Acting Executive Vice President.

Mr. CRAIG. Let me also, Mr. President, ask unanimous consent that a letter from the Coalition to Reform the Davis-Bacon Act—that is a huge cross-section of the American small business and large business infrastructure, from air conditioning contractors to the U.S. Chamber of Commerce, all the way down through the system of those people who provide the services that build the facilities for these small communities—become part of the RECORD.

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

THE COALITION TO REFORM THE DAVIS-BACON ACT

Air Conditioning Contractors of America.
American Concrete Pipe Association.
American Farm Bureau.
American Portland Cement Alliance.
American Public Transit Association.
American Road and Transportation Builders Association.
Associated Builders and Contractors.
Associated General Contractors.
Brick Institute.
Citizens Against Government Waste.
Contract Services Association.
Council of State Community Development Agencies.
Fluor Corporation.
Independent Electrical Contractors, Inc.
Institute for Justice.
Labor Policy Association.
National Aggregates Association.
National Association of Counties.
National Association of Dredging Contractors.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Minority Contractors.
National Center for Neighborhood Enterprise.
National Federation of Independent Business.
National Industrial Sand Association.
National League of Cities.
National Terrazzo & Mosaic Association.
National School Boards Association.
National Slag Association.
National Stone Association.
National Tax Limitation Committee.
National Taxpayers Union.
Printing Industries of America.
Public Service Research Council.
U.S. Chamber of Commerce.

COALITION TO REFORM THE DAVIS-BACON ACT,
Rosslyn, VA, July 26, 1994.

Hon. LARRY E. CRAIG,
U.S. Senate, Washington, DC.

DEAR SENATOR CRAIG: S. 1513, the Improving America's Schools Act, is expected to be voted on in the near future. One section of this bill would provide funds for the renovation and construction of public elementary and secondary school facilities used for academic or vocational instruction—including libraries and media centers. This section would also mandate that Davis-Bacon wage rates be paid on this construction. Because the inflated costs and other problems associated with Davis-Bacon would be imposed primarily on states and localities, the Coalition to Reform the Davis-Bacon Act urges you to

support any amendment which would eliminate or narrow the scope of the Davis-Bacon application to this section.

The Davis-Bacon Act of 1931 has been estimated to raise the cost of federal construction by an average of 5–15%. This outdated law will needlessly waste more than $3 billion in federal taxpayers' dollars over the next five years. Clearly, if Davis-Bacon is not applied to projects funded under S. 1513, a greater number of schools could be built or improved.

Under S. 1513, the federal government would give grants to local educational agencies to improve their school facilities. However, in many cases the state or locality would pay for the bulk of the project and the federal contribution would be nominal. Regardless of the amount the federal government contributes, all laborers and mechanics performing the construction would have to be paid the inflated Davis-Bacon wage. This often would virtually nullify the federal contribution.

Requiring that the inflated Davis-Bacon wage rate be paid on projects funded in whole or in part under S. 1513 is in effect an unfunded federal mandate on states and localities. Davis-Bacon is a federal law which was meant to apply to federal construction projects; school construction is clearly under the states' domain. Eighteen states have seen fit to either repeal or never have a state prevailing wage statute and several others have specifically exempted school construction from their law; however, this bill would require the federal prevailing wage law to apply to primarily state and locally funded school construction.

Because the application of Davis-Bacon would further limit the number of projects which could be performed under this bill and would burden financially-strapped states and localities, we strongly urge you to support any amendment to either strike or limit this language in S. 1513.

Mr. CRAIG. Mr. President, the Associated Building Contractors has submitted information, and I ask unanimous consent that it be printed in the RECORD, along with the repeal and modification of the Davis-Bacon Act work schedules, labor cost schedules, and budget outlays, which have been examined in the consideration of S. 916 and that will be before the subcommittee in its consideration of reform.

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

DAVIS-BACON AND S. 1513, THE IMPROVING AMERICA'S SCHOOLS ACT

The Senate has begun consideration of S. 1513, the Improving America's Schools Act. One section of this bill would provide funds for the renovation and construction of public elementary and secondary school facilities used for academic or vocational instruction—including libraries and media centers. This section would also mandate that Davis-Bacon wage rates be paid on this construction. Because the inflated costs and other problems associated with Davis-Bacon would be imposed primarily on states and localities, Associated Builders and Contractors (ABC) urges you to support any amendment which would eliminate or narrow the scope of Davis-Bacon application to this section.

The Davis-Bacon Act of 1931 has been estimated to raise the cost of federal construction by an average of 5–15%. This outdated law will needlessly waste more than $3 billion in federal taxpayers' dollars over the next five years. Clearly, if Davis-Bacon is not applied to projects funded under S. 1513, a greater number of schools could be built or improved.

Under S. 1513, the federal government would give grants to local educational agencies to improve their school facilities. However, in many cases the state or locality would pay for the bulk of the project and the federal contribution would be nominal. Regardless of the amount the federal government contributes, all laborers and mechanics performing the construction would have to be paid the inflated Davis-Bacon wage. This often would virtually nullify the federal contribution.

Requiring that the inflated Davis-Bacon wage rate be paid on projects funded in whole or in part under S. 1513 is in effect an unfunded federal mandate on states and localities. Davis-Bacon is a federal law which was meant to apply to federal construction projects; school construction is clearly under the states' domain.

Eighteen states—including Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, North Dakota, South Carolina, South Dakota, Utah, Vermont and Virginia—have seen fit either to repeal or never have a state prevailing wage statute. Arkansas, Kentucky and New Mexico have specifically exempted school construction from their law and Maryland requires that the project be at least 75% state-funded for prevailing wage to apply to school construction. Despite these states' clear choice on this issue, S. 1513 would require the federal prevailing wage law to apply to primarily state and locally funded school construction.

Because the application of Davis-Bacon would further limit the number of projects which could be performed under this bill and would burden financially-strapped states and localities, we strongly urge you to support any amendment to either strike or limit this language in S. 1513.

REPEAL OR MODIFY THE DAVIS-BACON ACT

Savings from CBO baseline	Annual savings (millions of dollars)					Cumulative 5-year savings
	1995	1996	1997	1998	1999	
Repeal the Davis-Bacon Act:						
Budget authority	500	510	520	540	550	2,620
Outlays	160	500	700	810	910	3,080
Raise the threshold to $1 million:						
Budget authority	160	170	170	180	180	860
Outlays	40	130	180	220	240	810
Raise the threshold to $250,000:						
Budget authority	70	70	70	70	80	360
Outlays	20	50	70	80	90	310
Change from weekly to monthly wage reporting:						
Budget authority	70	70	80	80	80	380
Outlays	10	50	60	70	70	260

Note.—The conference report on the 1994 appropriation for the Department of Labor prohibits the department from implementing certain changes in the "helper" regulations during 1994. The estimates presented here are based on the assumption that this prohibition will not be extended. If it was extended, savings from either repealing the Davis-Bacon Act or raising the threshold would be greater.

Since 1935, the Davis-Bacon Act has required that "prevailing wages" be paid on all federally funded or federally assisted construction projects with contracts of $2,000 or more. The procedures for determining prevailing wages in the area of a construction project, as well as the classifications of workers who receive them, favor union wage rates in some cases.

The federal government could reduce outlays for construction by repealing the Davis-Bacon Act or by modifying it. Repealing the act would reduce outlays by about $160 million in 1995 and by about $3.1 billion over the 1995–1999 period. Raising the threshold for determining which projects are to be covered by Davis-Bacon from $2,000 to $1 million would exclude about 27 percent of the value of all contracts currently covered by the act. Savings in that case would total about $40 million in 1995 and about $810 million over the five-year period. Raising the threshold to $250,000 would exclude about 11 percent of the value of all contracts and save about $310 million over the five-year period. Changing the requirements for wage-and-hour reporting for contracts covered by Davis-Bacon from a weekly to a monthly basis would reduce compliance costs for contractors by about $260 million over the five years. Each of these estimates assumes that the Congress would reduce federal appropriations for agencies to reflect the anticipated reduction in costs.

Repealing Davis-Bacon or raising the threshold for projects that it covers would reduce the cost of federal construction. In addition, either action would probably increase the opportunities for employment that federal projects might offer to less skilled workers. Such changes would, however, lower the earnings of some construction workers. Opponents of these options also argue that eliminating or relaxing Davis-Bacon requirements could jeopardize the quality of federally funded or federally assisted construction projects. Reducing the requirements for wage-and-hour reporting would lessen the paperwork required of employers, but at the same time it might diminish the effectiveness of the Davis-Bacon Act by reducing the government's ability to detect noncompliance.

Craig office note, based on conversations with CBO:

The above "Budget Authority" figures do not include non-BA spending authority from certain trust funds; the full amount of savings for all such authority would be called the "Authorization Level"; savings for repeal would range from about $800 million to $900 million a year, for a 5-year total above $4 billion.

If the currently-legislated "helper" ban were assumed to extend permanently, savings from repeal would be approximately doubled. The above CBO figures are based on the "current law" assumption that the ban on 1992 DOL "helper" regulations will expire, on schedule, on September 30, 1994. The regulation provides for a semi-skilled "helper" classification in areas where the use of such a classification is locally prevailing. Congress has enacted annual helper bans in Labor/HHS/Education appropriations and the same ban is included in both the House-passed and Senate-Committee-reported versions for FY 1995.

Mr. CRAIG. Mr. President, let me also ask unanimous consent that additional cosponsors, Senator SIMPSON of Wyoming, Senator NICKLES of Oklahoma, Senator THURMOND of South Carolina, Senator BROWN of Colorado, and Senator KEMPTHORNE of Idaho be added to the amendment.

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

Mr. CRAIG. Mr. President, I retain the remainder of my time.

Mr. JEFFORDS. Mr. President, will the Senator yield?

Mr. CRAIG. I am happy to yield to the ranking member 5 minutes.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Vermont for five minutes.

Mr. JEFFORDS. Mr. President, I have been involved over the years of my public life with the Davis-Bacon Act. I would just mention that the Davis-Bacon Act was actually a Republican proposal which was made back in the early thirties by two Republican men, Davis and Bacon, who were deeply concerned about what was happening in this Nation at that time, which, of course, was the beginning of the Great Depression. At that time, we were beginning to see the incredible difficulties being brought upon our local communities in the fight for jobs, and bands of organized groups of workers would be going from one area to the other undercutting whatever bids would occur at the local level, thus disrupting the ability of people in those local areas to be able to survive.

After it was originally put in, then we had the huge influx of money coming in from the Federal Government to take in, to try to create jobs, and at the same time these jobs were being taken by people who were coming in the other areas.

The sound basis for law was there during the Great Depression, and it worked very well. It has worked well since then. However, there is no question but that after time moves on things change, and we should change the law. I think this is one of the areas that we are in where there should be a change.

But I would also point out that few subjects generate more controversy than the proposals to change the Davis-Bacon Act. That statute which we just discussed is some 60 years old but has been largely unchanged since the time it was written.

There are three schools of thought on Davis-Bacon; repeal it, leave it alone or reform it.

I count myself as one who sees the need for reform.

I support the Davis-Bacon Act, and its basic purpose—that the Federal Government should not undercut local wages and working conditions.

Today, however, there are times when the act turns that purpose on its head by preventing the prevailing local wage rates and wage structures from being employed on federally funded construction projects.

The primary example of this is the ongoing battle over the helper regulations, which has been going on for the last decade.

Because of my views on what the Davis-Bacon Act is and should be, I am not inclined to vote for the repeal of Davis-Bacon or a blanket waiver of that act under ESEA.

However, it is consistent with my views on the need for a greater Federal stake in school funding to support measures which encourage that funding.

Here, if the Federal Government wants to mandate Davis-Bacon standards for school construction, I think it quite fair to require Federal funds to comprise a substantial percentage of funding for that construction.

The 25 percent proposal made by this amendment seems fair and is consistent with the standard reportedly included in the crime bill conference report with regard to prison construction.

Therefore, I will support that amendment.

Further, the amendment granting authority for the Secretary to waive Davis-Bacon requirements in the event that it will create undue hardship or lead to discrimination on racial or other grounds also presents a valid point for consideration.

Therefore, Mr. President, I intend to support the Senator's amendment, and I yield whatever time I have not used.

Mr. THURMOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to support the amendment offered by my friend and colleague, the distinguished Senator from Idaho [Mr. CRAIG]. I was pleased to join him as a cosponsor on this bill.

Mr. President, this amendment is designed to help our States lower construction costs when they identify the need to build or repair a school facility. This amendment will simply allow the States to be exempt from Federal Davis-Bacon laws if the State funds 75 percent of an education construction project.

As you know, the Davis-Bacon Act requires the Secretary of Labor to set wage rates and prescribe work rules for every category of worker employed on Federal and federally assisted construction, alteration, and repair projects. The wage rates are supposed to be based on the locally prevailing wages. Often these rates are significantly higher than the actual averages for the locality.

The result of applying the Davis-Bacon Act is to discourage poor rural and urban schools from building or contracting for much-needed repair or construction because they have to pay the "prevailing wage," which is the same as the union wage.

Mr. President, Wednesday, July 27, 1994, the Labor and Human Resources Committee, of which I am a member, held a hearing on Davis-Bacon reform. We were fortunate to have Ms. Cindy Athey, president of Precision Wall Tech, Inc., testify on the effects of Davis-Bacon laws on her business. I ask unanimous consent that her statement be included in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. THURMOND. I would like to highlight a few parts of her statement. First, Ms. Athey testified that she pays her painters an average rate of $14 an hour, 40 hours a week. With a 2-week vacation, that is approximately $28,000 a year. However, painters on Federal projects is $21.24 per hour. With a 2-week vacation, this is approximately $42,000 a year. That means that a painter earns about $14,000 a year more if they simply work on a Federal construction project. This is outrageous.

Ms. Athey also testified that:

> A task requiring 5,000 hours to complete now takes the employee, who is earning more because of the inflated Davis-Bacon wage rate, approximately 6,000 hours to complete. This makes sense—why would anyone want to complete a project that is almost doubling their paycheck?

I believe Ms. Athey's testimony is representative of much of the waste of taxpayer's dollars due to the requirements of Davis-Bacon laws.

Mr. President, the Davis-Bacon Act was passed before most of the basic worker protection laws in effect today, including the Fair Labor Standards Act of 1938 and the National Labor Relations Act of 1935. Another protection exists in the elaborate Federal procurement process which requires a contractor to meet a number of prequalification requirements as well as meet a determination of contractor responsibility in order to bid on Government contracts.

With these worker protection laws in place, the Davis-Bacon Act is antiquated and costly. Davis-Bacon laws discourage small and minority-owned businesses from bidding on Federal projects. This results in a loss of competition and increased construction costs.

With its application to the Elementary and Secondary Education Act it will now discourage our local education agencies from providing education infrastructure.

This amendment will allow our States a little more freedom over what is predominantly their spending money. This amendment confronts what is another underfunded Federal mandate.

Mr. President, I urge my colleagues to vote to allow their States to have more control over their spending. Therefore, I strongly urge my colleagues to support this amendment.

EXHIBIT 1

TESTIMONY OF CINDY ATHEY

Thank you Mr. Chairman and members of the committee. My name is Cindy Athey and I am President of Precision Wall Tech, Inc., a painting and wallcovering contractor. Precision Wall Tech, Inc. has been performing work in the D.C. Metropolitan area for over 11 years and is classified as a small business woman-owned, open shop company. Precision Wall Tech, Inc. is also a member of the Associated Builders and Contractors, who I am here representing today.

My experiences, as well as my beliefs, about the Davis-Bacon Act are that the Act

discriminates against small companies by limiting their ability to compete on an even plane with larger companies. The Davis-Bacon Act hinders and restricts all phases of performing a government contract with the wage regulation. It begins with the actual bidding process.

Bid price increases due to the increase in the required wage. My painters average at least 40 hours per week at a rate of $14.00 an hour. Scale for painters on federal projects (i.e. NIH, NASA, Navy Yard, etc.) is $21.24 per hour. My labor cost on a federal project is 50 percent higher than a non-regulated scale project. In addition to the increase in labor costs, the labor burden (workers' comp, unemployment, liability insurance, etc.) also increases.

If a small company is awarded a government contract of substantial size which will extend over a period of months, the additional capital required to carry the increased payroll and taxes limits their ability to solicit other contracts. The majority of small companies are not financially able to meet the additional costs of doing government contract work, therefore, the Davis-Bacon wage scale discourages small companies from participating in government contracts. Regardless of the prompt pay regulation, most government agencies DO NOT pay within 30 days.

Precision Wall Tech, Inc. invests time and money into training and educating its employees. Our painters are paid well above the private industry's prevailing wage rate and have the ability to perform all projects in an efficient and professional manner. This enables us to complete work on schedule and within the budget of our clients. However, the Davis-Bacon Act reduces productivity, thus exposing the small contractor to still more additional costs.

A task requiring 5,000 hours to complete now takes the employee, who is earning more because of the inflated Davis-Bacon wage rate, approximately 6,000 hours to complete. This makes sense—why would anyone want to complete a project that is almost doubling their paycheck? The Davis-Bacon wage scale is a deterrent for workers to be productive and efficient. It also creates a problem when these workers go back to performing private work and I am forced to lower their wages back to the true market rate.

Employees often require retraining once they complete a government project. My once motivated employees are now earning the same weekly pay by working on a scale job 26 hours per week instead of the normal 40 hours. This tends to lead to absenteeism.

The administrative costs to conform to the Davis-Bacon Act regulations are also increased. Certified payrolls are time consuming, as well as confusing. I have performed numerous scale regulated contracts at the same time and depending on the location, I will have to pay different wage rates. For example, the scale for a painter in Washington, D.C. is different than the scale for a painter in Maryland or Virginia. Different counties within a state also require different wages.

Classifications within a trade create many restrictions. The Davis-Bacon Act requires that any person who holds a tool of the trade be paid at that trade classification. There are many individuals who are able to hold a paint brush or a pipe wrench, but could not be classified as a painter or even a plumber. However, these individuals are required to be paid the rate of a painter or plumber by the Davis-Bacon Act. This Davis-Bacon classification requires companies to use either over qualified employees for menial tasks or overpay inexperienced employees. This inequity creates tremendous friction among employees working on a scale regulated project. For example, a qualified painter who has worked many years in the trade is not happy to be earning the same as an employee who just entered the trade one month ago with limited knowledge, but is able to hold a tool of the trade.

The Davis-Bacon Act was intended to protect employees from discriminating employers. However, the Davis-Bacon Act today is discriminating against small employers and their employees, who are trying to compete for federal contracts. The Act requires small companies, such as mine, to incur additional costs, many of which are passed on to the government, but many of which we must bear ourselves. This often results in small companies deciding federal work is just not worth the trouble.

When I learned about the provisions in S. 627, I was gravely concerned that Congress would even consider expanding this burdensome, costly law. The expansion of the law to off-site suppliers and manufacturers, lease agreements and independent contractors will dramatically add to the confusion, litigation and costs which are associated with Davis-Bacon. Any small benefit which would be gained from the increased threshold and reduced paperwork would be nullified by these expansion provisions. I may also point out that these benefits would indeed be small, particularly because the threshold would be different for new construction and for alteration or repair work.

The fact that S. 627 would virtually abolish the "helper" classification is also of chief concern. This relates to having to pay lesser skilled workers the high journey-level wage rate. Without the helper classification, my choice is between causing resentment among my higher skilled workers or not hiring lesser skilled workers for jobs they clearly could perform in a safe and efficient manner. While the helper classification has not yet been implemented on Davis-Bacon projects due to a ban on funding contained in the FY94 Labor, HHS, Education Appropriations bill, we hope that the Department of Labor will move forward with that process when that legislation expires. Helpers are widely used in the private sector.

If Congress wants to reform the Davis-Bacon Act in a positive manner, I suggest they adopt legislation such as S. 916 offered by Senator Larry Craig. S. 916 would raise the threshold to $500,000 for all types of construction, reduce paperwork from weekly to quarterly, and allow the unlimited use of helpers.

I thank the Labor and Human Resources Committee for this opportunity to testify and I am happy to answer any questions you may have.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I think we were attempting to follow what had been agreed on and that was the time limit for an hour. We were supposed to have the 15 minutes. I would yield myself now 7 minutes of that time.

Mr. President, we have heard a good deal about the history of the Davis-Bacon Act, the circumstances that led to the enactment of that statute in 1931, and the continuing need for the act's protections coming through the Depression and into modern times. I think we can add to that history with some evidence of what is occurring in the construction industry right now.

I ask unanimous consent that there be printed in the RECORD an excellent article that appeared in the Wall Street Journal that describes the devastating effect that more than a decade of wage cutting in the construction industry has had on wages and benefits in the industry and the supply of skilled craft workers.

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

[From the Wall Street Journal, Jan. 27, 1994]

WITH HOUSING STRONG, BUILDERS OFTEN FIND SKILLED HELP LACKING

CONTRACTORS COMPETE KEENLY FOR AVAILABLE TRADESMEN IN PLACES LIKE PHOENIX—A PROBLEM FOR LOS ANGELES?

(By Robert Tomsho)

PHOENIX.—These should be the best of times for Gilbert Plumbing Co.

With home building booming here, the company expects to install plumbing in about 3,000 homes this year—far more than the 500 homes a year it did in 1988 and 1989, the trough of the recent recession here. In the company's back lot on a recent afternoon, dozens of plumbers scrambled to load trucks with faucets, toilets and pipes for the next day's work.

Yet, as he paced the bustling yard, C.A. Gilbert, the company's 64-year-old founder, wore the steely grimace of a besieged general. With his 96 employees already working six-day, dawn-to-dusk weeks to keep up with demand, Mr. Gilbert is struggling to recruit 30 more plumbers by, among other things, advertising in newspapers as far away as New York, Minneapolis and Bismarck, N.D.

UNPRODUCTIVE ADS

He isn't very hopeful. A blitz of help wanted ads in major California newspapers last fall drew only 20 phone calls, and just one plumber was hired. Meanwhile, local competitors, offering an extra dollar or two an hour, recruit Gilbert plumbers as they leave the company lot at night.

"It's just a nightmare," Mr. Gilbert laments. "We can't get people."

Many contractors around the country have the same problem. "There is a critical need for skilled workers," says Rick Harris, a spokesman for the Home Builders Institute, an industry research group. "It's a national problem."

As the industry rebounds from a withering downturn, the problem has so far been most acute in residential construction, where the recovery has outpaced the commercial and industrial sectors. With low interest rates and moderating prices unleashing pent-up demand for homes, contractors in dozens of markets are having trouble finding skilled carpenters, plumbers and electricians. The shortage also is spawning concern about work quality as desperate contractors settle for less-reliable help. Meanwhile, projects are delayed and costs increased as workers demand higher wages.

In Kansas City, Mo., a shortage of skilled workers has added as much as two months to the time required to build a home. Oklahoma City bricklayers are charging as much as 50% more than a year ago for their services. Frustrated Denver home builders are preparing to hold a series of "job fairs" in other cities.

And with the prime summer building season approaching, the massive effort to rebuild Los Angeles is likely to aggravate the problem. "The earthquake is going to further put a squeeze on the manpower situation nationwide," says Peter Cockshaw, publisher of an industry newsletter. "And I don't know that they are going to get all of the skilled people that are needed."

Construction has always gone through boom-and-bust cycles that drove workers from region to region in search of jobs. As the demand for skilled labor revived in an area, pay rates rose and the workers returned. But that isn't happening now. Instead, regional building booms are exposing long-festering industry problems.

LOSING GROUND

Between 1983 and 1992, the nation's work force increased about 17%, to 103.7 million workers, but the number of construction workers rose only about 10%, to 4.5 million. Moreover, industry executives say fewer and fewer of those workers are the well-trained journeymen of a generation ago. "We can always find enough people to slam together some forms and do the grunt work," says Dan Bennett, executive vice president of Associated Builders and Contractors, a trade group based in Rosslyn, Va. "It's the skills where we are going to have a problem and already do."

Those growing shortages are the culmination of more than a decade of turmoil within the industry. In some families, generation once followed generation into the construction trades. Such jobs usually paid better and were more challenging than manufacturing work, and they offered broad opportunities for people to start up their own businesses.

But during the 1970s and 1980s, those traditions began eroding as major corporations and other customers, in a quest for lower building costs, awarded more jobs to nonunion contractors. As unions' market share dwindled, cutthroat competition among such firms drove down wages.

By 1988, according to the Bureau of Labor Statistics, manufacturing workers were earning more—about $16.26 an hour in total compensation, compared with $16.23 for construction workers. By 1993, the gap had increased, with manufacturing workers pulling down $20.09 an hour total compensation, compared with $19.71 in construction. In some regions, especially the right-to-work Southwest, construction wages fell even further for experienced workers, into the $12-to-$15-an-hour range with no benefits.

Older craft workers retired, and many younger journeymen left the industry. "And we can't rely on the people we have lost coming back," says John Heffner, training director for the Associated General Contractors of America, which represents many large commercial and industrial contractors. "I think they have just had it with a lack of benefits and guaranteed hours; they have just had it with being treated as a cost rather than an asset."

For a time, nonunion contractors still could find enough skilled help from the ranks of former union members, but they weren't replenishing the supply by recruiting and training young workers.

But while experienced people might still earn $12 to $15 an hour, potential recruits from the baby-bust generation began finding that starting wages for new trainees had slid as low as $5 an hour in some trades and that they could earn nearly as much manning a fast-food counter or stocking store shelves. And the difference wasn't enough to make up for construction's dirt, danger and few benefits, plus the uncertainty of an unemployment rate that regularly was double the national average.

By last year, even the Associated Builders and Contractors, whose members are primarily nonunion, was sounding the alarm. In one newsletter, Mr. Bennet, the trade-group executive, wrote that many construction workers could no longer afford homes or health insurance. He added that according to one survey, young people considered a career in construction only slightly more appealing than migrant farm work. "When you squash down, year after year, on wages, you don't attract a good person into the industry," he observes.

Stephen Gubin, chief executive of Phoenix-based Wilson Electric Co., which has 400 employees, couldn't even persuade his own son to learn the trade. "The labor supply isn't there because the kids haven't accepted this industry as a viable place to go for their careers," he says.

Those who have find training in short supply. Hundreds of vocational schools have abandoned construction programs in favor of high-tech fields. One 1990 study by the Construction Labor Research Council estimated that the industry was training only about two-thirds the number of workers it would need in the 1990s.

Union apprenticeship programs, long the industry's primary training and recruiting ground, have shriveled as the unions themselves have lost work. "The employers demand a skilled work force, and that is our product," says Ray Robertson, who oversees apprenticeship programs for the AFL-CIO's Building Trades Council. But while the unions' training apparatus remains in place, the system took on only about 170,000 new trainees last year, down from some 200,000 annually in the early 1980s. Says Bill Muns, director of training for Ironworkers Local 75 in Phoenix: "It does no good to train people if you don't have the jobs."

Moreover, most contractors provide only minimal on-the-job training. To speed up production, many have broken down the crafts into dozens of repetitive tasks and teach a worker only to install toilets, hang doors or build chimneys.

"In many cases, you are no longer a carpenter, you are a 'cutter'; you cut boards all day," says David Wilkinson, executive director of the Phoenix ABC office, who has been struggling to persuade local nonunion contractors to fund a better training program. Most have balked, fearing that competitors won't contribute and thus will gain a cost advantage in bidding. "If you throw two contractors off a bridge, they will scratch, kick and gouge each other all the way to impact, even though they know they are going to die at the bottom," he says.

The Phoenix market strikingly illustrates the fruits of such ruthless competition. Strewn across a vast desert valley, Arizona's largest city is virtually exploding with construction activity around its edges. Home builders' billboards line the highways, and acre after acre of former cotton fields and desert has come alive with bulldozers grading lots and construction crews wrestling up the frames of new homes. A near-record 22,652 new-home construction permits were issued in the Phoenix market last year, up 23% from 1992 and nearly double the 1990 total. "And had it not been for a shortage of construction labor, we would have exceeded that," says R.L. Brown, a local industry analyst.

That shortage is pushing the building time for the average Phoenix home toward 180 days from the traditional 75 to 90 days. Amid fluctuating lumber prices and interest rates, such delays have made it difficult for builders to estimate prices and for home buyers to lock in loans.

Schuck & Sons Construction Co., which specializes in putting up house frames for other contractors, has been trying to add about 150 framing carpenters to the 535 it already employs. The company keeps running newspaper ads as far away as Seattle, Salt Lake City and Denver, but so far the response has been sparse.

Last summer, a series of ads in the Los Angeles area drew 300 calls, but only 12 people showed up to work in Schuck's Phoenix operations and, after a week of raids by labor-hungry competitors, only two were still on the job. "Their choice, not ours," grumbles Craig Steele, Schuck's executive vice president, who is still advertising in the local paper though admitting that "it's just to let the builders know that we are still trying."

Growing desperate, contractors are advertising full health benefits, paid vacations and profit-sharing plans. A few have offered employees $50 for every new hire they bring in. For a time last year, Del Webb Corp., a major home builder here, ran ads on a local rock station offering to top any framing carpenter's last pay stub by $2 an hour.

Meanwhile, recruiters turn up on construction sites, hiring away tradesmen. "Guys are jumping ship left and right for 50 cents an hour," the local ABC's Mr. Wilkinson says. "You don't know who's going to show up on the job from one day to the next."

Or how good they will be. While there have been no scandals or major accidents, complaints about building quality and timeliness to the Arizona Registrar of Contractors, a state consumer agency, have risen by 3% to 4% in each of the past five years. Area contractors admit that they have to redo a lot of their crews' work and that concern about their workers' skills has spurred them to hire more superintendents and internal inspectors. "They are just not up to the caliber that they used to be," says Kim Bannister, a Del Webb executive.

Asked to move a gas line that he had misinstalled, one recent hire at Gilbert Plumbing simply revved up his chain saw and cut a broad gash into the drywall and studs of a newly built home. "You hire them and take your chances," says Mr. Gilbert, a blunt-spoken man who is struggling to reconcile the current turmoil with a work ethic forged long ago on his parent's North Dakota wheat farm.

Since arriving in Phoenix in 1969 with enough money to buy two second-hand trucks, he has built a booming plumbing business with 66 trucks, a computerized business office and revenue of about $9 million last year. All three of his adult children have joined him at Gilbert Plumbing; a daughter does the billing, one son is a superintendent, and another oversees the business operation. Mr. Gilbert still knows the vintage and mileage of all his trucks, which are washed weekly. His backlot is a sprawling but immaculate collection of bins filled with plumbing fixtures.

Although Mr. Gilbert's pay of $10 to $14 an hour for experienced plumbers isn't the most generous in the market, he proudly notes that he kept his core group of some 30 plumbers employed during the recession. Nevertheless, some of his most loyal employees say the business has changed. Journeymen plumbers such as Karen Schweigart, whose husband is a company superintendent, say the quality of the work force has

dropped, health benefits and paid vacations are still hard to come by, and wages haven't kept pace with inflation. "There's nothing at the end of the rainbow in construction anymore," she says, adding that she has discouraged her children from entering the business.

Meanwhile, the relatively low pay and a lack of benefits have driven away plumbers such as Louis Leyba, who quit Gilbert Plumbing five months ago. "I worked for a few shops, and they are all the same," grumbles the 48-year-old Mr. Leyba, who says his current job as a groundskeeper for a suburban government offers better benefits than any he ever got in plumbing.

Another former Gilbert plumber, Ralph Naylor, says no amount of money could persuade him to pick up his wrenches again. "I had to borrow money to make house payments," says Mr. Naylor, who became a building appraiser. Construction companies "are saying that they want skilled labor, but they don't want to pay for it."

Oddly enough, Mr. Gilbert acknowledges that navigating through the downturn wasn't nearly as hard as dealing with a market where some general contractors, desperate for his services, have told him to name his price. Tripling his work force to handle the load has been a nightmare. Many plumbers, hired in the afternoon, continue to shop for better-paying jobs and never punch in the following morning. On any given day, a dozen or so of his workers don't show up, and most don't call in. Eight quit for other jobs one recent week. One asked for—and got—a $450 advance the day before he disappeared.

"We've had some employees whose fathers have died three times," grumbles Mr. Gilbert, who hesitates to criticize, punish or fire workers, knowing they can get another job in half an hour. "You got to be careful how you talk to them."

Desperate for help, Mr. Gilbert allows his secretaries to make hiring decisions if company executives aren't available to interview walk-ins. He even has taken on plumbers who, having lost their drivers' licenses because of speeding or drunken-driving convictions, need a driver to ferry them from job to job.

Recruiting is never far from Mr. Gilbert's mind. As he and one of his sons were driving back to the office one recent afternoon, Mr. Gilbert suddenly perked up. "Steve, there are two plumbers' trucks up ahead of you," he said. "Speed up and see if you can catch 'em."

Mr. KENNEDY. The article shows that because of the decline in wages and benefits in the industry, builders are no longer able to find skilled workers. Experienced workers are leaving the industry, young people no longer want to enter the industry, and apprenticeship programs capable of providing workers with high level skills are disappearing. And with that deterioration of skills has come a deterioriation in quality.

The Wall Street Journal's findings are similar to the findings in a study done by three economists at the University of Utah, who looked at what has occurred in the construction industry in Utah since the State repealed its State prevailing wage law in 1981. The researchers found that competition in wages occuring as result of the repeal of the prevailing wage law drove down average wages in the industry, caused experienced workers to leave the industry, and led to a severe decline in the number of apprentices being trained through union apprenticeship programs—which had traditionally been the primary source of skilled workers for the industry. The decline in union-sponsored apprenticeship programs has not been offset by increased training efforts in either the public sector or the non-union sector.

If the State of Utah wants to repeal its prevailing wage law as it applies to projects funded with State dollars, that's the State's prerogative. But we are talking here about Federal taxpayers' dollars, and making sure that those funds are not utilized to drive down community wage standards for construction workers.

What wages does the Davis-Bacon Act require to be paid to construction workers? All that the act requires is that workers be paid the wage that is prevailing in the locality in which the work is being performed. And if there is no single wage that is being paid to 50 percent or more of the workers in that area performing that type of work, then the prevailing wage is computed as the average of the wages paid in that community for that type of work.

If the majority of work in that community is under union contracts, then the prevailing rate may turn out to be the union rate. But if the majority of work is nonunion, then the prevailing rate is going to be the nonunion rate or an average rate.

So if you have construction in northern Idaho, and the majority of workers in that area are being paid a lower wage than what would be considered to be the union wage, then the lower rate is what Davis-Bacon says must be paid. So the suggestion that the Davis-Bacon Act somehow requires contractors on Federal construction projects in remote areas where wages are typically low to pay a higher wage, or the union wage, just does not hold water. That is not an accurate reflection of how the act's prevailing wage requirement works.

Just last week, the Labor and Human Resources Committee had a hearing on the issue of Davis-Bacon reform, and we were happy to welcome Senator CRAIG, who came over and gave testimony at that hearing. The administration has endorsed a very reasonable package of Davis-Bacon reforms, which we are considering in the committee, which would raise the threshold for Davis-Bacon coverage to $100,000 on contracts for new construction and to $50,000 on contracts for repair and maintenance of existing structures. This legislation would also substantially simplify the paperwork and the reporting procedures as they apply not just to federally funded construction under the Davis-Bacon Act, but also to federally assisted construction performed under the more than 50 different statutes—that are currently on the books which require Davis-Bacon protections on federally assisted construction projects.

The way to deal with they many issues that have been raised over the years regarding Davis-Bacon is through comprehensive reform of the type we are considering now in the Labor Committee. That is the way we ought to deal with it. We are glad to try and accommodate and deal with the particular concerns raised by Senator CRAIG and others through the committee process.

I say, finally, Mr. President, that I am really constantly surprised about what opponents of the Davis-Bacon Act have against hardworking men and women in the construction industry who are working hard to try to provide for their families. The average worker in the construction industry works about 1,400 to 1,600 hours a year. The rate of unemployment for the construction industry is double the national average. In many different areas, it is three or four times as much. What are we talking about in terms of average yearly income? We are talking about construction workers, in general, making between $20,000 and $23,000 a year. You are talking about workers doing carpentry and floors making $20,000 to $23,000. Workers in plumbing, heating, and air conditioning, $21,000 to $24,000 a year. Electrical workers, $22,000 to $25,000 a year. Painting and paper hanging, $18,000 to $21,000 a year. These are the average annual wages for workers in the construction industry.

What in the world do we have against these hardworking men and women? We are not talking about the CEO of Pizza Hut that is making more than $1 million a year. We are not talking about the top CEO's of the major companies with their golden parachutes to protect them if they make mistakes that cause their companies to do poorly. We are not talking about people with these kinds of privileges. We are talking about hard working people that are trying to make a living in the construction trades and are prepared to do the hard work. Many in the construction trades in my city of Boston drive all the way up to Alaska to look for work, and they are separated from their families. These are the people that supposedly are making too much money. That is unfair.

Mr. President, we are committed to moving forward on the issue of Davis-Bacon reform, in the areas which have been outlined. We are serious about trying to accommodate the need to rationalize and streamline the Federal procurement process. But we must remember the men and women whom the Davis-Bacon Act is intended to protect. It is a tough economy out there. In many of the trades in my State—generally, throughout New England—you

are talking about 50 or 60 percent unemployment that is still as high as 50 or 60 percent. So let's not talk about nickel and diming these people.

If you are going to invest taxpayers' money in constructing public buildings, you want to have the best skilled men and women that are available to do it. As John Dunlop, the leading construction economist in the country and a former Republican Secretary of Labor has pointed out, lower wage costs do not necessarily translate into lower overall project costs, because higher paid, better trained workers may be significantly more efficient on the job and do higher quality work, which means lower maintenance and repair costs in the future. Maybe you pay $1 or $2 more in wages to the workers, but you save more in the long road savings because of the efficiency and skills of the workers and the quality of work they perform.

So, Mr. President, I give the assurance to our friend and colleague that we are prepared to come to grips and deal with this issue. We have legislation before us. We have a very significant and major initiative by the administration in dealing with many of these provisions. We are committed to try to get that out, hopefully, perhaps before the end of the year. We are glad to do that. Hopefully, we will be able to get legislation out of our committee with support on different measures, and we would welcome the opportunity to do so.

But it seems to me that this trying to effectively flyspeck a particular legislation on this that is dealing with a very, very small amount—I mean $100 million is a significant amount, but you are talking about schools across the country that it is going to. I want to make sure that when the funds are used in terms of trying to do something for the school facilities that it is going to be done well.

You know, it is interesting that this is targeted on the rehabilitation of schools for the poorest children. This is wonderful, is it not? It is schools for the poorest children, and that has been in the crosshairs of this amendment. Why is it not on some other kind of a project? It is schools for the poorest children in America.

We give the assurance that we will have legislation. We will get it out as early as possible. Then we will debate it, and I think we will be able to craft it in ways that will deal with some of the worthwhile points that have been raised, but do it in a responsible way.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Idaho [Mr. CRAIG], is recognized.

Mr. CRAIG. While there is not a unanimous-consent request, we are operating under a gentlemen's agreement at this time. I ask how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has approximately 10 minutes.

Mr. CRAIG. Mr. President, let me respond only briefly to what the chairman of the committee has just said.

First of all, we are not talking about history. I am not interested in history. I am interested in what one-half billion dollars today will do for poor kids. You are darn right this will go to the poorest kids in the poorest school districts, and it is the poorest school districts that cannot afford that extra 30 or 40 or 50 percent cost in wages that the chairman is talking about.

If we are talking about education, let us spread that education dollar and build those facilities in the poorest districts instead of having school districts walk away because they cannot meet that standard. That is what we are talking about here.

Now, the chairman said it was only a small amount of money. In my State, one-half billion dollars is half the State's budget for an entire year. I think to the average taxpayer listening one-half billion dollars is an awful lot of money.

Mr. KENNEDY. If the Senator will yield, the provision is $100 million for construction.

Mr. CRAIG. It is $100 million, plus $400 million out of the HHS budget. It is a combination of the total of the two that this provision applies to in the total grant program.

Mr. KENNEDY. Some is out of Energy. I will put the exact figure in the RECORD.

I thank the Senator.

Mr. CRAIG. Fine.

Let me correct myself, because the chairman is right on the $100 million. It is a $400 million total. It is a $400 million total that applies to this provision that we are talking about.

I do not think anyone, Mr. President, is interested and wants to undercut the construction worker, but let me give you an example of what we are talking about.

I ask unanimous consent that this letter be printed in the RECORD.

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

JUNE 11, 1993.

Re Davis-Bacon Act.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: With the recent emphasis on spending cuts, I would like to offer my opinion as to the easiest way to save money; repeal the Davis-Bacon Act.

This act sets a wage and benefits rate for various construction trades that must be paid on all public works jobs. This rate is directly decided by trades national union. It needlessly increases the cost of labor and gives an unfair advantage to union shops.

To show you just how much money is wasted, my father-in-law is an electrical contractor in Los Angeles County, California. In his office the highest paid electricians wage is $15.00 per hour. This same employee is paid $33.38 (wage plus benefits) when working on public jobs. That is over 200% more per hour.

I'm sure you are aware of the trade unions' opinions on setting wage bases and standards, I just wanted you to know how I feel.

Please cut spending by repealing the Davis-Bacon Act.

Thank you.

NICCOLE MOYLE FERGUSON.

Mr. CRAIG. Mr. President, it is a letter from a young lady in Star, ID. This does not appear to apply to Idaho, but she references her father-in-law who is an electrical contractor in Los Angeles County, CA. In his office the highest paid electrician's wage is between $15 and $18 an hour. Now, on non-Federal jobs that is what the prevailing wage is. That is pretty good money. That means that those electricians can provide for themselves and their family. That is not a great living, but in today's effort where we are trying to get people to work, $15 to $18 an hour is pretty good money.

If he works a private job on one side of the street that is what he gets paid. If he works a Federal job on the other side of the street the prevailing wage is $33.38 an hour, a 200 percent increase.

In this particular area, Mr. President, we are talking about local school districts. We are not talking about huge Federal construction projects. We are talking about blending small amounts of grant money, 25 percent or less, to local units of school districts and a State's money, and that 25 percent or less should not be the tail that wags the dog.

That is why I am not interested in the history of Davis-Bacon. I do not want to debate it here today. I want to talk about how we are going to spread our Federal tax dollars today in a responsible way, just like the majority of Congress decided they are going to do in the crime bill. It is identical to the provision now in the crime bill.

If the chairman of the committee votes for the crime conference, he is going to vote for this provision. So I ask him to join me and join the rest of the Senators and spread this across educational dollars.

I withhold the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the Senator does not state accurately whether or not it is in the crime bill. The provisions in the crime bill have absolutely no relationship to the construction of the prisons, absolutely none.

The only provision where this was included is the Conyers amendment, which lists a range of different programs, in which there may or may not be construction, and if it is considered within those areas, then that provision will apply. But there should be no suggestion in this debate that the provision that the Senator has identified is

going to be applicable to the building and construction of prisons.

Mr. CRAIG. Mr. President, I do not believe I mentioned construction of prisons. I said in construction programs in the crime bill.

Now, the dollars in the Conyers amendment would go to enhance facilities for both criminal and noncriminal. We are talking about facilities in the neighborhoods for midnight basketball, and those kind of things. We are talking about that combination of expenditures.

This amendment does apply, and I think the chairman recognizes that. I am not suggesting that in major Federal prison construction programs this would apply.

Mr. KENNEDY. Mr. President, I am glad the Senator clarified it because I think most Members would feel this applies to the crime bill, which has billions of dollars in there for prison construction. The provision that he has identified has absolutely nothing to do with that. He is correct on the Conyers basic preventive programs that talk about Head Start programs, that talk about education programs, continuing education programs. If there has to be some adjustment to existing facilities in a limited provision in terms of any kind of construction it would be applicable in those areas.

I doubt if we will have the kind of even amount of construction that we have talked about in this bill that would be $100 million.

Whatever time remains I yield to the Senator from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized for the remaining time of 9 minutes.

Mr. METZENBAUM. Mr. President, I have a lot of respect for my friend from Idaho. But I have to tell him he is too late. We have had this amendment on the floor in various forms and fashions. I do not know how many times, maybe 40, maybe 50, maybe 60 times. It is regularly voted down because the majority of the Members of this body recognize the legitimacy of the Davis-Bacon Act.

When he says that he does not think anyone wants to undercut construction workers' wages, let me just say he may not think that anyone wants to undercut them, but the reality is that this amendment would undercut them. If you take away the Federal protection that is provided under the Davis-Bacon Act, then you are effectively slashing the wages of construction workers. Construction workers are not paid that well. Yes, they get a pretty fair hourly wage, and nobody will argue that. But they do not work a full 52 weeks, due to weather conditions and economic conditions. Sometimes you get a job and you work on it for 6 weeks and you do not get another job for a month's time.

I have a man who helps us at our home who was a construction worker, but now there is no work for him, so he comes and does some handiwork around the house.

That is the transient nature of construction work. You do not go into one plant and just work there day in and day out. You find the jobs as they move around, and if the contractor does not get the job, you do not have any work.

So an average worker who does find 9 months of work during a given year makes maybe around $22,000 a year, hardly a high wage, certainly not one that we here in the Senate would want to cut.

Let me make one other point. Construction work is one of the most dangerous occupations in this country, and construction workers regularly face substantial safety risks on the job. It really would not be right to take away from them the decent wages that they are presently making.

Now let us take a look at our actual experience under this act. In 1971, President Nixon suspended the Davis-Bacon Act during the wage and price freeze. Over 1,000 contracts that had already been put through the bidding process were rebid. Do you know how much they saved? Oh, it was magnificent. It was a great savings because the Davis-Bacon Act did not apply. On average, the rebid contracts cost only six-tenths of 1 percent less than they had when they were bid under Davis-Bacon. And even that paltry difference may be due to factors other than the absence of Davis-Bacon protections.

So I say that the evidence shows that exempting projects from the Davis-Bacon Act really does not save any money. The fact is that the cost-savings estimate underlying this amendment represents nothing more than wishful thinking. We here in the U.S. Senate should stand up and say we are not going to be a party to cutting the wages of decent men and women who are trying to earn a living in the construction trades. And, effectively, if the Craig amendment were to pass, that is exactly what we would be doing.

I am confident the amendment will not pass. We have defeated it time and time and time again, and I believe we will defeat it again today.

I yield back the remainder of my time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Idaho.

Mr. CRAIG. I yield 4 minutes to my colleague from Idaho.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KEMPTHORNE. Mr. President, thank you very much.

I would like to add my support to the amendment that is before us. I would like to reference this idea that if we really want to help the poor areas, in this case with reference to poor schools, that we should reject this.

Last year I went to Philadelphia. I went to meet with the mayor of Philadelphia, Ed Rendell, who is doing a tremendous job as mayor of Philadelphia, and who I consider a friend. I asked him to show me the neighborhoods in Philadelphia where they truly have problems of massive unemployment, security problems, where the kids are having a hard time.

We went to some of these neighborhoods where there was graffiti everywhere, where there were bars on the windows of all the homes, the shops, churches. The churches and the hospitals in this particular neighborhood were also covered with graffiti—I could not believe that even churches were covered—and where it was a dangerous area.

But in the center of this was a new housing unit that had been built by those people in that area. I met with the construction supervisor, whose name was Carlos. Carlos, in his discussion with me—in showing me the quality of the workmanship that they were so proud of, and the fact that this was one island in that neighborhood that was totally unmarked by graffiti, it did not have bars on the windows—he brought up and volunteered—I did not even bring up the topic—but he said, "Please, do something about Davis-Bacon because, if we could remove Davis-Bacon provisions on these types of projects, we could build more of them and employ more people. It is what my people in this neighborhood of Philadelphia need to have happen so that we can bring about some better quality housing and bring about dignity into that area."

Carlos said to me, "Please, do something about the Davis-Bacon Act." This is a first step.

I would not say that my colleague from Idaho is late in bringing this up. Thank goodness, he is persistent, like a number of people are going to be persistent until finally we do something with the Davis-Bacon Act.

Mr. President, I yield my time back to the senior Senator from Idaho.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. In keeping with the understanding I had with the chairman, I think I have about a minute remaining. I will make a few concluding statements, and then I will ask for the yeas and nays on this amendment.

Mr. President, the Senator from Ohio said we were too late. You are never too late with a good idea. And, by the way, this amendment has never been offered on the floor of the Senate before. This is the first time we have attempted to take these small grants —in other words, that tail that wags the dog—and say it should not be doing this, and exempt that.

Of course, my colleague from Idaho just gave a perfect example. When we

are talking about minorities today, we are talking about locking them out of the process, locking them out of their ability to blend with Federal dollars, and do for themselves what they so desperately want to do.

Mr. President, I ask unanimous consent that a statement from the National Association of Minority Contractors be printed in the RECORD.

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

THE DAVIS-BACON ACT—SUMMARY OF NAMC'S POSITION

The National Association of Minority Contractors (NAMC) supports legislation to significantly reform the Davis-Bacon Act of 1931. The Act seems benign in requiring contractors to pay locally "prevailing wages" to their workers on federally financed construction contracts exceeding $2,000. However, it discriminates against small and small disadvantaged construction firms, as well as lower skilled construction workers, by effectively prohibiting wages competing with union rates on federally financed projects.

Minority-owned firms and minority construction workers are particularly impacted by Davis-Bacon's onerousness due to being disproportionately represented among smaller firms and lower skilled workers, respectively. But Davis-Bacon's onerous impact on small and minority firms and workers does not end there. The Act also raises the costs of federally financed construction by as much as $900 million annually, and therefore makes little sense in light of President Clinton's efforts to reduce the national deficit and streamline the federal government.

While commending Vice President Gore's National Performance Review (NPR) in identifying recommendations for cutting costs and streamlining the government, NAMC holds that the specific NPR proposal to raise the current $2,000 Davis-Bacon threshold to $100,000 will do little to lift the Act's unfair burden on minority-owned firms and minority construction workers. A $100,000 Davis-Bacon threshold would conform cosmetically with the "simplified acquisition threshold" currently under consideration by the Clinton administration, but would nonetheless fall short of the urgent need for fairer treatment of small business concerns, and the more efficient use of taxpayers' dollars in the federal procurement process.

NAMC stands against the leading proposal for implementing the NPR Davis-Bacon proposal, H.R. 1231/S. 627, and, instead, advocates H.R. 2042/S. 916 which has been introduced by Representatives Charles Stenholm (D-TX) and Harris Fawell (R-IL), and by Senator Larry Craig (R-ID), respectively. The Stenholm/Fawell/Craig "Davis-Bacon Reform" bill not only raises the Davis-Bacon threshold to a realistic $500,000, but also includes provisions going a lot further toward correcting the onerousness of Davis/Bacon than H.R. 1231/S. 627.

WHY THE DAVIS-BACON ACT SHOULD BE REFORMED

The Davis-Bacon Act poses an historical burden on minorities in the construction industry which continues to this day. The Act has not only kept minorities from advancing as construction contractors and laborers, but has also cost the government huge amounts in excessive federal spending on construction for far too long. The reasons that merit significantly reforming Davis-Bacon are longstanding and agreed upon by most firms in the construction industry, minority and white-owned alike.

1. The Davis-Bacon Act is legally and morally obsolete. Legislative history shows that the Davis-Bacon act was passed during the Depression-era primarily to keep Southern black construction workers from competing with white construction unions on public works projects. The Act's discriminatory origins have effectively blocked minority participation in the construction industry for over 60 years.

Today, Davis-Bacon has the effect of preventing small and minority-owned firms from bidding on public works contracts which comprise at least one-fifth of all construction in the U.S. Davis-Bacon also has the effect of freezing out lower-skilled minority workers from job opportunities in the public works arena, not only at the federal level, but also at the state level, where many "Little Davis-Bacon" Acts are currently in effect.

The constitutionality of Davis-Bacon as it stands is extremely doubtful at best. The Act's original discriminatory intent, coupled with its continuing discriminatory impact, merits repeal by Congress, if not significant anti-discriminatory reform.

2. The Davis-Bacon Act curbs free market competition by effectively eliminating small and disadvantaged firms from bidding on federal construction work. Defenders of Davis-Bacon argue that the Act is necessary to protect local contractors and local labor markets from unfair, itinerant competition. However, the facts do not bear this out. Rather than protecting local contractors from unfair competition, Davis-Bacon has practically fostered a closed group of large contractors who follow federal and federally financed construction work around the country to the exclusion of smaller, local contractors.

Smaller, local contractors who typically cannot pay their workers union-scale are discouraged from bidding on Davis-Bacon work for a number of reasons. First, being forced to pay union-scale on Davis-Bacon work compels smaller contractors to either maintain unreasonably high rates when bidding on private work, or jump back and forth between union and market wage rates, neither approach making good sense in the running of a small business. Second, small local contractors are discouraged from employing lower-skilled workers (often young minorities) for on-the-job training because they cannot justify the rates which they must pay these workers. Third, small local contractors are pressured to keep bidding on Davis-Bacon work to the exclusion of private contracting opportunities because of the cycle of high operating costs into which they are locked after getting into Davis-Bacon work. In short, Davis-Bacon works against small local contractors by effectively removing labor from the competitive bidding process typical of most construction projects. Davis-Bacon creates a two-tiered industry in which small and minority-owned firms are forced to stay away from bidding on federal contracts because of the unnecessarily high business risk involved.

Davis-Bacon not only fails in its claim of protecting local contractors and workers, but also fails in its historical justification of this claim. As mentioned earlier, the Act should properly be recognized as curbing economic liberty for reasons originally having less to do with economics than with racial animus. Even today, minorities remain grossly underrepresented in the unions protected by Davis-Bacon, a fact which many attribute more to the legacy of racism than to the inability of minorities to compete for union positions. It is roughly estimated that the typical construction union minority worker is lucky to be employed more than five or six months out of the year.

3. The Davis-Bacon Act fails to reflect the cross-disciplinary approach to work in today's construction industry. Davis-Bacon requires work assignments and payroll reporting along rigid craft-by-craft lines reminiscent of the 1930s. It fails to reflect industry practice in private sector construction today. The only firms equipped to meet Davis-Bacon's outdated "work rules" are typically large, unionized contractors who, over time, have carved out special departments within their operations specifically tailored for Davis-Bacon work.

Minority-owned firms are particularly affected by Davis-Bacon's outdated work rules because they are typically too small in size and too limited in capital to adjust their operations merely for compliance purposes. Lower skilled minority construction workers also suffer because they are prevented from advancing through on-the-job, learning since they required to be rigidly locked into limited, inflexible scopes of work at the bottom of the employment ladder.

4. The Davis-Bacon Act overburdens the federal government by requiring the Department of Labor to undertake the impractical task of issuing and maintaining accurate wage determinations in numerous localities nationwide. Davis-Bacon has been described as a "Prolific artificial numbers factory." Objective observers, including the General Accounting Office (1979 Study), have found that the sheer volume of administrative work involved in pursuing wage determinations creates an overwhelming burden on the Department of Labor. It is widely assumed that DOL Analysts use or approximate union rates in coming up with ten to twenty thousand wage determinations annually, a significant percentage of which fail to reflect actual prevailing market conditions. Davis-Bacon should be reformed to allow wages to reach equilibrium at realistic rates reflecting true market conditions in the construction industry.

5. The Davis-Bacon Act has an unwarranted negative impact on the federal budget. The Congressional Budget Office estimates that Davis-Bacon adds as much as $900 million a year to federal construction costs. This level of federal spending is an unjustifiable waste of taxpayers' dollars. Davis-Bacon is a wasteful law which should be reformed to save significant tax dollars and free up funding for other pressing federal procurement needs.

WHY NAMC SUPPORTS THE DAVIS-BACON REFORM BILL

NAMC supports H.R. 2042/S. 916 which has been introduced in the House by Representatives Charles Stenholm (D–TX) and Harris Fawell (R–IL), and in the Senate by Senator Larry Craig (R–ID), respectively. The result of a bi-partisan effort, this "Davis-Bacon Reform" bill promises modifications to the Davis-Bacon Act removing its most onerous elements. While many of NAMC's members advocate the outright repeal of Davis-Bacon, NAMC acknowledges that repeal would be unnecessary if Congress would take the kinds of corrective action so urgently needed. The following specific items supported by NAMC are included in the Davis-Bacon Reform bill.

1. The Davis-Bacon Reform bill would increase the Davis-Bacon threshold to contracts involving more than $500,000. The

Davis-Bacon Reform bill exempts from Davis-Bacon federal and federally assisted projects for construction, alteration or repair valued at $500,000 or less. It also proposes a prohibition on contract-splitting to safeguard against potential abuse of this higher threshold.

The $500,000 threshold is significantly better than the bifurcated threshold proposed under H.R. 1231/S.627 (discussed further below). It is not only less confusing, but would open up relevant numbers of small contract opportunities for those small and minority-owned businesses which have typically avoided Davis-Bacon because of its costly and anti-competitive impact.

2. The Davis-Bacon Reform bill would expand the use of helpers in public works contracts. The Davis-Bacon Reform bill opens the door for the expanded use of helpers in federal and federally assisted construction work. The bill defines "helpers" as a separate class of workers for whom the DOL must make appropriate prevailing wage determinations. The bill essentially codifies DOL regulations which have withstood more than ten years of judicial and administrative review. It potentially opens up entry-level opportunities at competitive wage rates not only for minorities but for all lower-skilled workers seeking jobs on federal and federally assisted projects.

3. The Davis-Bacon Reform bill would reduce burdensome paperwork requirements by cutting back on Copeland Act mandated weekly payroll reports. Under the Davis-Bacon bill, current Davis-Bacon requirements for weekly submissions of complete, certified payroll records would be significantly reduced. The bill proposes amending the Copeland Act to require contractors to submit payroll statements "no less often than every 3 months."

The Davis-Bacon Reform bill goes significantly further than H.R. 1231/S. 627 in relieving small and minority-owned businesses from the overwhelming burdens of excessive paperwork.

4. The Davis-Bacon Reform bill would allow for determining "prevailing wages" more accurately to reflect private sector wage rates. The Davis-Bacon Act currently does not define "prevailing wages," but the Davis-Bacon Reform bill codifies a definition that would bring DOL wage determinations more accurately in line with the private sector wage levels of localities nationwide. By requiring the Secretary of Labor to exclude wage rates under federal contracts from its prevailing wage determinations, the Davis-Bacon Reform bill ensures that these determinations will reflect real private sector market rates. Having wage determinations that fall in line with real market rates would allow nonunion and small contracting firms to bid for federal contracts in fair competition with the large unionized construction firms.

5. The Davis-Bacon Reform bill exempts federal prevailing wage requirements from primarily local projects. The Davis-Bacon Reform eases the burden of federal prevailing wage requirements on state and local construction projects by proposing a formula which would apply DOL wage determinations only where federal funding covers at least 25% of a project's cost. This addresses the problem of federal wage rate interference in state and local projects involving low amounts of federal funding.

6. In addition to the above, the Davis-Bacon Reform bill eliminates the current prohibition on the use of volunteers on federally funded projects; reduces the disruptive impact of prevailing wage determinations on contractors in rural areas; and codifies regulations repealing the 30% rule requiring contractors to pay wages at the same rate paid in an area by large union contractors. The combined package offered by the Davis-Bacon Reform bill is significantly more responsive to the needs of small and minority-owned businesses and minority workers than H.R. 1231/S. 627, discussed below. At the same time, the Davis-Bacon Reform bill shows promise of being more palatable to the large, powerful union contractors than the outright repeal of Davis-Bacon.

WHY NAMC OPPOSES H.R. 1231/S. 627

H.R. 1231/S. 627 has been introduced by Representatives Austin Murphy (D–PA) and Bill Ford (D–MI), and by Senator Ted Kennedy (D–MA), in the House and Senate respectively. While the bill appears on its surface to reduce the onerousness of Davis-Bacon by raising the compliance threshold from $2,000 to $100,000, it in fact creates increased burdens on minority-owned companies and workers by expanding the scope of the Act. Following are specific reasons why NAMC opposes H.R. 1231/S. 627.

1. H.R. 1231 proposes a bifurcated increase in the Davis-Bacon threshold which would provide little relief from the Act's currently unfair burden on small and minority-owned businesses and minority workers. Section 2(b)(1) of H.R. 1231 proposes increasing the Davis-Bacon threshold from $2,000 to $100,000 for new construction, and $15,000 for building alternations, repairs, renovations, etc. The potentially positive effect of this new, bifurcated threshold is unfortunately lost on its problematic drawbacks.

In the first place, the new threshold still falls far short of what would be necessary to open up relevant opportunities for market participation by small and minority businesses and lower-skilled workers in government construction. A more realistic, single threshold of $500,000 would allow small businesses to sustain real growth without the drawback of unfair prevailing wage and other burdensome Davis-Bacon requirements. It would also create job openings for lower-skilled workers on construction work funded by the federal government. Such a threshold has been introduced under H.R. 2042/S. 916 proposed by Representatives Charles Stenholm (D–TX) and Harris Fawell (R–ID), and by Senator Larry Craig (R–ID), respectively.

A second reason why the new threshold is a problem is that bifurcation creates a likelihood of high administrative costs both to the government and Davis-Bacon contractors, as well as increased litigation and plain confusion regarding which federal contracts will and will not be affected by Davis-Bacon. A single threshold set reasonably high (e.g. at $500,000) would not only be less confusing than a bifurcated threshold, but would also reduce administrative costs to the government and small businesses along lines tying in to recommendations currently under consideration by the Clinton administration (in the Federal Acquisition Streamlining Act of 1993) regarding contract cost principles and cost and pricing data.

A third reason why the new threshold is a problem is that the "contract bundling" rules written into Section 2(b)(3) of H.R. 1231 could be used by government departments and agencies to combine federal contracts in ways that would make the bifurcated threshold inapplicable. As a result of contract bundling, many small and minority-owned firms could continue to be blocked from taking on Davis-Bacon work otherwise within their capabilities.

A final reason why the new threshold is a problem is that any minor gains by small and minority-owned firms and workers through prevailing wage exemptions under the bifurcated threshold would be practically negated by other, related provisions of H.R. 1231 discussed in items 2 through 7 below.

2. H.R. 1231 practically guarantees prohibitive minimum wage requirements for small and minority-owned businesses by excluding contracts under $100,000 from the Secretary of Labor's prevailing wage determinations. Section 3(b)(1) of H.R. 1231 requires the Secretary of Labor to consider private and government construction contracts alike in making prevailing wage determinations. It further requires the Secretary to exclude contracts below the new bifurcated threshold in its wage determinations. Since smaller, private contracts tend to involve lower wage rates, Section 3(b)(1) requirements would have the effect of driving up the wage levels found to be "prevailing" in any given area.

Small and minority-owned firms currently unable to afford Davis-Bacon rates would continue to be frozen out of the Davis-Bacon market because of unreasonably high DOL prevailing wage rate determinations.

3. H.R. 1231 curbs minority business development and raises federal government costs by eliminating the "site of work" restriction currently in effect under Davis-Bacon. The "site of work" limitation in Davis-Bacon was recently upheld in *Building & Construction Trades Dept. v. Dept. of Labor (Midway Excavators)* 932 F.2d 985 (D.C. Cir. 1991). It ensures that prevailing wage requirements apply only to onsite construction within the geographical confines of a federally financed project. It currently serves to hold back an explosion of litigation regarding the extent to which a wide range of off-site businesses are impacted by Davis-Bacon.

By eliminating the "site of work" limitation, H.R. 1231 risks extending the burden of Davis-Bacon to all kinds of off-site workers tangentially involved in federal construction projects. Small and minority enterprises seeking business opportunities in such areas as manufacturing, material supplies and deliveries would effectively be overwhelmed by the burdens and potential risks of being deemed a falling under Davis-Bacon. The federal government would also be forced to endure an unreasonable and unjustifiable growth in construction costs as a result of excessive prevailing wage requirements spreading to industries (such as steel manufacturing or truck deliveries) never intended by Congress to be covered by Davis-Bacon.

4. H.R. 1231 unduly restricts the use of "helpers" on Davis-Bacon work, thereby freezing lower-skilled workers out of the public works job market. Under Section 2(c)(4), H.R. 1231 defines Davis-Bacon "helpers" as "separate and distinct" from laborers and mechanics, and restricts their use in such a way as to effectively prevent their ability to get hired on Davis-Bacon work, or to advance through on-the-job training if hired.

The effect of H.R. 1231 would be to discourage minority workers, many of whom are unskilled and non-union, from seeking entry level positions in federal construction work. The lower-skilled minority worker unable to command union pay (due to lack of apprenticeship training), and willing to offer services at below-union rates, would be preempted from seeking work altogether for two reasons. First, potential employers would be hard-pressed to find a position for such worker entailing duties completely "separate and distinct" from duties traditionally undertaken by laborers and mechanics. Second, even if such a worker could get

hired, he or she would soon be discouraged upon learning that the law prohibited advancement through on-the-job learning. In the long run H.R. 1231 would entrench unemployment at the lowest rungs of the economic ladder by removing labor from the competitive bidding process on public works contracts. Helpers exist for a legitimate economic purpose well-recognized in the construction industry, and should not be forced by Congress out of the competitive process merely to protect unionized labor.

Congress' recent action prohibiting the DOL from implementing helper regulations promulgated under the Reagan administration would seem to suggest a lack of sensitivity to, or understanding or, the truly harmful effect which Davis-Bacon has had and continues to have on minority businesses and workers. NAMC urges Congress to rigorously review the issue of helpers before taking further steps entrenching Davis-Bacon's onerous effects on minorities and the national economy as a whole.

5. H.R. 1231 fails to rigorously address the paperwork burden imposed by Davis-Bacon on small businesses. The Copeland Anti-Kickback Act of 1934 requires employers on Davis-Bacon contracts to submit complete, certified payroll records to the Department of Labor or its contracting agencies every week. Complying with this requirement mandates significant adjustments for small firms which typically operate on a two-week payroll cycle. The Davis-Bacon paperwork requirement poses an especially harsh burden on minority contractors lacking the required staff or capital needed to ensure compliance.

While H.R. 1231 attempts to alleviate the paperwork burden by requiring monthly rather than weekly payroll reports, this step falls far short of the kind of reform needed for genuine paperwork reduction. The paperwork reduction proposal offered under H.R. 2047 (mentioned earlier) requiring payroll statements "no less than every three months" would address existing Davis-Bacon paperwork burdens more efficiently.

6. H.R. 1231 unnecessarily expands the scope of Davis-Bacon to contracts on leased government facilities, a step which would deter small and minority contractors otherwise seeking to compete for such contracts. Section 2(b)(4) of H.R. 1231 proposes expanding Davis-Bacon to cover construction, renovation, alteration or other work on buildings leased by the federal government under lease agreements requiring such work. By expanding Davis-Bacon to cover such facilities, H.R. 1231 would negatively impact small and minority firms, as well as the federal government. Davis-Bacon currently poses sufficient hardship to small and minority contractors without being extended to contracts involving leased government facilities.

7. H.R. 1231 leaves the door open for abuse and costly litigation by expanding Davis-Bacon's scope and coverage without rigorously addressing the Act's overly harsh impact on small and minority-owned firms and minority workers. By expanding the already overly burdensome Davis-Bacon Act, H.R. 1231 would most likely create a climate of legal and regulatory noncompliance by firms incapable of meeting its requirements. Furthermore, cumbersome provisions in Section 4 allowing laborers, mechanics and "interested persons" to file challenges against the DOL and/or Davis-Bacon contractors would encourage all kinds of costly litigation on provisions in Sections 2 and 3 of the bill relating to such issues as state wage law preemptions, wage/fringe benefit combinations, ERISA preemption, multiple contract bundling, and helper classifications. The potential costs of such litigation far outweigh any possible benefits which H.R. 1231 could have as it currently stands.

CONCLUSION

While many of NAMC's members advocate repealing the Davis-Bacon Act, NAMC supports H.R. 2042/S. 916 because of the serious effort this bill makes in addressing the most onerous aspects of Davis-Bacon. The Davis-Bacon Reform bill is significantly more tolerable than H.R. 1231/S. 627, which, for the most part, attempts to expand Davis-Bacon without paying sufficient attention to the harmful effects this would have on the economy as a whole, and on small-business concerns and minorities in particular.

Congress' recent vote prohibiting the DOL from implementing helper regulations promulgated under the Reagan administration would seem to suggest a lack of information or real understanding of the truly harmful effect which Davis-Bacon has had, and continues to have, on small and minority-owned businesses and minority workers. NAMC calls on President Clinton and Congress to conduct a rigorous review of the plight of all small and minority-owned construction firms and minority construction workers before taking steps further entrenching Davis-Bacon's onerous effects on the national economy.

Mr. CRAIG. Clearly, Mr. President, that is what we are talking about in part here.

But let us back up and remember what we are saying here. We are talking about around $400 million of Federal grants to improve educational facilities in limited ways, to maximize and leverage local dollars, school board dollars, State tax dollars, to make sure that poor kids and not-so-poor kids can have the very best educational facilities available, and why should we penalize them by an antiquated law. That is what we are talking about.

Recognizing that my time is probably very nearly up, as we vote on this, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. MOSELEY-BRAUN. Mr. President, I rise today in opposition to the amendment introduced by my colleague from Idaho. This amendment, which the Senate Labor and Human Resources Committee defeated by a vote of 12–5 on June 15, 1994, would weaken the fair wages provision in title XV of S. 1513—the Improving America's Schools Act.

Mr. President, title XV would authorize the Secretary of Education to allocate $400 million directly to local school districts in fiscal year 1995 for the repair, renovation, alteration, and construction of public elementary and secondary school facilities.

In order to ensure that workers on these federally funded projects receive at least the prevailing wage in their locality for their kind of work, this title includes a fair wages provision that would direct local school districts to meet the requirements in the Davis-Bacon Act.

I support the fair wages provision in title XV of S. 1513 not only because it protects workers, but also because it provides important safeguards for businesses, taxpayers, and the Federal Government.

The Davis-Bacon Act has enjoyed strong bipartisan support since its enactment in 1931. While many of the act's most ardent supporters have traditionally been Democrats, this legislation was originally introduced by a Republican Representative from New York, Robert Bacon, and signed into law by a Republican President, Herbert Hoover.

Contracting practices in the 1930's required Federal projects to accept the "lowest responsible bid." The concept of responsibility, however, did not include the consideration of wages and working conditions. Thus, the question arose as to whether the Federal Government was "willing for the sake of the lowest bidder to break down all labor standards and have its work done by the cheapest labor that can be shipped from State to State."

During the debate on the Davis-Bacon Act, the Secretary of Labor, William Doak, noted that contracting practices in 1931 were "not only disturbing to labor but disturbing to the business community as well."

In the committee report on the Davis-Bacon Act, Robert Lafollette, Republican Senator from Wisconsin, stated that:

> The measure does not require the Government to establish any new wage scales in any portion of the country. It merely gives the Government the power to require its contractors to pay their employees the prevailing wage scales in the vicinity of the building projects. This is fair and just to the employees, the contractors, and the Government alike.

A similar report was filed by Richard Welch, a Republican Representative from California, for the House Committee on Labor.

Mr. President, as I have already said, the Davis-Bacon Act not only protects workers, it also protects businesses, taxpayers, and the Federal Government.

By promoting fair wages, the Davis-Bacon Act ensures that the workers on federally funded projects receive at least the prevailing wage in their locality for their kind of work.

By promoting fair wages, the Davis-Bacon Act gives local businesses a fair chance to compete for Government projects on the basis of skill and efficiency, rather than losing this work to disreputable competitors who would underbid by paying substandard wages.

By promoting fair wages, the Davis-Bacon Act protects taxpayers and the Federal Government from fly-by-night contractors whose substandard wages

would attract substandard workers and result in shoddy construction work, requiring still more tax dollars for higher repair costs and additional maintenance over the life of the project.

Mr. President, the Davis-Bacon Act is as important in the 1990's as it was in the 1930's. Last year, three researchers at the University of Utah found that the repeal of the Utah State prevailing wage law "accelerated the decline in the union share of the State's construction labor market, drove down average construction wages in the State, and decreased union apprenticeship training for construction"—a decrease which was not offset by other public or private training funding.

The NAACP recognized the importance of the Davis-Bacon Act last year by passing the following resolution at its annual convention:

Whereas, people of color have entered the construction industry in increasing numbers in the past. Today, they are threatened with the loss of many of the economic and social gains made over the last several years; and,

Whereas, the Davis-Bacon Act of 1931 protects the wages of all construction workers, including minorities and women, who are particularly vulnerable to exploitation; and,

Whereas, shocking examples of the exploitation of minorities and female workers on the construction site, even in the face of the Davis-Bacon Act, the law designed to prohibit such exploitation, are legion; and, therefore, be it

Resolved, that the NAACP supports the Davis-Bacon Act, takes steps to strengthen its enforcement, and supports the creation of opportunities through training and apprenticeship programs.

I would also like to submit a letter from the AFL–CIO in support of the Davis-Bacon Act.

Mr. President, Senator KENNEDY recently introduced S. 627 which includes a comprehensive series of amendments to the Davis-Bacon Act. This bill presents a fair and balanced approach to the issues that have been raised in the course of our debates over this important statute. I firmly believe that the amendment offered today by my colleague from Idaho regarding the Davis-Bacon Act should be considered during the debate on S. 627 and not during the debate on the reauthorization of the Elementary and Secondary Education Act [ESEA].

Mr. President, I would like to conclude my remarks by urging my colleagues to support fair wages for the men and women who build our bridges, our highways, our hospitals, and our schools by opposing this amendment.

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

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, July 29, 1994.

DEAR SENATOR: It is our understanding that sometime later today Senator Larry Craig (R–ID) will offer a very damaging amendment to remove the Davis Bacon provisions that are contained in the infrastructure education portion of S. 1513. Improving America's Schools Act of 1993. The construction authorized by Senator Carol Moseley-Braun language is very important to the infrastructure needs of American education system. The David Bacon language that Senator Craig is attempting to remove from Senator Moseley-Braun amendment is the normal Davis Bacon language that applies to federal construction. It is the same Davis Bacon language that exists in over 60 other federal states that provide federally funded construction monies.

It should be noteworthy for those Senators who are interested in across-the-board Davis Bacon reform that just today the Senate Labor Committee held a hearing on legislation to provide across-the-board Davis Bacon reform. It is our hope that across the board Davis Bacon reform legislation can hopefully move to the Senate floor in the near future. In summary, we urge the defeat of the Craig amendment and we urge the retention of the traditional Davis Bacon language that has been incorporated into S. 1513.

Sincerely,

ROBERT M. MCGLOTTEN, *Director, Department of Legislation.*

Mr. SIMPSON. Mr. President, I rise in strong support of the Craig amendment. This amendment, Mr. President, merely ensures that Federal dollars spent on improving our Nation's schools will be spent as wisely as possible. It is designed to enable our schools to get the most for the dollars they spend.

In many rural areas, Davis-Bacon adds extra costs to public works construction. That, in turn effectively keeps smaller contractors from competing with larger operations. In addition, the Davis-Bacon requirements increase construction costs in disadvantaged communities. This is blatantly unfair.

During consideration of the safe drinking water bill, I offered an amendment exempting disadvantaged communities from Davis-Bacon. It was simply an attempt to level the playing field for contractors from small communities, who so often cannot afford to meet expensive wage requirements. This includes communities in both rural and urban locations.

In the bill we are debating today, educational grants are destined to go to the local educational agencies with the greatest needs. These tend to be extremely rural and extremely urban areas. These truly are our disadvantaged communities.

When it comes to rural areas, Davis-Bacon is a plain raw deal. Nationally, Davis-Bacon adds 3.1 percent to total construction costs. But in rural areas, Davis-Bacon increases construction costs by nearly 40 percent. This is true because of the wage differentials. It should surprise no one that in the most rural sections of this country, wages are not as high as they are in the rest of the country. Wages don't have to be as high and there are many good reasons for that.

I hope that my colleagues from agricultural and rural States will understand that every time a Senator representing an "Ag State" votes to strengthen or to preserve Davis-Bacon, that Senator is also voting to injure the competitive position of small contractors in the disadvantaged communities at home.

Davis-Bacon has been harshly criticized by most rural and inner-city groups. Among such critics is the National School Boards Association. Others include the U.S. Hispanic Chamber of Commerce, National Center for Neighborhood Enterprise, National Association of Counties, National League of Cities, National Association of House and Redevelopment Officials, National Taxpayers Union, and the American Farm Bureau.

The Congressional Budget Office has told us on more than one occasion that Davis-Bacon has an inflationary effect on private construction costs, not to mention Federal spending. Moreover, the Government Accounting Office has called for a complete repeal of Davis-Bacon, because we waste a billion bucks each year as a result of this law.

This amendment, however, doesn't even come close to repeal. I think it is so important to point out that under this amendment, only those projects that receive more than 25 percent of their funding from the Federal Government would be subject to Davis-Bacon.

Mr. President, this is a fairness issue. At a certain point, even supporters of Davis-Bacon must realize that applying it to financially strapped schools is counterproductive. Schools in disadvantaged areas cannot even afford textbooks and pencils for every student, yet some think it is just fine to spend 40 percent more than we have to on school construction. It truly defies common sense.

Why should we penalize those communities that most need financial relief? If we want to give them more bang for the buck, we should exempt them from Davis-Bacon requirements as another means of financial assistance. These communities need our help.

So, with that in mind, I would hope that each and every Senator will find it very easy to support this reasonable and modest attempt to do more to improve our Nation's deteriorating school systems and provide a much-needed dose of economic stimulus to our disadvantaged communities.

Mr. KOHL. Mr. President, I rise today in opposition to the amendment to the Improving America's Schools Act proposed by the Senator from Idaho. The Davis-Bacon Act has successfully protected construction workers from exploitation for over 60 years. During this time, Congress has considered many proposals to amend the Davis-Bacon Act. The current proposal put forth by the Senator from Idaho merely represents a piecemeal approach to reforming the act. While I believe that the Davis-Bacon Act needs

to be reformed, I cannot support a piecemeal approach to this objective.

During the tenure of the Davis-Bacon Act, many working-class families in this country have come to depend upon this law to protect their wage standards; any legislation which seeks to compromise this protection would compromise their well-being. Also, by paying the prevailing wage, the Federal Government is able to hire skilled workers, workers whose competency results in higher quality construction and thus, long-term savings.

If we are going to reform the Davis-Bacon Act, we should do it right. We need broad-based, concrete Davis-Bacon reform. Reform that will modernize the application of the act, improve the administration and enforcement of the act, and most importantly, ensure continued prevailing wage protection for construction workers. The piecemeal amendment proposed by the Senator from Idaho merely seeks to circumvent the principles prescribed by the Davis-Bacon Act.

When considering Davis-Bacon reform, we must look at the whole picture and address the areas in need all at once. It is for this reason that I rise in opposition to this amendment.

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

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. KENNEDY. Mr. President, I again want to thank the Senators from Idaho for their courtesy and their accommodation of working this amendment through, and their willingness to enter into a time agreement. Important hearings are taking place and the Senator has been extremely cooperative in being willing to permit the vote on his amendment.

We will have a vote, up or down, on the amendment, hopefully, after the Senate has had consideration of the Kassebaum amendment that is going to deal with the vocational education regulations. We want to give the assurance that we will have it, hopefully, in a timely way.

What we are trying to do, at least in spirit, is to conform to what was agreed to by the two leaders last evening, and that is to address these remaining items during the course of the morning and permit the hearing process to move through.

So I am very grateful to them for that. I want to give the assurance that, no matter how this comes out, we will be, I am sure, working with the Senator from Idaho and others who are concerned about this.

Mr. JEFFORDS. May I inquire of the Senator, what is the Senator's intention? Are we going to lay this aside?

Mr. KENNEDY. We would then lay this aside. I understand Senator KASSEBAUM will be on the floor momentarily and we will address her particular amendment, and then we will consult with her, as well as Senator CRAIG, and work out the time for the resolution of both of those amendments, which I suspect will be later in the morning.

The PRESIDING OFFICER. Is there objection to laying the amendment aside?

Mr. CRAIG. Reserving the right to object, would the chairman yield?

Mr. KENNEDY. Yes.

Mr. CRAIG. My understanding is the Kassebaum amendment will be debated, and then you will stack these votes together, both this amendment and the Kassebaum amendment?

Mr. KENNEDY. Yes.

Mr. CRAIG. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

Mr. KENNEDY. Mr. President, what basically we are looking at is the Kassebaum amendment. I have been informed by Senator HUTCHISON that she will introduce an amendment dealing with the Women's Equity Provisions that are included in the legislation. We will come back at some time in the later morning to the Smith amendment that has been amended and will be open, as I understand it, to additional potential amendments.

So we again invite our colleagues—we are not inviting them to submit more amendments, but we do indicate, at least from the floor managers' position, that is the way we are going to proceed. We are going to try to do that in as expeditious a way as possible so the Senate can move on to a very important appropriations bill and other business.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2438

(Purpose: To temporarily prohibit the promulgation of new regulations to carry out the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1990)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 2438.

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

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

The amendment is as follows:

At the end of title IV of the bill, insert the following new section:

SEC. . CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Notwithstanding any other provision of law, beginning on June 1, 1994, and ending on the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), the Secretary shall not issue any new final regulations to implement such Act.

Mrs. KASSEBAUM. Mr. President, I am offering this amendment to avoid an unnecessary, premature, and potentially devastating change in policy for vocational education programs by the Department of Education. The amendment prohibits the Secretary of Education from issuing any new final regulations to implement the Carl D. Perkins Vocational and Applied Technology Education Act until the completion of the reauthorization of that law.

If I may just explain for a moment what brings me to this point—I think it is of concern to some of my colleagues who will wish to speak to it briefly.

When the vocational education law was reauthorized in 1990 there was substantial debate over the degree to which special population students should have access to vocational education. Some wanted to mandate that these students have access to these programs and be provided the supplementary services that they would need to participate fully.

The Department interpreted the law to require States to provide services to special population students in federally-funded programs. This was consistent with my position on this issue and, I think, that of a number of others. I believe States should not be required to offer the full range of services across all vocational education programs, but only those programs that were federally funded should offer full access.

The Department is now facing a lawsuit by several groups that represent special populations who allege the current regulations prohibit equitable participation for them. Department officials have indicated that they hope to settle the lawsuit if they change their interpretation of these regulations to require that States provide these services in all programs, not just federally funded programs.

However, changing the regulations at this time, I would argue, is inappropriate for several reasons.

First, we will reauthorize the Perkins Act next year and will look at this issue more comprehensively during that process. The issue of whether disabled and disadvantaged students have access to quality vocational education programs and whether they have the support they need to succeed in these programs will certainly be examined in detail during that reauthorization. It simply does not make sense, I believe, Mr. President, to make a change of this magnitude—and it is significant—through the regulatory process when the law may change in a year.

Second, this change would represent a new unfunded Federal mandate on States which will have to use State

funds to supplement insufficient Federal funds to provide these services. This is a violation of the President's Executive Order 12875 on Enhancing the Intergovernmental Partnership, since it would impose a regulatory change on States without providing the funds necessary to pay direct costs incurred by the State or local governments in complying with the mandate.

The Department has asserted that these costs could be supported by other Federal programs, such as the Individuals with Disabilities Education Act [IDEA], or the Elementary and Secondary Education Act that we are debating now. This is a rather presumptuous claim, I think, since our promise to fund 40 percent of IDEA costs has never been fulfilled either. So to assume there would be more money there, I think, adds insult to injury.

Third, the National Assessment of Vocational Education indicates that:

> Special population students * * * are overrepresented in secondary vocational education. In 1992, the 34 percent of all high school graduates who were members of special population groups earned 43 percent of all vocational credits. Special population students are a somewhat larger proportion of all vocational students now than they were 10 years ago, and higher achieving students are a smaller proportion.

It seems the Department's premise that disabled and disadvantaged students do not have access to vocational programs has been discounted by the Department's own report. While overall vocational enrollments have declined, the percentages of special population students enrolled in these programs have increased.

Fourth, States have just turned in their State plans under Perkins. The deadline was May 1. The State review and approval process is extensive and requires evaluation of the State vocational technical system, 60-day reviews by interested organizations and public hearings before the plan is forwarded to Washington. A change in the regulations now would require each State to submit revised plans. The State Directors of Vocational and Technical Education estimate that the additional review, revision and public comment periods will cost each State $100,000, or $5 million across the country. These funds would be much better spent on providing program and student services.

Fifth, this change would cause unwarranted confusion and program disruption at the local level.

Mr. President, I am a strong supporter of vocational education programs. I am a strong supporter of making certain that access is available to all. But I think allowing these regs to go forward at this time, without giving the necessary thought to the reassessment costs, when we will be reauthorizing the Carl Perkins legislation next year, is the wrong step to take. I hope my colleagues will join me in support of this amendment.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, this amendment is an amendment that would effectively prohibit the Department of Education from issuing any new final regulations on the Perkins Act. The issue is that after the last reauthorization in 1990, the Bush administration issued regulations that did not include the participation of special needs children in the program and the Clinton administration is issuing regulations to correct the situation. So Senator KASSEBAUM, I believe on behalf of herself and Senator COCHRAN, is offering this amendment. They will call it, effectively, an unfunded mandate.

I will oppose the amendment. I will refer in just a moment to the Department of Education's letter expressing their strong opposition. This amendment would interfere with the Department's authority to carry out the provisions of the Perkins Act as intended by the Congress.

The regulations themselves are in no way an unfunded mandate. They are, rather, the steps the Department is taking to make sure that special populations have access they need to the Perkins-funded programs. In the funded programs, we want to make sure the special needs children are going to have access to those programs.

The legislation of 1990 was very clear about its intention, having all students included in these programs. The evidence we have shows that they are left out. So there was a clear intention they be included in the program and clear evidence they are not participating in the program, and it justifies the reasons for the regulations themselves.

The most recent National Assessment of Vocational Education report shows the problem is most serious at the secondary school level, where the special needs and limited English proficient students are not being included in the technical careers.

I will include in the RECORD the list of the various groups, the 30 organizations representing students and educators, who oppose the regulations as proposed by the Department of Education in 1991.

I ask unanimous consent it be printed at this point in the RECORD.

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

Alternative Schools Network.
American Association of University Women.
American Foundation for the Blind.
The Arc (formally the Association for Retarded Citizens).
ASPIRA Association, Inc.
American Occupational Therapy Association.
Center for Law and Education.
Center for Law and Social Policy.
Council for Exceptional Children.
Division on Career Development, Council for Exceptional Children.
Education Law Center—New Jersey.
Education Law Center—Pennsylvania.
Epilepsy Foundation of America.
Learning Disabilities Association.
Mexican American Legal Defense and Educational Fund.
National Association for Bilingual Education.
National Association of Developmental Disabilities Councils.
National Association of Vocational Assessment in Education.
National Association of Vocational Education Special Needs Personnel.
National Coalition of Title I/Chapter 1 Parents National Council of La Raza.
National Head Injury Foundation.
National NAACP.
National Puerto Rican Coalition.
National Rehabilitation Association.
National Urban Coalition.
National Urban League.
Spina Bifida Association of America.
The Association for Persons with Severe Handicaps.
United Cerebral Palsy Association.
Vocational Evaluation and Work Adjustment Association.

Mr. KENNEDY. Mr. President, these are some of the groups who have been most involved in terms of the development of the legislation and the approach of Congress.

I will just reference the letter from Secretary Riley. I ask unanimous consent it be printed in the RECORD.

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

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY,
July 13, 1994.

Hon. NANCY LANDON KASSEBAUM,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR NANCY: Thank you for your letter of May 31, 1994 about possible changes to the regulations implementing the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act). I hope you will excuse the delay in my reply.

Your letter specifically referred to the provisions of the regulations that pertain to services for special populations. You expressed concerns that the possible changes would far exceed the scope of the federal law, create an "unfunded federal mandate" in violation of Executive Order 12875, turn the Perkins Act into a civil rights statute, and because of the timing, create unwarranted confusion and disruption, especially with the reauthorization process coming in the near future.

The concerns raised in your letter are very important and I gave them full consideration in developing and transmitting possible revisions to the regulations to the Office of Management and Budget (OMB) for review. Let me assure you that the concerns that you and others have raised will continue to receive our attention as we consider whether to change the regulations.

As Department staff indicated in meetings with several Congressional staff members, and in consultations with representatives of various interested parties, the Department is concerned about the way in which the current regulations have been working, especially with regard to the provision of services to special population students. Under the current regulations, we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable

opportunity to succeed. We are concerned that the current regulatory provisions on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

As you know, representatives of members of special populations have filed suit against the Department, challenging the current regulations governing full participation and supplementary services as denying special populations access to high-quality vocational education programs. *National Puerto Rican Coalition v. Riley*, Civ. Action No. 92-2905 (D.C.C. filed Dec. 30, 1992). We believe that the statute is ambiguous and the current regulations are legally supportable. However, we are concerned about the policy embodied in the current regulations governing full participation, whether that policy best carries out Congressional purpose, and how that policy may contribute to some of the problems with access and success in vocational education for special populations.

Under the revised provision being considered, the requirement that a recipient of funds under Title II, Part C of the Perkins Act provide for the full participation of members of special populations, including the provision of supplementary services, would apply to the recipient's entire vocational education program, not merely its projects funded by the Perkins Act. This possible change is consistent with one of the Congressional purposes in enacting the Perkins Act—namely, assuring that students who are economically disadvantaged, students of limited English proficiency, students with disabilities, and women have access to vocational education and any special services they need in order to succeed. The change being considered would address concerns that special population students are poorly served in many vocational education programs. I believe that changes to address these concerns should be considered before the reauthorization takes effect, which is likely to be more than two years away.

We are very sensitive to the issues expressed in your letter. As a former governor, I am aware of and share many of the current concerns about "unfunded mandates." In that regard, we have been careful to ensure that changes under consideration are consistent with the Executive Order on unfunded mandates and will not create a new civil right, in the sense that there will not be a new individual entitlement to services. We fully share your concern that any change be consistent with the statute and minimize disruption to the program. I hope that you will carefully review the changes, if they are proposed, and consider how they address the needs of students, as well as the concerns expressed in your letter.

We initiated the meetings with Congressional staff and other interested parties to ensure that we had public input on these important issues before we finally decide whether to propose changes to the regulations. We have carefully considered the comments we received, including your letter, before transmitting the possible changes to the regulations to OMB for review. If we decide to propose changes to the regulations, we will particularly invite public comment on the important issues you and others have raised. Section 504 of the Perkins Act required regional meetings and a negotiated rulemaking process only for the issuance of initial regulations issued under the Perkins Act, and we do not anticipate conducting negotiated rulemaking on the possible changes described above. The consultative process that we have initiated and the opportunity for public comment will serve similar purposes. Moreover, through public comment, we will ensure that we have heard from all interested parties before any final decision is made to change the regulations. I can assure you that any rulemaking process we conduct on this matter will be meaningful, and that all comments received will be carefully reviewed and considered.

Thank you for sharing your views on these important issues with me. If I can provide further assistance to you, please contact me.

Yours sincerely,

RICHARD W. RILEY.

Mr. KENNEDY. Mr. President, I will just read part of the letter. It says:

DEAR NANCY: Thank you for your letter of May 31, 1994 about possible changes to the regulations implementing the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act). I hope you will excuse the delay in my reply.

Your letter specifically referred to the provisions of the regulations that pertain to services for special populations. You expressed concerns that the possible changes would far exceed the scope of the federal law, create an "unfunded federal mandate" in violation of Executive Order 12875, turn the Perkins Act into a civil rights statute, and because of the timing, create unwarranted confusion and disruption, especially with the reauthorization process coming in the near future.

The concerns raised in your letter are very important and I gave them full consideration in developing and transmitting possible revisions to the regulations to the Office of Management and Budget (OMB) for review. Let me assure you that the concerns that you and others have raised will continue to receive our attention as we consider whether to change the regulations.

As Department staff indicated in meetings with several Congressional staff members, and in consultations with representatives of various interested parties, the Department is concerned about the way in which the current regulations have been working, especially with regard to the provision of services to special population students.

This is the important part:

Under the current regulations, we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable opportunity to succeed. We are concerned that the current regulatory provisions on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

The letter continues with the reasons for that particular conclusion.

I hope after we do have an opportunity to hear from Senator HARKIN, who is our chairman of the committee dealing with special needs, that this amendment will not be accepted.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I join Senator KASSEBAUM in urging the Senate to approve this amendment. She has very adequately stated the reasons for adopting the amendment. I simply want to add a word of support for the effort she is making by offering the amendment and calling the attention of the Senate to this important need. It is a need to come to the rescue of local administrators who are wrestling with the challenge of trying to spread too few dollars over too many needs at the local level.

What the Department of Education is purporting to do by issuing these regulations is to put another mandate, another requirement, another directive on the backs of local administrators to tell them how to use their money. There is no Federal funding that goes along with this new regulation that is proposed to be implemented, but there is the force of law that would require them to channel their funds into yet another Federal program.

The Federal effort is, of course, to make available to disadvantaged populations, or so-called special populations, the benefits of vocational education.

One thing needs to be pointed out, though. Local administrators and local officials have made giant strides to make accessible and available to these special populations the benefits of vocational education. GAO, for example, in a 1993 report says that 60 percent of those in vocational education programs now come from these special populations.

So the question has to be asked today: If the purpose of the new Federal regulation that is being proposed is to encourage more participation, it seems that local administrators have done a great deal to achieve that goal. Of course, we hope that more can be achieved, but to impose a new affirmative action requirement from the Federal Government at this time in an area of the law that comes up for reauthorization next year seems to be getting the cart before the horse.

If we have a reauthorization program approved by the Congress next year which has new requirements in it, then, of course, the Department is going to have to implement those requirements through regulations. What the Senator from Kansas is saying is, why saddle the local and State officials now at this late hour in the life of this Perkins vocational education bill with a new requirement that is unfunded when we are just about to begin hearings in the Labor and Human Resources Committee to determine what changes need to be made in the law?

If these changes need to be made, let us reauthorize it, let us spell it out in the law, but let us not sit back while the Department overregulates the State administrators with requirements that will cost them money. It will make them less able to deal with the challenges that they face in other areas in vocational education.

I know others know more about this subject than I do. It seems to me to make perfectly good sense to adopt the amendment of the Senator from Kansas, and I hope the Senate will do so.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I regret that I must oppose the amendment offered by the Senator from Kansas. Senator KASSEBAUM's amendment would preclude the Department of Education from issuing any new final regulations to implement the Carl D. Perkins Vocational and Applied Technology Education Act.

Mr. President, the Department has proposed changes in Perkins Act regulations pertaining to services for special populations. These regulatory changes are urgently needed to ensure that students with special needs have access to vocational and applied technology programs in our Nation's schools. I commend the Secretary for taking the initiative to pursue these changes. They are necessary changes and I wholeheartedly support them.

When we reauthorized the Perkins Act in 1990, we gave particular attention to enhancing services for special populations. Indeed, both houses of Congress included language to accomplish this critical objective in their respective bills. For instance, the House bill contained requirements for State level assurances and for local assurances that special populations would be served. Further, the House bill required State Boards to assure that such populations have access to programs and that individuals with handicaps be served in conformity with the Education of the Handicapped Act and section 504 of the Rehabilitation Act. The House bill required that each school district and institution of higher education assure that the special needs of students would be met in an integrated setting. The Senate agreed to include these requirements in the final bill.

The Senate bill specified that the special populations to be served include: The economically disadvantaged, individuals with disabilities, individuals who participate in programs designed to eliminate gender bias and stereotyping in vocational education, students of limited-English proficiency, economically disadvantaged adults, and criminal offenders—both juveniles and adults—who are serving in correctional institutions. The House agreed to include this definition of special populations in the final bill.

Mr. President, I could go on at great length describing the additional provisions we included in the 1990 reauthorization measure to ensure that special populations would have access to vocational and technical education services. The legislative history on this question is clear: Congress intended that individuals with special needs be served.

Unfortunately, the Perkins Act regulations developed under the previous administration do not adequately address the needs of these special populations. For this reason, this administration appropriately seeks to change the regulations.

As Secretary Riley wrote in his letter of July 13 to Senator KASSEBAUM,

> * * * we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable opportunity to succeed. We are concerned that the current regulatory provision on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

Clearly, we cannot permit this deplorable situation to continue.

As Secretary Riley points out in his letter, the Department initiated meetings with congressional staff and other interested parties to seek input prior to deciding whether to propose changes to the regulations. The Department is continuing to solicit comments on its proposed regulations prior to developing final regulations. The regulatory process is proceeding as it should and I see no reason for Congress to interfere in that process.

Mr. President, I ask unanimous consent that the full text of Secretary Riley's letter to Senator KASSEBAUM be printed in the RECORD.

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

U.S. DEPARTMENT OF EDUCATION,
Washington, DC, July 13, 1994.

Hon. NANCY LANDON KASSEBAUM,
Ranking Republican, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR NANCY: Thank you for your letter of May 31, 1994 about possible changes to the regulations implementing the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act). I hope you will excuse the delay in my reply.

Your letter specifically referred to the provisions of the regulations that pertain to services for special populations. You expressed concerns that the possible changes would far exceed the scope of the federal law, create an "unfunded federal mandate" in violation of Executive Order 12875, turn the Perkins Act into a civil rights statute, and because of the timing, create unwarranted confusion and disruption, especially with the reauthorization process coming in the near future.

The concerns raised in your letter are very important and I gave them full consideration in developing and transmitting possible revisions to the regulations to the Office of Management and Budget (OMB) for review. Let me assure you that the concerns that you and others have raised will continue to receive our attention as we consider whether to change the regulations.

As Department staff indicated in meeting with several Congressional staff members, and in consultations with representatives of various interested parties, the Department is concerned about the way in which the current regulations have been working, especially with regard to the provision of services to special population students. Under the current regulations, we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable opportunity to succeed. We are concerned that the current regulatory provisions on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

As you know, representatives of members of special populations have filed suit against the Department, challenging the current regulations governing full participation and supplementary services as denying special populations access to high-quality vocational education programs. *National Puerto Rican Coalition v. Riley*, Civ. Action No. 92-2905 (D.D.C. filed Dec. 30, 1992). We believe that the statute is ambiguous and the current regulations are legally supportable. However, we are concerned about the policy embodied in the current regulations governing full participation, whether that policy best carries out Congressional purpose, and how that policy may contribute to some of the problems with access and success in vocational education for special populations.

Under the revised provision being considered, the requirement that a recipient of funds under Title II, Part C of the Perkins Act provide for the full participation of members of special populations, including the provision of supplementary services, would apply to the recipient's entire vocational education program, not merely its projects funded by the Perkins Act. This possible change is consistent with one of the Congressional purposes in enacting the Perkins Act—namely, assuring that students who are economically disadvantaged, students of limited English proficiency, students with disabilities, and women have access to vocational education and any special services they need in order to succeed. The change being considered would address concerns that special population students are poorly served in many vocational education programs. I believe that changes to address these concerns should be considered before the reauthorization takes effect, which is likely to be more than two years away.

We are very sensitive to the issues expressed in your letter. As a former governor, I am aware of and share many of the current concerns about "unfunded mandates." In that regard, we have been careful to ensure that changes under consideration are consistent with the Executive Order on unfunded mandates and will not create a new civil right, in the sense that there will not be a new individual entitlement to services. We fully share your concern that any change be consistent with the statute and minimize disruption to the program. I hope that you will carefully review the changes, if they are proposed, and consider how they address the needs of students, as well as the concerns expressed in your letter.

We initiated the meetings with Congressional staff and other interested parties to ensure that we had public input on these important issues before we finally decide whether to propose changes to the regulations. We have carefully considered the comments we received, including your letter, before transmitting the possible changes to the regulations to OMB for review. If we decide to propose changes to the regulations, we will particularly invite public comment on the important issues you and others have raised. Section 504 of the Perkins Act required regional meetings and a negotiated rulemaking process only for the issuance of initial regulations issued under the Perkins Act, and we do not anticipate conducting negotiated rulemaking on the possible changes

described above. The consultative process that we have initiated and the opportunity for public comment will serve similar purposes. Moreover, through public comment, we will ensure that we have heard from all interested parties before any final decision is made to change the regulations. I can assure you that any rulemaking process we conduct on this matter will be meaningful, and that all comments received will be carefully reviewed and considered.

Thank you for sharing your views on these important issues with me. If I can provide further assistance to you, please contact me.

Yours sincerely,

RICHARD W. RILEY,
Secretary.

Mr. JEFFORDS. Mr. President, I rise in support of the amendment offered by my colleague from Kansas. The amendment before us is very simple. It precludes the Department of Education from issuing new regulations before Congress reauthorizes the Carl Perkins Vocational and Applied Technology Education Act.

Let me briefly explain the reasons for my support. The current vocational education regulations require federally funded vocational programs to provide services to special populations. These regulations have been in effect since the 1990 law was enacted. The administration is now proposing to change those regulations and require that all vocational programs, regardless of whether they receive Federal funds, provide services to special populations.

Clearly, it is important that special populations be accommodated in every school and in every program. There is no question but that we must provide all populations with equal opportunities.

However, there are three sound reasons why changing the regulations is not a good idea at this time.

First, the Perkins Act is due to be reauthorized next year. That is an appropriate vehicle on which to debate and analyze the issue and determine whether a change in policy is necessary at that time. Changing the policy in midstream after the States just submitted their May 1 plan is both unfair and unwise public policy.

Second, the change represents a stretch of Federal authority into the locally controlled school policy. We may be able to govern the way in which Federal funds are used but we should not be in the business of dictating to local educational agencies how to spend their own funds or how to structure their own programs.

Finally—and this is the most important one—there is no evidence that the policy needs to be changed or that special needs populations are left out of vocational programs. It is quite the contrary. In a recent report by the National Assessment of Vocational Education, it states that "At the local level the evidence strongly suggests the Perkins funding improves service provision for vocational special needs students." The report provides every indication that special needs populations are being adequately, if not overly, served in vocational programs. The report cautions against making Perkins the dumping ground for special needs students and instead encourages a stronger emphasis on guidance and counseling for these students. There is a tendency, unfortunately, in many areas to overly use Perkins for this purpose and not allow the special needs students to get better training for their purposes than perhaps the Perkins program may provide. So clearly changing the policy at this time does not make sense.

For these reasons and the others stated by my colleague from Kansas, I urge my colleagues to support the Kassebaum amendment.

Mr. SIMON. Mr. President, my colleague from Vermont says changing the policy at this point does not make sense. And if we were changing policy, I would agree. What the Secretary of Education is doing is to bring the policy in the regulations in line with the law that we passed.

In 1990, special populations—specifically economically disadvantaged students, students of limited English proficiency, women, men, and women who sought education and training opportunities in areas previously stereotyped as women's programs or men's programs, and finally students with disabilities—were a major focus.

After the Secretary of Education from your State, Mr. President, Lamar Alexander, issued the regulations, six of us wrote a letter to him protesting those regulations, that they did not do what the law required. Congressman FORD, Congressman MARTINEZ, Congressman MILLER, Senator KENNEDY, Senator PELL, and I sent this letter. I ask unanimous consent that the letter be printed in the RECORD.

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

COMMITTEE ON EDUCATION AND LABOR,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 10, 1991.

Hon. LAMAR ALEXANDER,
Secretary, U.S. Department of Education, Washington, DC.

DEAR MR. SECRETARY: We are writing regarding the recently published proposed regulations on the Carl D. Perkins Vocational and Applied Technology Education Act of 1990. We have several concerns regarding the regulations which we wish to bring to your attention.

While Congress significantly changed the mechanism by which vocational education is delivered, the focus of the Act remains the same: to make program improvements in vocational education and to provide effective equal access to special populations in vocational education programs.

In the 1990 amendments to the Perkins Act, Congress intended that equal access to vocational education programs must be ensured for special populations in part by reenforcing and augmenting the provisions of the Individuals with Disabilities Education Act (IDEA), Section 504, nondiscrimination under Federal grants to the Rehabilitation Act of 1973, the Civil Rights Act of 1964, and Title IX of the 1972 Education Amendments. These laws entitle students to equal access to the full range of education programs, regardless of the sources of funds. This same principle applies to vocational education programs. Students must have the opportunity to access any vocational education program with the support necessary to function equally, regardless of who pays for those supportive services.

The Perkins law assures that individuals who are members of special populations will be provided with equal access recruitment, enrollment, and placement activities and will be provided with equal access to the full range of vocational education programs available to individuals who are not members of special populations, including occupationally specific courses of study, cooperative education, apprenticeship programs, and to the extent practicable, comprehensive career guidance and counseling services, and shall not be discriminated against on the basis on their status as members of special populations.

With regard to the specific uses of the Federal Perkins vocational program funds, the Act requires that these funds be used in programs that integrate academics with vocational education, offer coherent sequences of courses, are of sufficient size, scope, and quality as to be effective, and that serve the highest concentrations of individuals who are members of special populations. These programs are required to provide supplementary services to students who are members of special populations, including, with respect to individuals with handicaps (A) curriculum modification, (B) equipment modification, (C) classroom modification, (D) supportive personnel, and (E) instructional aids and devices. Federal Perkins funds cannot be used in programs that do not meet these criteria.

A related issue raised by the regulations is the use of the term "project". The Act uses the term program; we believe that regulations should be consistent with the Act and, hence, the term "program" should be used throughout.

As already noted, the Act requires that funds must be used to integrate academic and vocational education through "coherent sequences of courses" so that students achieve both academic and occupational competencies. The Act also seeks to require institutions to provide programs "of such size, scope, and quality as to be effective." Yet, the proposed regulations permit a single adult course to qualify as a sequence of courses. This is patently incorrect, and a clear misinterpretation of the statute. Coherent series of courses and sequential course of study should both be interpreted as a "series of courses" and a single course is not in compliance with the law.

While we agree with the Department's regulations in applying evaluations to an entire program of an institution receiving funds, particularly in view of the fact that we have not had desirable data from States in the past, we believe that because of the expense involved and the potential of this provision resulting in some school districts and institutions rejecting Perkins' funds, we believe that evaluations could be conducted on a sampling basis or some other method to minimize the burden.

The proposed regulations increase the frequency of reporting and other accountability requirements of programs funded under the

Act. In the preamble to the regulations, there is also a reference to America 2000 and the Secretary's support for increased accountability. Although we concur in terms of accountability in education programs, we do not agree that the regulations should expand on the law and require more paperwork for many of the programs, (e.g. Indian Vocational Education Program, Native Hawaiian Vocational Education Program, National Tech Prep Education Program, etc.).

Also, as part of the Department's accountability and evaluation activities, we urge the Secretary to provide resources and participate in conducting the pilot project utilizing wage and other records authorized under Section 408(c)(1)(A) of P.L. 101-392 to provide high quality longitudinal data on a cost-effective basis with minimum administrative burden.

As regards the National Center or Centers for Research in Vocational Education, the proposed regulations allow up to five preference points in the competition for the research and development center and up to five preference points for the dissemination and training center if an institution or consortium demonstrates that it can effectively carry out both the research and development and dissemination and training activities of the Center. We believe that only allowing five preference points is a minor consideration and not the major consideration that Congress intended for an institution or consortium which demonstrates that it can effectively carry out both activities. If all activities can be carried out at one center, that is obviously a desirable objective; and therefore the law meant to encourage funding one center if it could perform all these tasks.

It also appears to us in terms of the manner in which the proposed regulations are written, that two competitions would be held for the National Center or Centers for Research in Vocational Education. Two competitions, in our view, could result in a process which could be awkward and extremely time-consuming. It is Congress' intent that all applicants could submit three applications in one competition. If after applications have been reviewed for one center, none of the applicants demonstrate the capability of effectively carrying out both the activities, then the Department could proceed to the consideration of separate applications without an unnecessary delay or request for another competition.

Thank you for your consideration of these views. We know that the Department had a difficult task in writing these proposed regulations, and you have performed it quite ably.

Sincerely,

WILLIAM D. FORD,
Chairman, House Committee on Education and Labor,

MATTHEW G. MARTINEZ,
Chairman, House Subcommittee on Human Resources,

GEORGE MILLER,
Chairman, House Committee on Natural Resources,

EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources,

CLAIBORNE PELL,
Chairman, Senate Subcommittee on Education, Arts, and Humanities,

PAUL SIMON,
Chairman, Senate Subcommittee on Employment and Productivity.

Mr. SIMON. What we will do if we pass this amendment by my colleague from Kansas—and I have great respect for her, not only for her work here but her interest in Africa and other things. She is one of the finer Members of this body. But I think we would send the wrong signal if we accepted this. This amendment is strongly opposed by the administration, and I hope it will be strongly opposed by the Senate.

Senator KASSEBAUM says it would, nationwide, cost us $5 million to implement. Compare that $5 million to what we do for disadvantaged students. The Center for Law and Education says—and I am quoting them—

The futures of millions of students will be jeopardized if remedy is delayed until reauthorization of the Perkins Act.

Now, let us face it. That is an exaggeration, and I am sure Senator KASSEBAUM would say that is an exaggeration. And I would agree with that. I think it is fair to say the futures of tens of thousands of students will be jeopardized. When you compare that $5 million with the chance to make productive taxpaying citizens out of people, I think we will save many, many times that $5 million.

So I hope the amendment will be rejected. It sends the wrong signal at the wrong time. What the Secretary of Education is simply doing is implementing the law that we passed. Frankly, the previous Secretary of Education—and I have great respect for him, but Secretaries of Education work with OMB and work with others, and sometimes they make political decisions. The previous Secretary of Education, I think, made a political decision and watered down what we passed, which was strong legislation. My hope is that the amendment will be defeated.

Mr. President, if no one else seeks the floor, I question the presence of a quorum.

Mrs. KASSEBAUM. Mr. President, will the Senator withhold?

Mr. SIMON. I withhold that.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I might just respond briefly because I know others wish to speak.

I should like to have made a part of the RECORD the support for my amendment by the American Association of School Administrators, the National School Boards Association, the American Vocational Association, and the State Directors of Vocational Education. All are in support of the amendment that I have offered.

In response to the Senator from Illinois, I would suggest that as we have worked on the Labor and Human Resources Committee, we have wanted to address the concerns of special population students to make sure that their access to and participation in these programs was assured. I think the regulations that have been put forward now, however, have gone beyond the law. As I said in my opening remarks, this would be an unfunded mandate that is going to cause some serious problems for us, particularly when by next year we will have looked at it in ways that better assess the problems that need to be addressed, rather than doing it rather peremptorily with new regulations by the Department of Education.

I yield the floor, Mr. President.

Mr. SIMON addressed the Chair.

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

Mr. SIMON. Mr. President, I have just been handed a statement by David Evans, who helps our subcommittee and who has been the right arm to Senator CLAIBORNE PELL and to all of us. It says:

The Department of Education is expressing serious concern that the Kassebaum amendment would preclude the issuance of final regulations to implement both School-to-Work regulations pertaining to the tech prep and other Perkins Act programs and a provision adopted last year as part of the '93 Technical Amendments to the Higher Education Act. The latter provision is essential to a number of rural community colleges that have formed consortia for the purposes of qualifying for Perkins Act program funds.

Mr. President, I yield the floor.

Mr. PRESSLER. Mr. President, may I ask the managers of the bill if this would be an appropriate time to lay aside an amendment and offer a short amendment which we will seek a rollcall vote on?

Mr. KENNEDY. If I could have the attention of the Senator, we want to address the Senator's concerns, which we are going to accept. But what I would like to do, if it is agreeable, is to permit Senator HARKIN to speak for 10 minutes, and if the Senator wants an additional 10 minutes, we would so include it. Then after that we would conclude the debate on Senator KASSEBAUM's amendment. Then we would consider Senator PRESSLER's amendment with a 10-minute time limitation, 5 minutes to each side, and then we would vote on all three amendments. That way it would be the least disruptive in terms of the Senate proceedings. It would give a sense of predictability to the Members in terms of their going ahead. That would be enormously helpful in terms of the floor managers.

So I hope now that we can hear from the Senator from Iowa, and then if the Senator from Kansas needed additional time, she would take it. Then we would move on into the consideration of the Pressler amendment. Following that, we would move toward the three votes.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I object to the Kassebaum amendment. I would like to take a few minutes to explain why. This amendment goes really against the wishes of Congress, which have been stated many times, in terms of overturning Grove City, the Civil Rights Restoration Act, in terms of IDEA, the Individuals with Disabilities Education Act, section 504; all of the progress that we have made in terms of reaching out, especially in education to make sure that States meet their constitutional responsibilities to provide equal educational opportunities for all students regardless of whether they are economically disadvantaged or physically or mentally disabled. We have come a long way in this regard. It seems that this would be a terrible step backward.

I think the most important thing, though, Mr. President, is the breadth, the scope, of this amendment. I listened to the Senator from Kansas and the Senator from Mississippi earlier and their arguments. It sounded as if they were talking about some narrow little issue that they were concerned about. While it may be the case that they are concerned about a narrow issue, this amendment, as it is drafted, is extremely broad.

Let me just read it again, Mr. President. It is a very simple amendment. It says:

> Notwithstanding any other provision of law, the Secretary shall not issue any new final regulations to implement such Act * * *.

"[S]uch Act" being the Carl D. Perkins Vocational Act.

That is the amendment. It does not say he shall not issue any new final regulations concerning A, B, C, or D. And it says he shall issue no regulations concerning the Carl D. Perkins Vocational Act.

We passed this act in 1990. It will probably come up for reauthorization in 1995 or 1996. But the amendment of the Senator from Kansas is so broad it covers everything. It says the Secretary "shall not issue any new final regulations" to implement such act. I do not know that we have ever done that around here. I do not think the Senate, this Congress, has ever passed that kind of amendment to say that a Secretary cannot fulfill his constitutional requirements, the requirements to issue final regulations to implement the laws that we pass here.

Let us say, for example, that later this year, or next year, the Secretary deems it important enough to issue a final regulation concerning disability issues under Carl D. Perkins. If we adopt this amendment, the Secretary will not even be able to issue a regulation concerning disability issues or any issues under that, the way the amendment is written.

So it is an extremely broad amendment. As I said, I do not know that we have ever done anything like that here.

We have been through this fight before on whether we cover projects or programs. We had it with the Supreme Court case in Grove City. The Senator from Kansas is very much aware of that decision and what that decision did in terms of programs and projects. We passed the Civil Rights Restoration Act to overturn the Supreme Court's decision in Grove City. The Supreme Court said that it applies to projects. We said no, no. The intent of Congress was to cover programs, not just projects.

So we passed the Civil Rights Restoration Act to reflect that. We had a specific vote on that issue. And the vote was 73 to 24. The Congress said, no; we meant to cover programs, the whole program, and not just specific projects. The Senator from Kansas was one of those voting in the majority of 73 to overturn Grove City to make it clear that we were talking about programs.

Now the thrust of this amendment, as I understand it, while it is drafted so broadly, is to cover the issue of projects versus programs.

Again, this whole issue of unfunded mandates I must speak about. This is not another unfunded mandate. We are not saying that States have to do this or that. We are saying that if a State provides funds for vocational education, it cannot do so in an unconstitutional manner. It cannot say, OK, we will provide vocational funds just for this sector of students but not for this sector. It must provide it and open it to all. That is under the equal protection clause of the 14th amendment of the Constitution of the United States.

What we have said here is that we believe that vocational education is so important that we will provide additional funds to the States to help them meet their constitutional obligations. It is not a mandate. We are just saying we are going to help you out. But in so helping you out, when we give you these funds, you cannot just funnel them all to one project and say, OK, we will provide the supplementary aid and supportive services there but we will not in any of the other projects under the program.

I think that is, quite frankly, unconstitutional. It certainly flies in the face of what we decided in the 73-to-24 vote overturning the Grove City case.

Let me give you some concrete examples of what I am talking about here, Mr. President. When Congress reauthorized the Carl Perkins Act, we said that special populations should enjoy equal access to all the courses of study, and we did it in a meaningful and effective manner. We wanted it to be meaningful and effective. For some special populations, the opportunity can only be meaningful and effective if they receive supplementary aid and assistance.

Let us say a State says: We are going to open up a vocational program to deaf students, but we will not provide interpreters. Well, the deaf student has the right to take that vocational training, but without a deaf interpreter it is meaningless. So we said that you have to provide the supportive services to enable them to do that.

In the same way, equal access to education is meaningless to economically-disadvantaged students unless they get compensatory education. Again, what happened was that Secretary Alexander issued a regulation saying that special populations are entitled to equal access to these vocational programs, but the responsibility to provide the supplementary aids and services only applies to the projects receiving the vocational education funds—right back where we were with the Grove City case.

Thus, for example, Mr. President, if only the culinary arts project in a vocational education program received Federal aid, then the regulations provide that only that project is required to provide supplementary aid. If the computer programming project in the same program did not receive Federal aid, then there was no requirement under the Vo-Ed Act to provide the supplementary aids and services to make the opportunity to participate meaningful and effective.

Again, we have some historical context here. Prior to the 1990 amendments, the Vo-Ed Act included set-asides, or earmarks, for special populations. We said that is wrong, we do not want to have special set-asides and programs. We are going to include them in the broad overall compass, like we have done under the Individuals With Disabilities Education Act, section 504, and everything else; we are going to bring everybody into this, and we will not have special set-asides. But we did it, expecting that all students would be provided with a high-quality program, not just in the project but the entire program. That is what we said. We said "program" and not just "project."

So what we have come down to here is the issuance of regulations, to ensure that the entire program is covered and not just a project. We used the word "program" in the act in 1990. We had already passed the Civil Rights Restoration Act. We knew what we were talking about when we said "program." I believe that Secretary of Education Reilly ought to be given the opportunity to implement the congressional intent.

So I guess my basic argument against the amendment goes down to these fundamental items: No. 1, it is so broad, the Secretary shall not issue any new final regulations to implement the act. Anything. It covers everything.

Second, even if it were more specific and included "project" versus "program," I would argue that this Congress decided that we wanted to cover programs, not just projects, that we wanted to make sure that supplementary aids and devices, whatever assistance was meaningful to students—so that a deaf student would not be just pushed into culinary arts, maybe a deaf student wants to take computer programming but cannot do it, unless they provide a deaf interpreter. But if the decision has been made that the Federal aid is channeled only to culinary arts, then that is the only place where that deaf student could get a deaf interpreter, and he or she could not get that support in computer programming.

So what basically the thrust of this amendment would do would be to continue to try to funnel—and I know this is not the Senator's intention, but I think it is the effect of the amendment—it would be to funnel disadvantaged students, economically disadvantaged students, into certain kinds of dead-end jobs, because they would not receive the compensatory aid and the other types of aid that they need. We would set up almost a dual-track system.

I am sure the Senator, in her remarks, will say, look, this does not cover disability because they are covered under section 504, under IDEA. That is right. So in vocational education we will have one track if you are physically disabled, mentally disabled; but if you are economically disadvantaged, if you come from a poor family and you may need special assistance or services, you are cut out of that. We will put you in the culinary arts program. But you will not be able to take computer programming because they do not receive any Federal aid.

Well, Mr. President, the fact is that we knew what we were talking about in this Congress when we overturned Grove City. The Senator from Kansas voted to overturn Grove City. We knew what we were talking about in 1990 when we said "program," not "project."

Therefore, Mr. President, I think this amendment is one that ties the hands of the Secretary in a way that we have never done it before. Second, it goes against the clear intent of Congress in trying to cover vocational education programs and not just specific projects.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from Iowa would yield for a question for a moment. I gather from his closing comments he still would not be supportive if indeed I defined it a bit more narrowly, as has been stated.

What the amendment does is prohibit promulgation of any new final regulations under the Carl Perkins law. But I could change that to apply to only sections 117, 118, and 235 of the implementing legislation, as are under consideration. I gather that the Senator would still not be supportive. That is what the Department of Education is considering in its revision.

Mr. HARKIN. If the Senator will yield, I did say that. I do believe this amendment is drafted too broadly. Obviously, the Senator narrowed it down. In my remarks, I said I would still be opposed because it would set up this dual-track system under vocational education. And I would have to oppose that because I think all of the students ought to be under the umbrella.

Mrs. KASSEBAUM. I wanted to raise that, Mr. President. I feel that we could better analyze what is happening next year when we hold oversight hearings. As I have said before—and I will not spend a lot of time on this again—I believe it is far better to approach this with some caution, particularly when the vocational educators themselves have grave reservations about how they will be able to handle the new regulations and fund these programs.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Kassebaum amendment, No. 2438, be laid aside and Senator PRESSLER be recognized to offer an amendment regarding language proficiency for bilingual teachers; that there be a 10-minute limitation on his amendment; that upon the use or yielding back of his time, the Senate vote on, or in relation to, the Kassebaum amendment, No. 2438; that upon the disposition of that amendment, the Senate vote on, or in relation to, the Craig amendment, No. 2437; that upon the disposition of that amendment, the Senate vote on Senator PRESSLER's language-proficiency amendment; that no amendments be in order to any of these three amendments; that the preceding occur without any intervening action or debate, and that the first vote be the usual 15 minutes, and that the two following votes be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask that it be in order that the Senator from Wyoming, should he choose, be allotted 5 minutes before the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from South Dakota is recognized.

AMENDMENT NO. 2439

(Purpose: To require that certain applicants for financial assistance for bilingual education employ personnel proficient in English)

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

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 2439.

The amendment is as follows:

On page 913, line 13, strike "and".

On page 913, line 18, strike the period and insert "; and".

On page 913, between lines 18 and 19, insert the following:

"(C) provide an assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.".

Mr. PRESSLER. Madam President, I had the amendment read in full so the Senate would have a chance to know what it is.

I rise today to offer a very simple, commonsense amendment to S. 1513. My amendment would merely require bilingual education programs, under title VII of the Elementary and Secondary Education Act of 1965, to employ teachers who are proficient in English, including both written and oral communications skills. In other words, this amendment requires bilingual teachers to prove they can speak and write English well before they can teach English to children whose native language is not English. The amendment also provides for situations where two or more individuals teach the courses together. My amendment requires that, between them, they must be proficient in spoken and written English.

Some of my colleagues may be surprised to learn that currently there is no requirement that bilingual teachers be fluent in English. I was certainly surprised. Bilingual education suggests by its very name that it is conducted in both English and another language. It seems obvious that a bilingual teacher should have to demonstrate proficiency in both languages. However, that is not the case.

Many school districts claim difficulty in finding proficient teachers. We now have a situation where school districts across the country are recruiting bilingual education teachers, recruited from foreign countries, can barely speak or write English. For example, Spanish-speaking teachers are being recruited from Mexico, Puerto Rico, Spain, and elsewhere. They may speak their native language beautifully, but their students will never truly learn English well, and never be able to fully integrate into our society, unless their teacher comprehends the nuances of American English.

Let me add, Madam President, that I think on our Indian reservations in South Dakota the key mobility and opportunity in our society is learning to speak English and to write English well. That may sound a bit arrogant, but as a practical matter, the ladder to

success in America has been proficiency in English. Years ago, I cosponsored an amendment with Sam Hayakawa, then a Senator from California, to recognize English as the national language.

This amendment does not do that, but it does require that bilingual teachers have a capability in English to qualify under this program.

This past April, the Texas Education Agency conducted a review of the Houston Independent School District's Bilingual Education Program. The agency found that some bilingual teachers had a "very limited use of English." In fact, 90 bilingual teachers were found in the city's program that spoke little or no English. Some of these so-called bilingual teachers had been given their required basic skills test in Spanish, rather than in English. These teachers could not speak English themselves. How could Houston expect these teachers to teach anyone else to speak and write English?

In other words, a bilingual teacher should be truly bilingual. In many parts of the United States, that is not the case, and the taxpayers are being misled.

Madam President, I ask unanimous consent to have printed in the RECORD at this point an op-ed piece by Linda Chavez. It appeared in the USA Today on June 15, 1994. The title says it all: "Bilingual Education Gobbles Kids, Taxes—Forget About Multiyear Programs—The Best Way to Teach English in School is to teach school in English."

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

[From USA Today, June 15, 1994]

BILINGUAL EDUCATION GOBBLES KIDS, TAXES—FORGET ABOUT MULTIYEAR PROGRAMS—THE BEST WAY TO TEACH ENGLISH IN SCHOOL IS TO TEACH SCHOOL IN ENGLISH

(By Linda Chavez)

BETHESDA, MD.—If you think bilingual education is a temporary program to help immigrant youngsters learn English, think again. Hispanic students, in particular, are likely to be placed in classrooms where their native tongue, Spanish, is the medium of instruction—and they can end up staying there for years.

Bilingual education began in 1968 as a small, $7.5 million federal program to help Mexican-American students, half of whom could not speak English well when they entered first grade. The idea was to teach these children reading, writing and math in Spanish for a short period while they learned English.

Like so many well-intentioned government programs, however, bilingual education has become an unruly behemoth costing local, state and federal governments billions each year. New York City alone spends $300 million annually on its 126,000-student program. Currently, 2.3 million children are eligible for bilingual programs nationally, the great majority of whom are Hispanic.

And not all of these children are immigrants—or non-English-speaking, for that matter. In one New York City school district, half the Hispanic children in bilingual classes are American-born. And many—if not most—speak English better than they do Spanish. They end up there because New York automatically places in bilingual programs all Hispanic children who score below the 40th percentile on a standardized English test.

But standardized tests are designed so that 40% of all students who take them will score at or below the 40th percentile—even if all of them speak only English.

Bilingual education advocates argue that teaching immigrant children in their native language first is the surest way for them to learn English. In fact, there is virtually no scientifically valid research that this is true.

One much-touted 1991 study for the U.S. Department of Education shows that students in so-called late-exit programs, which last six years, fall well behind other students in the first three years. It's impossible to tell from the data whether this group ever actually catches up during the remaining years in the program.

Yet more school systems are moving to Spanish programs for Hispanic youngsters. In Burbank, Calif., this spring a group of Hispanic parents protested when they found out their children's elementary school program had been converted to a Spanish-only program earlier in the year—without their consent. According to the school's bilingual education director, "What we're doing is being done all over the state."

In May, Denver school officials ordered one local high school to stop teaching 450 Hispanic students in English and suggested the school transfer 51 Asian students so it could concentrate on Spanish bilingual programs.

School systems that insist on Spanish instruction are having difficulty finding qualified teachers. School districts from Los Angeles to Chicago have begun recruiting teachers from Mexico, Puerto Rico, Spain and elsewhere to meet the demand for native Spanish-speakers, with little concern for whether such teachers can speak English.

In April, authorities in Houston launched an investigation when they learned that 90 teachers in the city's "bilingual" program speak little or no English. Many also lack college degrees and some of the foreign-born teachers may have been smuggled into the country illegally.

Despite such problems, Congress appears ready to encourage even more school districts to adopt Spanish-language programs for Hispanic youngsters. The House has already passed its version of a bilingual-education reauthorization bill, and the Senate Labor and Human Resources Committee takes up its own bill this week. Both favor new provisions to encourage native-language instruction and to allow children to stay in the program indefinitely, even if their primary language is English.

The chief lobbyist for bilingual education recently boasted that this reauthorization represents "the biggest shift in federal bilingual education since 1968."

He's right. But it also represents a radical departure from the goal of teaching English to immigrant children.

(Linda Chavez is author of "Out of the Barrio: Toward a New Politics of Hispanic Assimilation" and the forthcoming "A Nation Divided: Multiculturalism and the Politics of Race.")

LEARNING TWO LANGUAGES

States with the most bilingual students in 1992:

California	986,462
Texas	313,243
New York	168,208
Florida	83,937
Illinois	79,291
New Mexico	73,505
Arizona	65,727
New Jersey	47,560
Massachusetts	42,606
Michigan	37,112

Source: The National Clearinghouse for Bilingual Education.

Mr. PRESSLER. Madam President, this article cites several important statistics I shall not go into at this time. However, I urge my colleagues to take the time to read the article.

The scandal in Houston was made a national issue by Education Week on April 6 of this year. Today, we have an opportunity to rectify this ridiculous situation.

Madam President, some may argue that my amendment destroys bilingual education. They may argue that there are not enough teachers who speak both good Spanish and good English out there for bilingual programs to hire. Well, if that is the case, then we should call this program something other than bilingual education. Linguistic separatism perhaps. The American people are tired of being sold something and than unwrapping it and finding the opposite of what they thought they had bought. Maybe this should be called the truth-in-labeling amendment. Bilingual teachers should be truly bilingual.

If there are not enough English-proficient bilingual teachers to go around then we should give the States and localities more flexibility to implement alternative English education programs. But retaining bilingual education teachers who are not truly bilingual does not serve the purposes of title VII and it does not serve the children this program is intended to help.

The real losers in these situations are the limited-English proficient students. I do not think I need to argue that learning English at an early age—as early as possible—is a good thing for children living in the United States. Experts agree that the best time to learn a language is during childhood. Children attending school in the United States have a right to learn our national language, English. The U.S. Supreme Court essentially said so in Lau verses Nichols. The Court did not say that children with limited English skills must be taught bilingually—that is, in their own language—but the effect of Lau is that a school district must do something to assist these children learn English. We are denying innocent children their right to learn English when we allow them to be taught in their native language by someone who is not proficient in English.

These children are being prevented from learning the same English that is taught to every other child in an American public school system. And

not just children in the United States—Japanese, German, and French children are routinely taught English. Parents all over the world want their children to learn English because they know of the limitless opportunities their children will have if they can speak and write English fluently. Increasingly, English is the language of international business. Only in the United States are some kids not learning English because their teachers don't know it very well.

If my amendment is adopted, Madam President, that loophole will be closed. I would note that my amendment does not attempt to define what constitutes proficiency in English. I leave that determination to the local school districts applying for grants under title VII or the Secretary of Education. I do not wish to impose a new burden on our hard pressed States and localities. But under my amendment, grant applicants must provide an assurance that their bilingual teachers can read and write English proficiently.

States and localities could use the same English proficiency tests they currently use to test high school seniors except a higher passing score could be required. If a State does not administer a standardized English achievement test to their high school seniors, it could use any other State's test. The Secretary of Education, or his or her designee, could issue guidelines or promulgate regulations for applicants.

My goal is not to create a new unfunded mandate. But a meaningful assurance of English proficiency must be made. The passage of title VII has evidenced the intent of Congress that bilingual education, first and foremost, should result in a thorough understanding of the English language.

I urge the adoption of this amendment.

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

Mr. PRESSLER. Madam President, I have asked for a rollcall vote on this amendment so it will stand a much better chance of surviving the conference committee. It is important to send a strong signal to the conferees that this requirement has the full backing and support of the entire Senate.

I thank the Senator from Massachusetts very much and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, very briefly, I thank the Senator from South Dakota for his cooperation with us in developing the language of the amendment.

We have a situation I know in my own State with the number of Cambodians. We have the second largest population of Cambodians in the world outside of Phnom Penh, and they settled initially in different places in the country and came to Lowell, MA, many did. They have three temples there. They are doing extraordinarily well. The community has expanded the school base.

It is one of the very extraordinary stories of acceptability in a difficult economic situation. They have significant numbers of Khmers, for example, children, and they had no help and assistance getting books in the language. They went down to the United Nations. We get the State Department all over the world to try to get both books and also develop skills for communication and working in this area.

They have done an absolutely remarkable job. For example, in my State, they are all moving toward proficiency both in the spoken, the verbal, as well as in the written.

We have also seen significant increases in Armenians. The language problems are not quite as much in my State. But as a result of all the tragedies there, there is under the State the requirement to move for verbal as well as written skills, and they are moving in that direction.

The Senator's amendment recognizes at least some degree of flexibility and ensures those children are going to be exposed if not from that particular teacher, but then in that educational experience, from proficiency in both oral and written works, we will work with him and continue on it.

I agree with the objective of giving at least some degree of flexibility, which has been helpful in dealing with some of the real-life situations we are seeing in a number of different schools.

I thank the Senator. I urge our Members to vote in favor of this amendment. I think it is an important one.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, this is an increasing problem in the United States, which the Senator from Massachusetts just pointed out. It is just amazing how many different languages we have. I know in the last census, I cannot remember the exact number, but I know in my little State of Vermont there are over 50 foreign languages that are spoken predominantly in the home. They are from all over the world.

Yet, even though we get very little, if any, money under the bilingual program, it is important to point out the absolute necessity that we provide teachers that are proficient in English to help those students along, rather than trying to hobble along as we have to do in many cases in this area.

So I commend my friend from South Dakota and will do what I can certainly to try and hold his amendment in the conference, and it makes eminent sense.

I yield the floor.

Mr. KENNEDY. Madam President, I ask unanimous consent that it be in order to ask for the yeas and nays on the Pressler amendment.

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

Mr. KENNEDY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Madam President, I ask unanimous consent that it be in order to ask for the yeas and nays on the Kassebaum amendment.

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

Mr. KENNEDY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. I believe we have asked for the yeas and nays on the Craig amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. For the benefit of the membership, will the Chair indicate the order for the votes that we are having at the present time?

The PRESIDING OFFICER. Does the Senator yield back the remainder of the time on the amendment?

Mr. KENNEDY. I do.

VOTE ON AMENDMENT NO. 2438

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Kassebaum amendment No. 2438. On this question, the yeas and nays have been requested, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—63

Baucus	Domenici	Lott
Bennett	Dorgan	Lugar
Bond	Durenberger	Mack
Boren	Exon	Mathews
Brown	Faircloth	McCain
Bryan	Gorton	McConnell
Bumpers	Gramm	Murkowski
Burns	Grassley	Nickles
Byrd	Gregg	Nunn
Campbell	Hatch	Packwood
Chafee	Hatfield	Pressler
Coats	Helms	Pryor
Cochran	Hollings	Roth
Cohen	Hutchison	Sasser
Conrad	Jeffords	Simpson
Coverdell	Johnston	Smith
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
Danforth	Kerrey	Thurmond
DeConcini	Kohl	Wallop
Dole	Leahy	Warner

NAYS—37

Akaka	Glenn	Mikulski
Biden	Graham	Mitchell
Bingaman	Harkin	Moseley-Braun
Boxer	Heflin	Moynihan
Bradley	Inouye	Murray
Breaux	Kennedy	Pell
Daschle	Kerry	Reid
Dodd	Lautenberg	Riegle
Feingold	Levin	Robb
Feinstein	Lieberman	
Ford	Metzenbaum	

Rockefeller	Shelby	Wellstone
Sarbanes	Simon	Wofford

So the amendment (No. 2438) was agreed to.

VOTE ON AMENDMENT NO. 2437

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 2437, offered by the Senator from Idaho. This will be a 10-minute vote.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—44

Bennett	Faircloth	Mathews
Bond	Ford	McCain
Boren	Gorton	McConnell
Brown	Gramm	Nickles
Bumpers	Grassley	Nunn
Burns	Gregg	Pressler
Chafee	Hatch	Pryor
Coats	Helms	Roth
Cochran	Hutchison	Sasser
Cohen	Jeffords	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Thurmond
Danforth	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	

NAYS—56

Akaka	Feinstein	Mitchell
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Harkin	Murkowski
Boxer	Hatfield	Murray
Bradley	Heflin	Packwood
Breaux	Hollings	Pell
Bryan	Inouye	Reid
Byrd	Johnston	Riegle
Campbell	Kennedy	Robb
Conrad	Kerrey	Rockefeller
D'Amato	Kerry	Sarbanes
Daschle	Kohl	Shelby
DeConcini	Lautenberg	Simon
Dodd	Leahy	Specter
Dorgan	Levin	Stevens
Durenberger	Lieberman	Wellstone
Exon	Metzenbaum	Wofford
Feingold	Mikulski	

So the amendment (No. 2437) was rejected.

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2439

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment of the Senator from South Dakota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—100

Akaka	Boxer	Byrd
Baucus	Bradley	Campbell
Bennett	Breaux	Chafee
Biden	Brown	Coats
Bingaman	Bryan	Cochran
Bond	Bumpers	Cohen
Boren	Burns	Conrad
Coverdell	Hollings	Murray
Craig	Hutchison	Nickles
D'Amato	Inouye	Nunn
Danforth	Jeffords	Packwood
Daschle	Johnston	Pell
DeConcini	Kassebaum	Pressler
Dodd	Kempthorne	Pryor
Dole	Kennedy	Reid
Domenici	Kerrey	Riegle
Dorgan	Kerry	Robb
Durenberger	Kohl	Rockefeller
Exon	Lautenberg	Roth
Faircloth	Leahy	Sarbanes
Feingold	Levin	Sasser
Feinstein	Lieberman	Shelby
Ford	Lott	Simon
Glenn	Lugar	Simpson
Gorton	Mack	Smith
Graham	Mathews	Specter
Gramm	McCain	Stevens
Grassley	McConnell	Thurmond
Gregg	Metzenbaum	Wallop
Harkin	Mikulski	Warner
Hatch	Mitchell	Wellstone
Hatfield	Moseley-Braun	Wofford
Heflin	Moynihan	
Helms	Murkowski	

So the amendment (No. 2439) was agreed to.

AMENDMENT NO. 2436, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the Senate will return to amendment No. 2436 by the Senator from Massachusetts.

The Senator from North Carolina.

Mr. HELMS. Madam President, let me read the amendment which I understand has been submitted as modified by the able Senator from Massachusetts [Mr. KENNEDY].

I feel a little faint as I read this because I agree with this wholeheartedly. It says:

None of the funds authorized to be appropriated under this Act may be used to make condoms available in the public schools.

I ask the Chair if she will inquire of the clerk if that is the way the amendment reads.

The PRESIDING OFFICER. That is how the amendment reads as modified.

Mr. HELMS. Madam President, I feel a little bit like Redd Foxx on television. When something would excite him, years ago he would say, "Elizabeth, this is the big one."

The millennium is here, Madam President.

I ask the Senator from Massachusetts to make me a cosponsor of his amendment.

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senator from North Carolina be added as a cosponsor.

Mr. HELMS. And that this amendment hereafter be known as the Kennedy-Helms amendment.

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

Mr. KENNEDY. Well, now.

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

Mr. JEFFORDS. Madam President, I would say this is sort of an Olympic moment right here, and I think we ought at least for 10 seconds to savor it. It may or may not ever happen again.

Mr. KENNEDY. This, too, shall pass.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2436), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2433, AS AMENDED

The PRESIDING OFFICER. Under the previous order.

Mr. JEFFORDS. Madam President, I ask for the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 2433, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 91, nays 9, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—91

Akaka	Faircloth	McCain
Baucus	Feinstein	McConnell
Bennett	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Bradley	Gregg	Nunn
Breaux	Harkin	Packwood
Brown	Hatch	Pell
Bryan	Hatfield	Pressler
Bumpers	Heflin	Pryor
Burns	Helms	Reid
Byrd	Hollings	Riegle
Campbell	Hutchison	Robb
Coats	Inouye	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Sasser
Coverdell	Kennedy	Shelby
Craig	Kerrey	Simon
D'Amato	Kerry	Simpson
Danforth	Kohl	Smith
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Dorgan	Lugar	Wofford
Durenberger	Mack	
Exon	Mathews	

NAYS—9

Boxer	Gorton	Moseley-Braun
Chafee	Jeffords	Murray
Feingold	Metzenbaum	Wellstone

So the amendment (No. 2433), as amended, was agreed to.

UNANIMOUS-CONSENT AGREEMENT—EXTENSION OF RECESS

Mr. KENNEDY. Madam President, I ask unanimous consent that the majority leader be recognized to speak at 2:15 p.m. and that the period for the recess be extended until that time.

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

Mr. KENNEDY. Madam President, as far as I know, and I believe as far as my friend and colleague, Senator JEFFORDS knows, we do not know of any other amendment dealing with the education provisions of this legislation.

Generally, we try to at least indicate to the body what the other matters would be that we would address. I understand we are not prepared, nor is the leadership prepared, or others, to make a consent request as to the follow-on order of the discussion and debate. Hopefully, we will be able to do it soon.

I, again, thank all of the Members for their cordiality.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Madam President, I ask unanimous consent that no other floor amendments be in order for S. 1513, other than amendments the two managers have cleared and Senator GRAMM's crime amendment.

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

Mr. KENNEDY. Madam President, I thank all the Members for their courtesy and for their cooperation. The Senate will address those particular matters, and then we will move toward a final vote on the elementary and secondary education legislation.

I would like to just speak very briefly at that time and acknowledge the contributions that Members have made both in our committee and also on the floor and the work of the staffs.

I thank my friend and colleague, the Senator from Vermont, Senator JEFFORDS, and Senator PELL who has been here hour in and hour out as chairman of our Education Committee, Senator KASSEBAUM and others for their attention to the work of the Senate on this issue, as with so many other issues.

Madam President, I ask that the Senate stand in recess according to the previous order.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived and passed, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:34 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KOHL).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Wisconsin, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMPREHENSIVE HEALTH CARE REFORM

Mr. MITCHELL. Mr. President, and Members of the Senate, tomorrow I will introduce comprehensive health care reform legislation. Nine months ago, President Clinton sent to the Congress his proposed Health Security Act. Since then, the debate on health care reform has been intense. Consideration of the issue in the Senate has been extensive. The Senate Labor Committee held 20 days of hearings and spent 5 days debating and writing its bill. They completed their work on June 9. Senators have had nearly 2 months to consider the Labor Committee's action.

The Senate Finance Committee held 31 days of hearings and spent 4 days debating and writing its bill. They completed their work on July 2. Senators have had a month to consider the Finance Committee's action. The bill I will introduce is drawn largely from the bills reported by the Senate Labor and Finance Committees. Their chairmen, Senators KENNEDY and MOYNIHAN, and all the members of those committees, Democrats and Republicans, deserve the gratitude of the full Senate for their efforts.

I believe we will enact health care reform legislation this year, and when we do, much of the credit properly will go to Senator KENNEDY and Senator MOYNIHAN for their leadership.

In preparing health care reform legislation, I have been guided by one principle: The purpose of health care reform is the well-being of American families. Health care insurers and health care providers are important parts of the system, but they are means to an end; the end, our true goal, is the well-being and peace of mind that Americans should have with respect to their health care.

Health care reform is a matter of simple justice. It is the fate of human beings to be born unequal in ability, in circumstance, and in physical strength. None of us chooses the family into which we were born. None of us is immune to the whims of fate. We are all susceptible to accident and illness. We all grow old.

Physical ailments should not define our lives, but in our health care system, they often do. Some people cannot get coverage for the health condition for which they most need care. Some people stricken with serious illnesses find that lifetime insurance limits are used up long before their life ends, long before their condition improves. Some families whose children have medical needs find themselves red-lined out of insurance coverage, so a child's healthy brothers and sisters are put at risk. Some families whose parents suffer disabilities as they age face years of providing in-home care or the bankrupting costs of long-term care because there is no affordable alternative.

Health care takes 14 percent of our gross domestic product—more than in any other developed nation. Americans pay the highest medical bills in the world, and the bills keep rising. From 1980 to 1993, the average family's health costs rose from $1,749 a year to $5,190. At that rate, average family cost will be more than $11,000 a year in another 6 years.

All that expense might be worth it if America led the world in the lifespan for adults or in low infant mortality rates. But it does not.

Statistics can guide policy, but people are not statistics. They are human beings who experience illness as individuals and as members of families. The question is whether the money we all pay into our system delivers to those who need it the care they need when they need it at a price they can afford. The answer to that question is, No, our system does not do that.

For people with comprehensive coverage, the system works well. For Members of Congress, Federal workers, State employees, the employees of most large corporations, an accident or illness is compensated by insurance, and the individual is not bankrupted. His or her family does not face the loss of a home or the erosion of a lifetime's savings.

But for many other people, the story is far different. For them, the difference between financial security and financial devastation can be as simple and dramatic as an auto accident or a weak heart valve. That is not fair or right. That is why we need reform.

My proposal builds on the strengths of our system and tries to eliminate its weaknesses. It builds on the existing American system of private insurance. I propose to expand the system to those not now included—Americans who cannot afford insurance, people with an illness that insurance companies will not cover, people between jobs. I propose to place most of the persons now covered under Medicaid into the same system of private insurance and care as the rest of the population.

My bill includes all of the insurance market reforms on which there is broad agreement. Insurance companies will not be allowed to reject applicants for preexisting conditions. Insurance will travel with the person so Americans will not be locked into a job. Policy renewal will be guaranteed so people who fall ill are not cut off from coverage when they need it most.

My bill creates incentives for cost control through the competitive pressures of employers and consumers seeking lower price coverage. Private price competition among insurers is the best way to determine where the fat lies in insurance coverage and where the most cost effective shakeouts can occur. As long as there are incentives to look for price economies, the private system will shake out those who cannot compete by price. My

bill is designed to encourage that process because that is the best way to serve the public.

As a backup mechanism, there is an assessment on high-cost insurance plans whose prices rise too quickly. It will mean that insurance companies will become more price sensitive because high-cost plans will be unattractive to the middle class, which is the principal market for their product. My bill also lays the groundwork for universal coverage through a voluntary system which includes purchasing cooperatives, market incentives and targeted subsidies.

Based on discussions with the Congressional Budget Office, I am confident that its provisions will assure that 95 percent of all Americans will be covered by guaranteed portable renewable insurance over the course of the next 6 years.

I want to repeat that: The Congressional Budget Office's preliminary estimate is that under this plan 95 percent of all Americans will be covered by the year 2000.

I have included a backup mechanism in the bill, if for some unforeseeable reason fewer than 95 percent are covered by then. But I believe the CBO estimate that this bill will achieve 95 percent coverage in a definite neutral way is sound.

Americans pay more for health care than any other people, without getting the universal care commonplace in other countries. That does not have to continue. We can get better care for our health dollar.

All of the plans put forward so far recommend that the reforms be phased in. The President's plan includes a 4-year phase-in period, the House bill 5 years.

My plan phases in even more slowly. That is a realistic recognition of the enormously complex task of modifying the health care system. It makes sense to do this carefully and make certain it is done right.

Health insurance for all Americans is the key to reform. I repeat that. I believe that. It is essential. Health insurance for all Americans is the key to reform. Without it, we face a continuation of cost shifting and other problems. We must assure health insurance for our citizens.

We have a system today where some have coverage and some do not. Everyone who today has health insurance is subsidizing those who do not. That is what is called cost shifting. Doctors, hospitals, clinics, all other health care providers compensate for unpaid care by charging more to the people who have insurance. The added charge is not paid by the insurance companies, it is added to the premiums that are paid by every insured family and individual.

Americans with health insurance pay as much as 30 percent more for their coverage, a hidden tax to pay for cost shifting. The only thing that can cure cost shifting is universal coverage. The claim that we can reach universal coverage with incremental changes in law is wrong. We have to make coverage available. We also have to make it affordable. To make insurance more affordable, my bill provides for the States to create voluntary regional or statewide health purchasing cooperatives. These will be community-rated purchasing co-ops covering no fewer than 250,000 persons. Health insurance purchasing co-ops will not be allowed to turn down qualified applicants, and they will be required to offer a choice of plans to all buyers. So workers in small companies will have the same range of choices as do all others.

Any American in a community-rated insurance pool, in essence any American who does not work for a large corporation that provides health coverage to its workers and who wants to do so, anyone in that situation will be able to enter the Federal Employee Health Benefits Plan. It offers many different plans among which to choose. It is a good system for the insurers and for those who are insured.

If it is good enough for us and for all Federal employees, it is good enough for, and should be available, to all Americans who do not have coverage through their jobs.

My plan will help make better insurance available to those who work and the families who depend on them. In addition to employees, there are millions of Americans who are self-employed and millions more who are out of work or between jobs. In addition, there are those covered by Medicaid, the joint Federal-State system of health care for the poor.

My plan will integrate all of these people into a national system of private insurance. Unless we do so, the cost shifting that has sent insurance costs skyrocketing will continue and working families will pay more and more of the hidden tax of the health care bills of those who are not insured.

Many people will need some subsidy to afford health care coverage. My bill extends those subsidies on a sliding scale to those who qualify. It will include tax benefits for the self-employed beyond what is available to them today. This will not create a new obligation on the Federal or State Government. It will reorganize the obligations that taxpayers are already shouldering through the Medicaid system and through cost shifting to pay for the care of the uninsured.

The current poverty level for a family of four is about $14,800. My bill will provide that by 1997 people at or below the poverty level will be helped to buy private insurance. This will end the acute-care costs of the Medicaid Program, which these people receive today, and will place them into the same systems of coverage and care as the rest of the population. For families with incomes up to twice the poverty level, there will be a sliding scale of subsidies for the purchase of health insurance.

Also beginning in 1997, the medically needy who are subsidized by some States and those between jobs, would have a 6-month transition to the system, during which their premiums would be fully paid. At the end of the 6-month period, they would face the same benefits and costs as others, based on their incomes.

A major strength in our system is the element of choice. It creates incentives for market-driven efficiencies. Employers can choose the plan they offer their workers by shopping among insurers. Individuals can find a personal physician or decide instead on the certainty of coverage under a health maintenance organization. That element of choice spurs health providers to compete by offering better services and a wider range of options at a better price.

My bill will expand those choices and will increase incentives to compete by price and quality to those offering insurance coverage.

Today most people's health care choices are limited to one plan that their employer offers. My bill requires every employer to offer at least three plans. The employer will not be required to pay any part of the costs of coverage, but will be required to make at least three plans available to everyone. That is going to widen choices for a majority of Americans immediately.

At least one plan will have to be traditional fee-for-service. Other plans could be health maintenance organizations or other group practice programs with more flexibility. The goal is to assure that each worker has the choice of a lower cost plan as well as higher cost options.

A lot of attention has focused on the role of employers in our system, particularly small companies.

Most Americans do not work for small companies, but for those who do and for the people who employ them, the current health care system is a nightmare of unfairly allocated administrative costs, unaffordable rates and medical redlining, where all the workers in a company are refused coverage because one of their coworkers has a health condition.

As much as 40 cents of every health insurance dollar paid by a small company goes to administrative costs. Smaller firms face rates 30 to 35 percent higher than larger firms for the same coverage.

By letting every company with fewer than 500 employees—that is every small business in the country—buy insurance through health insurance purchasing cooperatives, my bill gives smaller firms the bargaining strength that only large ones have today. And it

means they can offer their employees the same range of choices that other workers have.

Because I believe primary and preventive care is the key to solving enormous cost problems in our health care system, I have designed my program to focus in particular on pregnant women and on those 18 years of age and younger.

The costs of low-birthweight babies in this country are astronomical. Many infants weighing a few pounds at birth cost all of us hundreds of thousands of dollars for immediate intensive care. They often demand many more thousands of dollars a year throughout their lives for the physical or developmental problems that accompany low birthweight.

Much of this additional care and its costs are preventable if the mothers of these children have decent prenatal care. The General Accounting Office found that 63 percent of women who are on Medicaid or have no insurance do not get proper prenatal care. About ⅛ in eight has a low birthweight baby as a result. The annual cost was estimated to be $3.3 billion 10 years ago. It is higher today and it will climb even higher if we do nothing.

So my bill focuses on this need, because correcting the lack of preventive care for young pregnant at-risk women is the right thing to do, and is cost-effective.

Mr. President, and Members of the Senate, I have a daughter of child-bearing age. Were she to become pregnant, it would be unthinkable for me that she would not be able to see a doctor during her pregnancy, and I know in my heart and soul that it would be unthinkable for every Member of this Senate. If a daughter of any Member of this Senate became pregnant, it would be unthinkable that she should not see a doctor. And yet, what is unthinkable that she should not see a doctor. And yet, what is unthinkable for us is the reality for thousands of young at-risk women. We cannot let this situation continue. We can do the right thing and save our society billions of dollars.

In addition, because preventive and primary care reduces costs for everyone, my bill's benefits package will not require copayments for preventive care. It creates an incentive for persons to have regular annual checkups and to seek early care.

My bill is intended to integrate everyone into a system where everyone who uses a service pays some part of the cost. That way, all of us have an incentive to find ways to reduce these costs. It is an incentive for greater responsibility. It will not work with all people. It is not foolproof. But it will help because it rests on the common sense and self-interest of ordinary people.

The keys to health care reform today are access, affordability, and universal coverage. Those who say the problem is access, not price, are mistaken. It is both access and price.

Senator BOXER described an all too common occurrence, one that happened in California. She told of a young man, 19 years old, a high school football star, who was stricken with cancer. His only chance of overcoming the cancer was a bone-marrow transplant. But his health insurance did not cover it.

Sick, dying of cancer, he and his family were forced into the all-too-common spectacle of advertising their need and raising money to meet the costs.

Sick people and their families should not have to make a public appeal for money so they can have the medical treatment they need.

Americans are generous and these fund-raising appeals often succeed. But I ask each Senator to ask himself or herself what price do they demand of the sick people forced to undertake them? High health care costs are driving Americans to choices that none of us should have to make.

A great deal of attention in this debate has focused on employer mandates—the requirement that in the future, all employers provide what the majority of workers enjoy today—health insurance coverage through the workplace.

Argument against employer-provided health insurance are the great smokescreen in the health care debate. I have visited with and spoken with the owners of small businesses all across this country. If there is one thing most of them would like to do it is to offer health insurance to their employees. They know them. They know their families.

Most businesses want to provide coverage and will, when they can afford it. It has been an American tradition for half a century. It is something working people expect and employers understand.

My bill provides a system of subsidies and of community-rated insurance that makes it possible, for the first time, for companies to challenge insurers to come down in price for their coverage. It will enable companies to offer health benefits. For companies just starting up or operating with very low profitability, it will permit their employees to select an affordable program to cover their needs.

The politics of health care reform are confusing to most Americans. Much of the confusion is intentional. Those who do not want reform have a stake in confusing the issues and making the idea of reform frightening to as many people as possible.

But what should frighten people—and what does frighten a lot of Americans—is not the change that may come. It is the reality they live with today, where health coverage can be abruptly terminated for a whole family because one child suffers an illness, where a whole firm can be denied affordable coverage because one worker has a health condition, where a breadwinner does not dare to look for new job, for fear that health coverage will not be available. That is what should, that is what does scare most people.

Health care reform is much more than a political debate. It is about a fundamental reality in every human life.

If the States can demand that auto insurers cover the risks resulting from bad driving behavior—behavior that can be controlled and influenced and prevented—it is not beyond our ability to require health insurance companies to cover those whose conditions often do not rise from their behavior but from circumstance and just plain bad luck.

My bill will do this. Insurers will not be able to reject a person because the person had the bad luck to be born with a physical malfunction or to contract a disease in childhood, or to suffer an accident with long-term effects, or for any other reason.

There is a crisis in American health care. It is a crisis of affordability and access. It has to change. I have proposed legislation which I believe will meet the need, and which will make the change with the least disruption to the parts of the system that work well for millions of Americans.

Our country has too many people who are victims of disease but who are much more victimized by the system of insurance and health care than they ever could be by their medical condition.

Human beings can fight disease and often do. What people cannot fight are rules and regulations and policies driven by a desire to avoid risk and cost, and directed at the most vulnerable persons among us—those who are sick. We should not ask Americans to fight this system any longer. We have it within our ability to correct what is wrong. We have it within our ability to create a system whose focus is on people.

We have the ability and today, thanks to President Clinton's efforts, we have the public's attention as well.

It is time to act. The bill I will introduce is a good starting point for action. I look forward to the debate. I welcome constructive suggestions and alternatives. Let us debate and amend. But in the end, let us do what is right for the American people.

Mr. President, I ask unanimous consent that two documents, one entitled "Sources of Mitchell Health Care Reform Bill," 2 pages in length, and one entitled "Mitchell Health Care Legislation, Executive Summary," 21 pages in length, be printed in the RECORD immediately following my remarks.

Mr. President, I thank my colleagues for their attention.

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

SOURCES OF MITCHELL HEALTH CARE REFORM BILL

1. FINANCE COMMITTEE

The following provisions are taken directly, or with minor modification, from the Finance Committee bill:

1. Medicaid/Medicare.
2. Financing Mechanisms.
3. Cost Containment.
4. Subsidies for Low-income Pregnant Women and Children.
5. Benefit Approach.

2. LABOR COMMITTEE

The following provisions are taken directly, or with minor modification, from the Labor Committee bill:

1. Public Health Infrastructure.
2. Workforce Priorities.
3. Quality Improvement.
4. Consumer Protections.

3. FINANCE AND LABOR COMMITTEES

The following provisions are blended provisions based on the Finance and Labor Committees bills:

1. Insurance Market Reforms.
2. Health Insurance Purchasing Cooperatives.
3. Low-income Subsidies.
4. Federal Employees Health Benefits Program.
5. Long-Term Care.
6. Academic Health Centers/Graduate Medical Education.
7. Fraud and Abuse Program.

4. OTHER PROVISIONS

The following provisions were not included in either Committee, or if included, have been subject to modification.

1. Medicare Prescription Drug Benefit.
2. Expanded Coverage:

Additional Coverage for Pregnant Women and Children.

Coverage for Temporarily Unemployed, Uninsured Workers.

Incentives for Employers to Expand Coverage to Additional Workers.

3. Backup Mechanism to Enable Coverage of the Remaining Uninsured.

MITCHELL HEALTH CARE LEGISLATION—EXECUTIVE SUMMARY AUGUST 2, 1994

1. EXPANDING COVERAGE

The objective of this health care reform plan is to provide universal coverage through a system of insurance market reforms, voluntary purchasing cooperatives, and incentives and subsidies to those who need them.

The Congressional Budget Office's preliminary estimate is that, if this plan is enacted, 95 percent of all Americans will have health insurance by the year 2000 with no increase in the federal deficit. The plan will further establish a procedure to provide thereafter health insurance to all Americans.

A. *Subsidies Under a Voluntary System.*—Targeted subsidies will be available to encourage certain low income individuals and some firms to purchase insurance. These subsidies would be targeted to people who do not have health insurance coverage today.

For low income individuals:

Low-income families. Beginning in 1997, low income individuals and families will receive a subsidy worth a fixed percentage of the average premium in a health care coverage area. For those below 100 percent of the Federal poverty level, the subsidies will cover the full cost of health insurance coverage. The value of the subsidy will be phased out between 100 percent and 200 percent of poverty.

Low income pregnant women and children. Beginning no later than 1997, pregnant women and children under 19 with incomes up to 185 percent of poverty will be eligible to receive subsidies equal to 100 percent of the premium. The subsidies will be phased out between 185 percent of poverty and 300 percent of poverty. Community rated health plans will be required to offer two additional categories of coverage: single child and multiple child, so that child only policies are available in the market.

Cash assistance recipients. Beginning with the January 1, 1997 abolishment of the acute care portion of Medicaid for AFDC, all AFDC cash assistance recipients will receive subsidies equal to 100 percent of the premium.

Former non-cash Medicaid eligibles. Beginning in 1997, individuals who would be medically needy or other non-cash recipients under the current Medicaid program (except pregnant women, infants and children) will receive subsidies covering 100 percent of the premium for six months, then will be treated the same as others based on income.

Outreach and enrollment. To maximize health insurance coverage, low income individuals eligible for full subsidies (below 100% of poverty generally, and below 185% of poverty for pregnant women and children) will be permitted to enroll in a health plan at any time of the year (others may enroll only during the 30 day enrollment period). Any pre-existing exclusion rules that apply to the newly insured will be waived for these individuals, and a new system will be developed to sign up such individuals for health insurance coverage when they seek health care service at a hospital or clinic.

Temporarily unemployed, uninsured. Beginning in 1997 individuals who were full time employees, insured for at least six months will be eligible for enhanced income protection subsidies to purchase insurance. Under this program, unemployment insurance benefits and wages earned in a month up to 75 percent of the poverty level, will be disregarded for purposes of determining eligibility for low income subsidies. Individuals will be eligible for this program for up to six months or until they find other full time work. This assists temporarily unemployed individuals purchase insurance by disregarding a portion of their income for the year so that they are eligible for the low income subsidies.

For employers:

Employers who expand coverage to additional workers. Beginning in 1997, employers who expand coverage to all their employees in a specific class (i.e., full time, part time) will receive subsidies to make their employees' premiums more affordable. Employers will pay the lesser of 50 percent of the premium or 8 percent of each newly insured employee's wages. The employee will pay 50 percent of the premium. Workers with incomes under 200 percent of poverty eligible for the individual subsidies described above. This subsidy will be available to employers for a maximum of five years.

B. *Trigger to a Requirement.*—On January 15, 2000, the National Health Care Cost and Coverage Commission will determine whether the voluntary system has achieved 95 percent coverage.

First Alternative—Coverage Target Achieved. If the Commission determines that, on a nationwide basis, at least 95 percent of all Americans had health coverage, it will send recommendations to the Congress on how to insure the remaining uninsured individuals. Congress will consider legislation to insure the remaining uninsured under an expedited process that requires committees to discharge by a certain date and that limits its floor debate. The legislation will be fully amendable and require the President's signature. No further action is required.

Second Altenative—Coverage Target Not Achieved. If coverage is below 95 percent, the Commission will send to Congress by May 15, 2000 one or more legislative proposals on how to insure the remaining uninsured individuals. Congress will consider legislation to insure the remaining uninsured under an expedited process that requires committees to discharge by a certain date and that limits floor debate. The legislation will be fully amendable and will require the President's signature. If universal coverage legislation is not enacted by December 31, 2000, an employer requirement will go into effect on January 1, 2002 in those states with less than 95 percent coverage.

C. *Nature of Requirement.*—If a requirement is triggered, employers with 25 or more employees will have to pay 50 percent of their employees' premium costs, with the employee paying the remainder. Firms employing fewer than 25 workers will be exempt from an employer requirement. Individuals will be required to have health insurance. Under a requirement, the targeted subsidies available under the voluntary system will be replaced with general subsidies designed to make insurance costs affordable.

Employees with Adjusted Gross Income under 200 percent of poverty will be subsidized on their 50 percent share of the premium on a sliding scale basis, so that those with incomes up to 100 percent of poverty will pay no more than about 4 percent of income, rising to no more than 8 percent of income by 200 percent of poverty. No family, regardless of income, will pay more than 8 percent of income on their 50 percent share of the premium.

Non-workers and those in exempt firms will receive the same subsidies for their 50 percent share of the premium as employees in covered firms. Those below 200 percent of income will receive additional subsidies (on a sliding scale) to make the remainder of the premium affordable.

2. CONTROLLING HEALTH CARE COSTS

A. *Premium Assessment.*—A 25 percent assessment would be imposed on "high cost" health plans to the extent their costs exceed a target cost. The initial target for community rated plans would be based on average per capita health care costs in the particular community rated market area for 1994 trended forward at the rate national health expenditures increase. The target rate of growth thereafter would be CPI plus 3.0 percent for 1987, 2.5 percent for 1988 and 2.0 percent thereafter. The initial target for experience rated plans would be based on each plan's actual experience from 1997–1999, and then will increase generally by the same target growth rate that applies to community rated plans.

Plans in a community rated area where the average premium is less than the target would not be subject to the assessment. The health plan would pay half the assessment and collect the other half from providers in reduced reimbursements. The Secretary of the Treasury will have the authority to adjust the reference premium to reflect changes in demographic characteristics and health status. The tax would apply to community-rated plans after 1996 and to experience-rated plans after 1999.

B. *National Health Care Cost and Coverage Commission.*—A National Health Care Coverage and Cost Commission will be established to monitor and make recommendations with respect to trends in health insurance coverage and costs. The Commission

will consist of seven members to be appointed by the President and confirmed by the Senate.

Beginning in 1998, the Commission will issue annual reports detailing trends in health care coverage and costs, broken down nationally, by state, and by health care coverage area.

Among other things, the Commission will report on:

Demographics and employment status of the uninsured and reasons why they are uninsured;

Structure of health delivery systems;

Status of insurance market reforms;

Development and operations of health insurance purchasing cooperatives;

Success of market mechanisms in expanding coverage and controlling costs among employers and households;

Success of high cost health insurance premium tax in controlling costs;

Success and adequacy of subsidy program in expanding coverage through employers and households;

The Commission will also issue findings on the per capita cost of health care, including the rate of growth by type of provider, by type of payor, within States and within health care coverage areas. Such findings will also include the expected rate of growth in per capita health care costs, the causes of health care cost growth, and strategies for controlling such costs.

Beginning on January 15, 1999, the Commission will report each year on the affordability of coverage for families and employers and on the success of market incentives and other provisions of this legislation in achieving cost containment. If the Commission finds that coverage is unaffordable or that cost containment efforts are unsuccessful, it will make recommendations for improvements.

If the Commission finds that fewer than 35 percent of those eligible to enroll in the community-rated health plan are able to enroll in a plan with a premium at or below the target premium for the area, then the Commission will consider and recommend to Congress a means of controlling health care cost growth to the target set in this legislation or to an alternative target if the Commission determines that would be more appropriate. Congress shall consider such Commission recommendation under the same expedited procedures as it considers the Commission recommendation for achieving universal coverage. Consideration of such recommendations under such procedures will not occur more than once in a Congress.

3. INSURANCE MARKET REFORMS

A. *Market segments and boundaries.*—Firms with fewer than 500 workers and individual purchasers (self-employed, nonworkers, AFDC-eligibles) will be in the community rated pool. Firms with 500 or more workers, as well as Taft-Hartley plans and rural cooperatives with 500 or more members, will be permitted to self-insure or purchase experience-rated coverage.

B. *Community rating requirements.*—Community-rated plans could modify their rates based on coverage category (e.g., single, family, etc.), geography, and age (with 2:1 band for population under 65 years of age until 2002). Each community-rated health plan will be required to establish a single set of rates for the standard benefits package applicable to all community-rated eligible individuals and groups within the community rating area.

States draw boundaries for community rating areas. In drawing such boundaries, states cannot subdivide metropolitan areas and must assure that a community rating area contains at least 250,000 individuals.

C. *Guaranty fund.*—States shall be required to establish guaranty funds for all community-rated health plans and in-state, self-insured plans based on federal standards. The Department of Labor would establish standards for and operate a guaranty fund for multi-state self-insured plans.

D. *Health Insurance Purchasing Cooperatives (HIPCs).*—The plan allows for multiple, competing, voluntary HIPCs. States certify HIPCs to serve state-established community rating areas. States may certify more than one HIPC for each such area. HIPCs must be non-profit. States and local governments will be allowed to sponsor or establish HIPCs. If a HIPC is not available in a community rating area, the Federal Employees Health Benefits Program (FEHBP) will be required to establish or sponsor HIPCs in such unserved areas (see FEHBP below).

HIPCs will be responsible for entering into agreements with plans and employers; enrolling individuals in plans; collecting and distributing premium payments; coordinating out-of-coverage with other HIPCs; and providing consumer information on plans' quality and cost.

HIPCs must accept all eligible individuals and firms; provide enrollees a choice of at least 3 plans, including 1 Fee For Service (FFS), 1 Point of Service (POS), and 1 HMO. Requirement of 3 plans could be waived by Governor in rural areas, but FFS must always be available. The Secretary of Health & Human Services will set fiduciary standards for HIPCs. HIPCs will be permitted to negotiate discounts with plans reflecting economies of scale in administration and marketing.

E. *Employer Responsibility.*—Small employers (firms with less than 500 workers) must offer to their employees a HIPC. They may also offer a choice of at least three plans (including an FFS, POS, and HMO) to their employees. These small firms could choose from among the HIPCs in their community rating area.

In order to qualify for an employer premium contribution, employees will be required to purchase health insurance through the three plans or the HIPC chosen by their employer. If an employer chooses to offer an HIPC that is not the FEHBP HIPC in the area, that employer's employees also could choose from the plans offered by the FEHBP HIPC and still qualify for any employer premium contribution.

Large employers (firms with 500 or more workers) must offer a choice of at least three plans (including an FFS, POS, and HMO) to their employees. Large employers can purchase experience-rated health plans or self-insure. Large employers can join together to form large employer purchasing groups, but cannot join HIPCs.

F. *Self-insured plans.*—In general, self-insured plans must comply with the above responsibilities and reforms, including employer and individual premium contribution requirements, coverage of a comprehensive package of benefits, guaranteed issue and renewal, and pre-existing condition limits.

G. *FEHBP.*—The Office of Personnel Management will designate a state-certified health insurance purchasing cooperative in each area as the FEHBP HIPC. If a state-certified HIPC is not available, OPM will be responsible for setting up an HIPC. An HIPC run by OPM would have all of the powers of a state-certified HIPC.

Federal workers will select plans through their local FEHBP HIPC. Premiums for federal workers will be based on the current methodology and will not be age-adjusted. OPM will implement rules to blend premiums for federal workers with premiums for non-federal individuals over time. Federal workers and non-federal individuals will pay the same community-rated premium upon the phase-out of age-rating in 2002.

Workers in firms with less than 500 workers, nonworkers, AFDC recipients, the self-employed can also purchase coverage from the same plans as federal workers through the FEHBP HIPC, but at the age-adjusted community rate. National employees plans (e.g., Treasury) will have a one year transition before they are opened to non-federal individuals.

The federal government and employee and retiree representatives will negotiate to decide whether the federal government will offer and contribute towards supplemental benefits above the standard benefit package for federal workers.

H. *Risk Adjustment.*—Risk adjustment will occur between community-rated health plans to account for differences in health costs that result from differences in their enrollees' health status, demographics, socioeconomic status, and other factors. Community rated health plans must also participate in a mandatory reinsurance program run by the states.

In addition, experienced rated plans will be required to make transfers to the community rated plan pools to adjust for the increased costs in the community rated pools.

I. *Family Coverage for Individuals up to Age 25.*—To further maximize coverage, health plans must allow unmarried children to be covered under parents' policies until they turn 25.

4. NATIONAL HEALTH PLAN STANDARDS

A. *State Certification of Plans.*—States will certify health plans based on federal guidelines. Health plans will be subject to the following market reforms: guarantee issue and renewal, open enrollment, limit pre-existing condition exclusions to six months, and exit from market rules. Supplemental health benefits plans must be priced and sold separately from the standard health plan.

B. *Any-Willing-Provider.*—The plan does not include "any-willing-provider" provisions. The anti-discrimination provision prohibits a provider network from discriminating against providers on the basis of their profession as long as the state authorizes that profession to provide the covered services. However, this provision does not require standard health plans to include in a network any individual provider or establish any defined ratio of different categories of health professionals.

C. *Balance Billing.*—Each standard health plan must have arrangements with a sufficient number and mix of health professionals that will accept the plan's payment rates as full.

D. *Access to Specialized Treatment Expertise.*—Standard health plans that use gatekeeper or similar process must ensure that such a process does not create an undue burden for enrollees with complex or chronic health conditions. Each standard health plan must demonstrate that enrollees have access to specialized treatment expertise.

E. *Utilization Management.*—Each standard health plan must disclose the protocols and financial incentives which they are using to control utilization and costs.

5. BENEFITS PACKAGE

A. *The Benefit Package.*—There are 16 legislatively-defined categories of covered services in a "standard" benefits package, including:

1. Hospital services;
2. Health professional services;
3. Emergency and ambulatory medical and surgical services;
4. Clinical preventive services;
5. Mental illness and substance abuse services;
6. Family planning and services for pregnant women;
7. Hospice services;
8. Home health services;
9. Extended care services;
10. Ambulance services;
11. Outpatient laboratory, radiology and diagnostic services;
12. Outpatient prescription drugs;
13. Outpatient rehabilitation services:
14. Durable medical equipment, prosthetics and orthotics;
15. Vision, hearing, and dental care under 22 years of age;
16. Investigational treatments.

The scope and duration of services are not specified in legislation, but will be defined by a National Health Benefits Board. For mental illness and substance abuse, the board is instructed to seek parity (same copays, coinsurance, deductibles). If the Board cannot initially design a benefit package with parity, it is permitted to place limits, first on hospitalizations and subsequently on outpatient psychotherapy for adults. No copayment will be required for clinical preventive and prenatal services.

B. *Cost sharing schedules.*—The value of the standard benefits package will be equivalent to the actuarial value of the Blue Cross/Blue Shield standard option under FEHBP. The Benefits Board will specify three cost sharing schedules:

A low cost sharing schedule, resembling an HMO.

A high cost sharing schedule, resembling fee-for-service.

A combination cost sharing schedule, resembling a point-of-service plan, in which in-network services would have lower cost sharing schedules similar to an HMO or PPO, and out-of-network services would have higher cost sharing schedules like fee-for-service.

C. *The "alternative standard" benefits package.*—Individuals will have the option of purchasing an alternative benefits package. With a higher deductible, this plan will be offered at a lower actuarial value than the standard plan. While it resembles a catastrophic plan in the size of the deductible, it differs in that it must cover all 16 categories of services. It will not be offered through employers, and supplemental policies will not duplicate services or pay for cost sharing below the deductible. Enrollees selecting this plan will be included in the community rating pool. These provisions are designed to limit the potential for risk selection.

D. *National Health Benefits Board.*—The seven member National Health Benefits Board will determine the scope and duration of services and the details of each cost sharing schedule. In addition, the Board will develop criteria and procedures for defining medical necessity and appropriateness. Members will be appointed by the President, with the advice and consent of the Senate, to staggered six year terms.

E. *Cost Sharing Subsidies.*—AFDC recipients enrolling in a lower or combination cost sharing plan at or below the average premium in the area will pay on 20 percent of the regular cost sharing schedule (e.g., instead of a $10 copay, they pay only $2). If no such plan is available, they can get a cost-sharing reduction in a higher cost-sharing plan (e.g., instead of a 10 percent copay on a doctor's visit, they pay only $10).

For people who are under 150 percent of poverty and are not receiving AFDC, cost sharing is only available if they cannot buy a lower or combination cost sharing plan. If such a plan is unavailable, the person can enroll in a higher cost sharing plan and have their cost sharing reduced to the lower cost sharing level.

For people under 150 percent of poverty and not working, cost sharing is only available if they cannot buy a lower or combination cost sharing plan. If such a plan is unavailable, the person can enroll in a higher cost sharing plan and have their cost sharing reduced to the lower cost sharing level.

For people under 150 percent of poverty who enroll in a plan through an experience-rated employer, no cost sharing is available if the person can enroll in any lower or combination cost sharing plan offered by their employer through which they enroll. Otherwise, the person can enroll in a higher cost sharing plan and have their cost sharing reduced to the lower cost sharing level.

6. EXPANDED BENEFITS FOR THE ELDERLY AND DISABLED

A. *Long Term Care.*—The plan includes several new initiatives to provide long term care services to the elderly and disabled. New programs include:

New Home and Community Based Care Program. The plan provides a capped federal entitlement to states to provide home and community-based services to individuals with 3 or more deficiencies in Activities of Daily Living (ADLs), severe mental retardation or severe cognitive or mental impairment regardless of age or income. Funding over the 1995–2004 period totals $48 billion.

Long Term Care Insurance Standards. Private long term care insurance policies will be subject to Federal model standards to be developed by the Secretary of HHS in consultation with the National Association of Insurance Commissioners within one year of enactment.

Tax Clarification for Long Term Care Insurance. Expenses for long term care services and insurance premiums shall be treated as medical expenses. Other tax clarifications are also included.

Life Care Program. The plan establishes a voluntary public insurance program to cover the costs of extended nursing home stays. Individuals will be given the option of purchasing coverage when they reach the age 35, 45, 55, or 65. The program is self-financed and pre-funded.

PACE Program. The plan expands Medicaid's Program of All-Inclusive Care for the Elderly (PACE), increasing authorized demonstration sites from 15 to 40. The Secretary of HHS is required to develop provider and service protocols.

B. *Medicare Drug.*—This initiative gives Medicare beneficiaries three drug benefit options: a fee-for-service plan, a Prescription Benefits Management (PBM) option, and an HMO option—all effective January 1, 1999. Under this new program, beneficiaries will have an annual deductible to be determined by the Secretary of HHS; a 20 percent copay; and an annual out-of-pocket limit of $1,275 in 1999. Medicare Part B premium would be increased by 25 percent of the cost of the drug benefit estimated to be about $10 in 1999, with Medicare paying the remaining 75 percent.

Drug manufacturers will sign rebate agreements with HHS in exchange for no formulary under the fee-for-service option. Drugs used as part of HMOs or capitated drug plans and drugs for the working aged will not be subject to rebates.

Rebates for single source and innovator multiple source drugs will be 15 percent; rebates for generic drugs would be 6 percent; the Secretary could establish a sliding scale from 2 percent to 15 percent for generic drugs as long as the effect was equal to a 6 percent. From 1999–2004, this program will cost $94.4 billion.

C. *Enrollment of Medicare Beneficiaries into Managed Care Plans.*—Individuals who become eligible for Medicare may choose to remain in their current health plans if such plan is a Medicare Risk Contracting plan under section 1876 of the Social Security Act, or is eligible to become such a risk contract. Payments will be made beginning in the first month in which the individual is Medicare eligible. Payments under this provision shall be the sole Medicare payment to which the beneficiary is entitled.

7. MEDICAID PROGRAM

A. *Integration of Medicaid Recipients.*—(See Coverage section above) Under this plan, the AFDC and non-cash population will be integrated into the general health care reform program and treated like other low-income people eligible for federal subsidies and enrollment in certified health plans. States will be required to make general maintenance of effort payments for services covered under the standard benefit package.

AFDC. Cash Medicaid recipients (AFDC) will be eligible for full premium subsidies as will other families with incomes less than 100 percent of poverty;

Non-cash. Full premium subsidies will be available to all pregnant women and children up to age 19 with incomes up to 185 percent of poverty.

B. *Cost sharing for Integrated Medicaid recipients.*—AFDC recipients in HMOs will pay only 20 percent of the cost sharing amount otherwise required. If no HMO is available, AFDC recipients will pay the cost sharing amount that would apply in an HMO, but not reduced to 20 percent. Noncash recipients will receive cost sharing subsidies like all other low-income individuals—up to 150 percent of poverty.

C. *State and Federal Premium Payments for Integrated Recipients.*—The federal government will pay all of the premium subsidies for integrated Medicaid recipients. States will pay the federal government maintenance of effort payments for these integrated recipients. Specifically:

Cash: States will be required to pay an amount equal to: (1) the adjusted, fiscal year 1994 per capita cost of services covered (based upon the state's current Medicaid payment rates) under the standard benefits package for AFDC recipients multiplied by (2) the number of AFDC recipients receiving a subsidy in a given year. Disproportionate Share (DSH) payments attributed to Cash recipients are not included in the calculation of a state's per capita cost of covered services. The per capita cost of services in fiscal year 1994 will be adjusted for future years by the growth in per capita national health expenditures.

Non-cash: States will be required to make general maintenance of effort payment for services (based upon the state's current Medicaid payment rates), in fiscal year 1994, covered under the standard benefits package for non-cash recipients. State DSH payments which are attributable to the noncash population will be included in the calculation of general maintenance of effort payment. Such MOE payments will increase at the same growth rate as national health expenditures.

D. *SSI/Disabled Medicaid Recipients.*—SSI/Medicaid recipients will not be included in

the community rated market. Medicaid will be retained as a separate program, with current rules, for SSI and long-term recipients. States will have the option to pay a per capita amount for each SSI/Medicaid recipient (who is not enrolled in Medicare) that chooses to enroll in a certified health plan. States shall negotiate with certified health plans for rates for the SSI population that are separate from the community rate. No certified plan can have more than 50 percent of its enrollment composed of SSI/Medicaid recipients.

E. *Dual Eligible Recipients.*—Dual eligibles—persons eligible for Medicare and Medicaid—will remain under Medicaid and not be enrolled in health plans.

F. *Non-SSI, Non-Dual Eligible Recipients aged 18-64 years.*—These individuals will remain under Medicaid, but as the low-income subsidies phase-in (e.g., 100 percent to 125 percent), these recipients (currently about 240,000) shall be integrated and treated like other low-income individuals.

G. *Supplemental Services.*—Current Medicaid rules governing covered services and recipient eligibility will be retained to cover services not otherwise provided through certified health plans. The current flexibility provided to States to determine the optional services and groups it will cover will also be retained.

H. *Miscellaneous Medicaid.*—In addition, the plan:

Allows states to expand eligibility for home-based Medicaid long term care services for single persons by increasing the asset limit from $2,000 to $4,000 for services including personal care attendant services, the Sec. 1915 waiver programs, and the frail elderly home care option.

Eliminates the institutionalization requirement as a condition of eligibility for habilitation services under a home and community based waiver.

Eliminates the "cold bed" rule for home and community based waiver programs.

Requires State Medicaid programs to reimburse directly for services by certified registered nurses and anesthetists or clinical nurse specialists that are authorized to practice under State law, whether or not they operate under the supervision of a physician or other health care provider.

8. HEALTH WORKFORCE AND EDUCATION/RESEARCH

A. *Graduate Medical Education/Graduate Nurse Training/Academic Health Centers/Medical Schools*

Creation of an all-payer account. Currently, only Medicare supports graduate medical education. By supplementing this with a 1.5 percent premium assessment, and allocating the total pool to residency training programs and academic health centers, this plan spreads medical education costs across all of the insured.

Health professional workforce policy. This initiative consists of: (1) phasing in primary care residency positions from 39 percent in 1998 to 55 percent in 2001; (2) reducing the number of total residency positions from 134 percent of US medical school graduates in 1998 to 110 percent in 2001; (3) creating a National Council on GME to implement these policies and modify the goals beginning in 2001; and (4) providing transitional funding to residency programs which reduce their number of residency positions.

Creation of funding accounts. Funding by account is as follows:

GME Account: $27 billion over 5 years;

AHC Account: $42 billion over 5 years;

Medical School Account: $2 billion over 5 years;

Graduate Nurse Training Account: $1 billion over 5 years;

Dental School Program: $250 million over 5 years;

Public Health School Program: $150 million over 5 years.

B. *Biomedical and Health Services Research Fund*

Creation of Biomedical and Health Services Research Fund. This fund is designed to supplement National Institutes for Health and Agency for Health Care Policy and Research funding, which is currently sufficient to finance only a fraction of the peer-reviewed grant submissions.

Funding levels. The plan's premium assessment will provide additional funding for the NIH and AHCPR.

9. HEALTH INFRASTRUCTURE

A. *Public Health Service.*—To strengthen our public health infrastructure, the following programs receive new or additional funding:

Core Public Health. Grants to states to improve and monitor the health of population.

Health Promotion and Disease Prevention. Grants to eligible providers to develop and implement innovative community-based strategies to provide health promotion and disease prevention activities.

Mental Health and Substance Abuse. Grants to help integrate state MH/SA services with those provided by health plans.

Comprehensive School Health Education. Grants to state education agencies to integrate comprehensive education programs in schools.

School-Related Health Services. Grants to develop school-based or school linked health service sites.

Other initiatives. Other initiatives include domestic violence and womens' health; occupational safety and health; and border health improvement.

B. *WIC.*—The bill supplements existing appropriations for the supplemental food program for women, infants and children (WIC) with $2.4 billion in direct appropriations which will allow the program to serve all of the pregnant women, infants and children eligible for WIC benefits.

C. *Indian Health Service.*—The programs of the Indian Health Service are strengthened with grants and loans to improve and expand services. Greater flexibility allows the programs of the IHS to contract with health plans to provide services and receive third party reimbursement. Furthermore, IHS health programs are eligible to apply and receive funding under the public health programs.

10. UNDERSERVED/ESSENTIAL COMMUNITY PROVIDER

A. *Access to Care for the Underserved Population*

Community Health Plan and Network Development. Grants and contracts are awarded to eligible health providers to develop community health groups to provide the standard benefit package in health professional shortage areas or directly to medically underserved population. Grants and contracts are also made to expand existing health delivery sites and services, and to develop new ones.

Capital Development. Grants and loans are awarded for the capital costs of developing community health groups and expanding or developing new health delivery sites.

Enabling and Supplement Services. Grants and contracts are awarded to eligible entities to assist in providing enabling and supplemental services to the underserved population.

B. *Essential Community Providers.*—Designed to ensure that vulnerable populations enrolling in health plans have access to traditional, safety-net providers (e.g. community health centers and AIDS providers), the essential community provider provision requires that health plans offer a contract or agree to pay essential community providers in their service area.

The plan creates two categories of essential community providers and requires all plans to contract with every essential community provider listed in Category I and one from each category listed in Category II.

Category I include Migrant Health Centers, Community Health Centers, Family planning grantees, Homeless Program Providers, Ryan White grantees, State HIV drug programs, Black Lung Clinics, Hemophilia Centers, Urban Indian programs, STD and TB Clinics, Nonprofit and public DSH hospitals, Native Hawaiian Health Centers, School Based Health Service Centers, Public and nonprofit mental health/substance abuse providers, Runaway homeless youth centers and transitional living programs for homeless young Public and nonprofit Maternal and Child Health providers, Rural Health Clinics, and Programs of the Indian Health Service.

Category II providers include Medicare dependent small rural hospitals and Children's hospitals.

In 5 years, the Secretary will make recommendations to Congress on whether or not the program should continue; and if so, with what changes. Congress would then vote up or down on the recommendation.

11. STATE OPTIONS

States that want to move ahead early with the implementation of Federal health care reforms will be allowed do so on a fast track. The bill will also allow states to implement a single payer system. Existing state waivers will be grandfathered.

12. QUALITY AND CONSUMER PROTECTION

A. *Quality*

National Quality Council. This 15 member Council, comprised of consumers, health plans, purchasers, States, health care providers and quality researchers, will set national quality goals/standards and establish regional and State-based organizations to implement the goals.

Performance Measures for Health Plans. The National Council will establish performance measures for health plans, including measures of access (waiting times, patient/provider ratios), consumer satisfaction, health plan report cards for consumers and quality improvement. The Council will conduct surveys of consumers and develop quality reports.

Research in quality improvement. The Council will make research recommendations to the Agency for Health Care Policy and Research for outcomes studies and guideline development.

Quality Improvement Foundations. These non-profit, non-governmental, regional or State-based organizations will get federal grants for quality improvement (involving health plans and practitioners) on the local level. QIFs will look at practice variations between health plans and different geographic regions. They will engage practitioners in lifetime learning techniques and provide technical assistance to health plans to develop their own quality improvement programs.

Consumer Information and Advocacy Centers. These State-based, non-profit, non-governmental organizations will disseminate consumer report cards about health plans;

open local offices to hear grievances; and provide consumer education. A National Center for Consumer Information and Advocacy will also be established to train local and State-based consumer advocates.

The National Practitioner Databank. This Bureau of Health Professions databank will be opened for public access.

B. *Simplicity.*—The enormous amounts of paperwork that insurance companies now generate and process will be reduced through streamlined and computerized systems. Many consumers will no longer have to submit claims to their insurance company, but if they did, they could use one, uniform claim form. Insurance companies will be required to use a standard form to inform consumers of their claim status.

Because benefits will be standardized, consumers will be able, for the first time, to easily compare plan prices. To help consumers compare prices, states will be required to distribute easy-to-read and understand report cards on health plans.

Consumers will also have information about the results of health care provided by each provider and plan in their area which can help consumers make informed choices when selecting providers and plans.

C. *Remedies and Enforcement.*—These provisions require health plans to give notice of benefit denial, reduction or termination and to establish an expeditious appeals process within the plan. They will create State-run claims review offices to provide claimants with options for alternative dispute resolution. State and federal judicial review are also possible.

D. *Fraud and Abuse.*—The bill creates an all-payer fraud and abuse program, including State-based fraud control units funded wholly from settlement revenues.

E. *Privacy.*—Consumers are assured that their individually identifiable health information is protected by a law which prevents inappropriate disclosures and punishes unlawful disclosures severely. Consumers have uniform legal rights to inspect, get copies, and make corrections or amendments to their health records. Patients have the right to restrict disclosure of specific health information.

F. *Antitrust.*—Repeal of the McCarran Ferguson Act with respect to health insurance will subject health insurance companies to antitrust actions. The bill does not include increased antitrust exclusions or safe harbors.

G. *Malpractice Reform.*—Malpractice reforms include: mandatory State-based alternative dispute resolution; a certificate of merit requirement; a limitation on the amount of attorney's contingency fees to 33 percent of the first $150,000; and 25 percent above that amount; and periodic payment of awards. Studies and demonstrations are proposed on medical negligence; the use of practice guidelines; and enterprise liability demonstration project.

13. RELATED ISSUES

A. *Veterans Affairs*

Enrollment. The Department of Veterans may offer a VA health plan to veterans, individuals eligible for CHAMPVA, and their family members.

Eligibility. All compensable, service-connected, disabled veterans, low-income veterans, veterans who are ex-POWs, and veterans who have been exposed to Agent Orange, radiation, or unknown toxins in the Persian Gulf, who chose a VA health plan will receive the standard benefits without a cost-sharing requirement.

Fiscal Matters. VA will continue to receive appropriations to its medical care account. VA will retain the premiums, copayments and deductibles it receives from higher income, nonservice-connected veterans and dependents, the premiums VA collects from the sale of supplemental health plan, and payments it receives from other plans for the furnishing of care to other plans' patients. It also will retain Medicare reimbursement for care furnished to higher-income, Medicare eligible veterans who have no service-connected disabilities, and dependents. (VA health plans will be considered to be Medicare HMOs).

Administration Flexibility. VA health plans will have expanded authorities to enter into contracts and sharing agreements for the furnishing of services to enrollees. VA facilities not operating as part of a VA health plan will continue to furnish health care services under current law.

Note: Because of technical Budget Act requirements, certain VA program changes may have to be made on the floor.

B. *Worker's Compensation.*—The plan creates a Commission on Worker's Compensation Medical Services consisting of 15 members charged to consider a number of issues related to the relationship between health plans and workers compensation medical services. The Commission will report to the President, as well as the House Education and Labor and Senate Labor and Human Resources Committees by October 1, 2000. The plan also authorizes a number of State demonstrations with respect to work related illnesses and injuries.

14. FINANCING

This plan will not increase the federal deficit over the 1994-2004 period.

A. *Medicare.*—Medicare savings total about $54 billion over five years, and $278 billion over 10 years. About $140 billion of that total would finance a new Medicare prescription drug benefit and a long term care entitlement for the elderly and the disabled.

B. *Medicaid.*—The plan eliminates the acute portion of Medicaid and instead provides subsidies for low income individuals to purchase health insurance from private plans (this new subsidy absorbs $387 billion in ten year Medicaid savings). In addition, the plan saves another $129 billion in Medicaid DSH payments by reducing the number of uninsured. Finally, states will be contributing about $232 billion in subsidy payments over the ten year period which represents their existing Medicaid costs, growth each year at national health expenditures. Since states' existing Medicaid costs are growing at a much higher 12 percent, this MOE represents substantial savings for the states.

C. *Revenues*

Increase in excise taxes on tobacco products. The plan will increase the excise tax rate on small cigarettes by 45 cents per pack (for a total of 69 cents per pack), phased in over five years on the following schedule: 15 cents in 1995 and 1996, 25 cents in 1997, 35 cents in 1998, and 45 cents in 1999 and thereafter. The excise tax on other currently taxable tobacco products would be increased proportionately.

Premium assessment. The proposal will impose a 1.75 percent assessment on health care premiums. The net revenues derived from the imposition of this premium assessment would be used to fund the Graduate Medical Education and Academic Health Centers Trust Fund and the Biomedical and Behavioral Research Fund. The assessment would be effective after December 31, 1995.

High cost premium assessment. As discussed earlier, a 25 percent assessment would be placed on health plans to the extent they exceed the target rate of growth.

Cafeteria plans. The proposal will eliminate the exclusion for employer-provided accident or health benefits provided through a cafeteria plan or flexible spending arrangement, effective on and after January 1, 1997, with a delayed effective date for collectively bargained plans.

Finance Committee provisions. The following provisions are taken from the Finance Committee bill.

Additional Medicare Part B premiums for high-income individuals.

Increase excise tax on certain handgun ammunition.

Modification to self-employment tax treatment of certain S corporation shareholders and partners.

Extending Medicare coverage of, and application of hospital insurance tax to, all state and local government employees.

Modify exclusion of employer-provided health care.

Repeal of volume cap for 501(c)(3) bonds.

Self-employed deduction.

The 25-percent deduction for health insurance expenses of self-employed individuals will be reinstated and extended for taxable years beginning after December 31, 1993, and before January 1, 1996. Beginning January 1, 1996, self-employed individuals who are not eligible for employer-subsidized health coverage will be entitled to deduct up to 50 percent of the cost of the standard benefits package. In the case of a self-employed individual with at least one full-time employee who has been employed for at least 6 months, the 50-percent deduction will be reduced based on the contributions the self-employed individual makes with respect to coverage of the individual's employees.

Limitation on prepayment of medical insurance premiums.

Tax treatment of voluntary employer health care contributions.

Tax treatment of organizations providing health care services and related organizations.

Tax treatment of long-term care insurance and services.

In addition, reserves for long-term care insurance contracts that constitute noncancellable accident and health insurance generally will be determined in accordance with the reserve method prescribed by the National Association of Insurance Commissioners (NAIC).

Tax treatment of accelerated death benefits under life insurance contracts.

Definition of Employee.

Increase in penalties for failure to file correct information returns with respect to non-employees.

Nonrefundable credit for certain primary health services providers.

Expensing of medical equipment used in health professional shortage areas.

Tax treatment of funding of retiree health benefits.

Tax credit for the cost of personal assistance services required by individuals.

Disclosure of taxpayer return information for administration of health subsidy programs.

15. CONTROLLING FEDERAL COSTS—FAIL SAFE

The bill's fail safe guards against future unanticipated deficit increases due to this legislation. After enactment, OMB will publish an initial health care baseline including its most up-to-date estimate of the net outlays and revenues from the health reform bill, as well as all Medicare and Medicaid spending. Starting with fiscal year 1997, the President's budget will include an updated version of the initial health baseline. If the

updated baseline (excluding non-health-reform-related differences) exceeds the initial baseline, reform spending (with the exception of the subsidies for pregnant women and children) would be cut back to eliminate the overage. Changes made by the sequester order would not be permanent, and the sequester would be suspended during a recession.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators allowed to speak therein.

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

GENERAL AVIATION REVITALIZATION ACT OF 1994

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1458) entitled "To amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Aviation Revitalization Act of 1994".

SEC. 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

(1) after the applicable limitation period beginning on—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

(b) EXCEPTIONS.—Subsection (a) does not apply—

(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.) at the time of the accident.

(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable limitation period for such civil action established by subsection (a).

SEC. 3. OTHER DEFINITIONS.

For purposes of this Act—

(1) the term "aircraft" has the meaning given such term in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

(2) the term "airworthiness certificate" means an airworthiness certificate issued under section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)) or under any predecessor Federal statute;

(3) the term "limitation period" means—

(A) 15 years with respect to piston-powered general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft;

(B) 18 years with respect to turboprop-powered general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

(C) 22 years with respect to other general aviation aircraft (including jet-powered general aviation aircraft) and the components, systems, subassemblies, and other parts of such aircraft; and

(4) the term "type certificate" means a type certificate issued under section 603(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(a)) or under any predecessor Federal statute.

SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF ACT.—This Act shall not apply with respect to civil actions commenced before the date of the enactment of this Act.

AMENDMENT NO. 2440

(Purpose: To revise the meaning of the term "limitation period")

Mr. FORD. Mr. President, I move that the Senate concur in the amendment of the House with a further amendment, which I now send to the desk on behalf of Senator KASSEBAUM.

The motion was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the motion to reconsider be laid upon the table.

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

The amendment (No. 2440) as agreed to, is as follows:

On page 4, strike line 15 and all that follows through page 5, line 3, and insert in lieu thereof the following:

(3) the term "limitation period" means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

PROVIDING FOR THE TRANSFER OF THE OLD U.S. MINT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 508, S. 2185, a bill to require the Secretary of the Treasury to transfer to the Administrator of the GSA the Old U.S. Mint in San Francisco.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2185) to require the Secretary of Treasury to transfer to the Administrator of General Services the Old U.S. Mint in San Francisco, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2441

Mr. COHEN. Mr. President, on behalf of Senator MCCAIN, I send an amendment to the desk and ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 2441) was agreed to, as follows:

Add at the end of the bill the following new section:

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

(a) IN GENERAL.—Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

Mr. MCCAIN. Mr. President, I would like to ask the chairman of the Committee on Environment and Public Works if he would be willing to respond to a question regarding the committee's authorization on June 23, 1994, for

up to $17.9 million in repairs at the Old U.S. Mint Building in San Francisco.

Mr. BAUCUS. I would be pleased to respond to the Senator's question.

Mr. McCAIN. I would like to ask the chairman if the committee's authorization is intended to compel the administration to request funding for repairs to the Mint Building or for the General Services Administration to submit a prospectus if the project is not deemed a priority repair project of GSA.

Mr. BAUCUS. The Committee on Environment and Public Works, which exercises jurisdiction over the GSA Federal buildings program, regularly reviews public building projects. I can assure the distinguished Senator from Arizona that the committee resolution authorizing safety repairs to the Old Mint Building, contingent upon receipt of a prospectus, does not compel the GSA to submit a prospectus for repairs if the agency does not deem the repair project a priority using the appropriate criteria. Furthermore, the committee authorization does not alter the Administration's process for review and submission of a prospectus.

Mr. McCAIN. I thank the Chairman.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for the third reading, was read the third time, and passed, as follows:

(The bill was not available for printing. It will appear in a future issue of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

CONSUMER PROTECTION TELEMARKETING ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 868) to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 868) entitled "An Act to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Telemarketing differs from other sales activities in that it can be carried out by sellers across State lines without direct contact with the consumer. Telemarketers also can be very mobile, easily moving from State to State.

(2) Interstate telemarketing fraud has become a problem of such magnitude that the resources of the Federal Trade Commission are not sufficient to ensure adequate consumer protection from such fraud.

(3) Consumers and others are estimated to lose $40 billion a year in telemarketing fraud.

(4) Consumers are victimized by other forms of telemarketing deception and abuse.

(5) Consequently, Congress should enact legislation that will offer consumers necessary protection from telemarketing deception and abuse.

SEC. 3. TELEMARKETING RULES.

(a) IN GENERAL.—

(1) The Commission shall prescribe rules prohibiting deceptive telemarketing acts or practices and other abusive telemarketing acts or practices.

(2) The Commission shall include in such rules respecting deceptive telemarketing acts or practices a definition of deceptive telemarketing acts or practices which may include acts or practices of entities or individuals that assist or facilitate deceptive telemarketing, including credit card laundering.

(3) The Commission shall include in such rules respecting other abusive telemarketing acts or practices—

(A) a requirement that telemarketers may not undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy,

(B) restrictions on the hours of the day and night when unsolicited telephone calls can be made to consumers, and

(C) a requirement that any person engaged in telemarketing for the sale of goods or services shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to sell goods or services and make such other disclosures as the Commission deems appropriate, including the nature and price of the goods and services.

In prescribing the rules described in this paragraph, the Commission shall also consider recordkeeping requirements.

(b) RULEMAKING.—The Commission shall prescribe the rules under subsection (a) within 365 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) ENFORCEMENT.—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

(d) SECURITIES AND EXCHANGE COMMISSION RULES.—

(1) PROMULGATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 6 months after the effective date of rules promulgated by the Federal Trade Commission under subsection (a), the Securities and Exchange Commission shall promulgate, or require any national securities exchange or registered securities association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices by persons described in paragraph (2).

(B) EXCEPTION.—The Securities and Exchange Commission is not required to promulgate a rule under subparagraph (A) if it determines that—

(i) Federal securities laws or rules adopted by the Securities and Exchange Commission thereunder provide protection from deceptive and other abusive telemarketing by persons described in paragraph (2) substantially similar to that provided by rules promulgated by the Federal Trade Commission under subsection (a); or

(ii) such a rule promulgated by the Securities and Exchange Commission is not necessary or appropriate in the public interest, or for the protection of investors, or would be inconsistent with the maintenance of fair and orderly markets.

If the Securities and Exchange Commission determines that an exception described in clause (i) or (ii) applies, the Securities and Exchange Commission shall publish in the Federal Register its determination with the reasons for it.

(2) APPLICATION.—

(A) IN GENERAL.—The rules promulgated by the Securities and Exchange Commission under paragraph (1)(A) shall apply to a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment adviser or investment company, or any individual associated with a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment adviser or investment company. The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in the preceding sentence.

(B) DEFINITIONS.—For purposes of subparagraph (A)—

(i) the terms "broker", "dealer", "transfer agent", "municipal securities dealer", "municipal securities broker", "government securities broker", and "government securities dealer" have the meanings given such terms by paragraphs (4), (5), (25), (30), (31), (43), and (44) of section 3(a) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (25), (30), (31), (43), and (44));

(ii) the term "investment adviser" has the meaning given such term by section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)); and

(iii) the term "investment company" has the meaning given such term by section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(a)).

(e) COMMODITY FUTURES TRADING COMMISSION RULES.—

(1) APPLICATION.—The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in subsection (f)(1) of section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a).

(2) PROMULGATION.—Section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), not later than six months after the effective date of rules promulgated by the Federal Trade Commission under section 3(a) of the Telemarketing and Consumer Fraud and Abuse Prevention Act, the Commission shall promulgate, or require each registered futures association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices by any person registered or exempt from registration under this Act in connection with such person's business as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or a person associated with any such person.

"(2) The Commission is not required to promulgate rules under paragraph (1) if it determines that—

"(A) rules adopted by the Commission under this Act provide protection from deceptive and abusive telemarketing by persons described under paragraph (1) substantially similar to that provided by rules promulgated by the Federal Trade Commission under section 3(a) of the

Telemarketing and Consumer Fraud and Abuse Prevention Act; or

"(B) such a rule promulgated by the Commission is not necessary or appropriate in the public interest, or for the protection of customers in the futures and options markets, or would be inconsistent with the maintenance of fair and orderly markets.

If the Commission determines that an exception described in subparagraph (A) or (B) applies, the Commission shall publish in the Federal Register its determination with the reasons for it.".

SEC. 4. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule of the Commission under section 3, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such telemarketing, to enforce compliance with such rule of the Commission, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The State shall serve prior written notice of any civil action under subsection (a) or (f)(2) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of any rule prescribed under section 3, no State may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action under subsection (a) or (f)(2) against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(e) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(f) ACTIONS BY OTHER STATE OFFICIALS.—

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

SEC. 5. ACTIONS BY PRIVATE PERSONS.

(a) IN GENERAL.—Any person adversely affected by any pattern or practice of telemarketing which violates any rule of the Commission under section 3, or an authorized person acting on such person's behalf, may, within 3 years after discovery of the violation, bring a civil action in an appropriate district court of the United States against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule of the Commission under section 3, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(c) ACTION BY THE COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of any rule prescribed under section 3, no person may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(d) COST AND FEES.—The court, in issuing any final order in any action brought under subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(e) CONSTRUCTION.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

(f) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

SEC. 6. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided in sections 3(d), 3(e), 4, and 5, this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this Act.

(b) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 3 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) EFFECT ON OTHER LAWS.—Nothing contained in this Act shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) The term "attorney general" means the chief legal officer of a State.

(2) The term "Commission" means the Federal Trade Commission.

(3) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(4) The term "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description, or illustration of the goods or services offered for sale,

(B) includes the business address of the seller,

(C) includes multiple pages of written material or illustrations, and

(D) has been issued not less frequently than once a year,

where the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation.

SEC. 8. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

SEC. 9. ENFORCEMENT OF ORDERS.

(a) GENERAL AUTHORITY.—Subject to subsections (b) and (c), the Federal Trade Commission may bring a criminal contempt action for violations of orders of the Commission obtained in cases brought under section 13(b) of the Federal Trade Commission Act (15 U.S.C. 53(b)).

(b) APPOINTMENT.—An action authorized by subsection (a) may be brought by the Federal Trade Commission only after, and pursuant to, the appointment by the Attorney General of an attorney employed by the Commission, as a special assistant United States Attorney.

(c) REQUEST FOR APPOINTMENT.—

(1) APPOINTMENT UPON REQUEST OR MOTION.—A special assistant United States Attorney may be appointed under subsection (b) upon the request of the Federal Trade Commission or the court which has entered the order for which contempt is sought or upon the Attorney General's own motion.

(2) TIMING.—The Attorney General shall act upon any request made under paragraph (1) within 45 days of the receipt of the request.

(d) TERMINATION OF AUTHORITY.—The authority of the Federal Trade Commission to bring a criminal contempt action under subsection (a) expires 2 years after the date of the first promulgation of rules under section 3. The expiration of such authority shall have no effect on an action brought before the expiration date.

SEC. 10. REVIEW.

Upon the expiration of 5 years following the date of the first promulgation of rules under section 3, the Commission shall review the implementation of this Act and its effect on deceptive telemarkettng acts or practices and report the results of the review to the Congress.

Mr. BRYAN. Mr. President, as chairman of the Commerce Committee's Consumer Subcommittee, I am extremely pleased to present for full Senate consideration legislation to protect consumers and legitimate businesses from fraudulent telemarketers. Addressing telemarketing fraud has been

one of my legislative priorities since I entered the Senate. I know firsthand from my constituents of the unscrupulous tactics that many of these fraudulent telemarketers employ. I am delighted that our legislative effort, the Telemarketing and Consumer Fraud and Abuse Prevention Act, stands an excellent chance to become law this summer.

In each Congress since I arrived in the Senate, Senator MCCAIN and I have introduced legislation to combat the pernicious problem of telemarketing fraud. I note that in this Congress, our original Senate bill is cosponsored by members of the Consumer Subcommittee—Senators GORTON, BURNS, and DORGAN—as well as Senator BINGAMAN. Our bill unanimously passed the Senate on June 30, 1993, and the text of our bill was substituted for the text of the House-passed telemarketing fraud bill, H.R. 868, sponsored by Congressman SWIFT. House and Senate staff were able to successfully resolve the differences between the two bills. I am pleased that the final version sends a strong message to fraudulent telemarketers that such conduct will not be tolerated and will be subject to swift enforcement action.

While there are, of course, many legitimate telemarketers, the industry has also unfortunately become rife with scam artists and other crooked operators. Some estimates of the costs associated with such fraud are as high as $40 billion per year. In telemarketing fraud, consumers are typically offered goods and services at incredibly low prices, or are enticed into purchases through offers of luxury items or fabulous trips, at little or no cost. Consumers often are required to pay in advance, and are generally asked to pay by credit card.

As we have learned, however, the offer is indeed too good to be true. Sometimes the items are never received, and even when delivered, the consumer discovers that it is not of the promised value. In some instances, persons are promised a valuable prize, if a purchase is made. The make the purchase, but never receive the prize. These fraudulent schemes have involved the sale of vitamins, diet aids, credit card protection programs, luggage, vacations, and office machine supplies, to name just a few.

According to a 1992 study conducted by Louis Harris and Associates on behalf of the National Consumers League, over one in six Americans find it very difficult to resist a telephone solicitation. Coupled with the fact that less than one-third of the people who have been cheated out of money ever report their losses to authorities, it is clear that fraudulent telemarketing has become a lucrative business for unscrupulous operators to prey on innocent victims, especially the elderly.

At a Consumer Subcommittee hearing that I chaired on March 18, 1993, the Federal Bureau of Investigations shared with us the results of a 3 year undercover sting operation that it had conducted, appropriately named "Operation Disconnect." The FBI's successful efforts to target illegal telemarketers were the result of an innovative undercover approach and its ability to use the telemarketer's own greed and desire for quick profits against him. The results of the FBI's efforts illustrate the need to attack this serious and growing problem from a variety of fronts, and to pursue coordinated law enforcement efforts when possible.

Recently, the Committee has seen a new type of telemarketing fraud emerge involving charitable solicitations, often referred to as telefunding. These telefunding schemes often mirror the typical telemarketing prize promotion scheme, in which a caller guarantees that the consumer has won one of several valuable prizes or thousands of dollars in cash. To receive the prize, the consumer need only make a small contribution to a worthwhile charity. The catch, however, is that the consumer does not, in fact, receive a valuable prize. The small contribution is often a thousand dollars or more, and the only people that benefit from the generous contribution are the telefunders themselves!

These schemes are particularly troubling because they play not only upon the consumer's desire to win big, but also appeal to the consumer's generosity and human compassion, taking advantage of the very qualities that should be encouraged and rewarded, not exploited. I have chaired two hearings on telefunding fraud—one on October 11, 1993 in Las Vegas and another on March 24, 1994—and am pleased to note that testimony at those hearings indicated that our telemarketing fraud bill could provide assistance to the Federal Trade Committee [FTC] and the States in their efforts to combat telefunding fraud.

Clearly, the time is right for passage of our telemarketing fraud legislation. Our legislation requires the FTC to promulgate telemarketing rules to prohibit deceptive and abusive telemarketing acts and practices. The FTC shall include in such rules a definition of deceptive telemarketing acts and practices. We also direct the FTC to develop a requirement that the telemarketer may not undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of his or her privacy rights; restrictions on the hours when unsolicited call may be made to consumers; and recordkeeping requirements

Our bill also requires the FTC to expressly prohibit credit card laundering. Credit card laundering is the practice by which fraudulent telemarketers, sometimes acting in conjunction with third-party intermediaries as brokers, persuade merchants with access to the credit card system to submit, in the name of that merchant, the fraudulent telemarketers' sales drafts into the credit card system. This practice enables the fraudulent telemarketer to avoid the safeguards the credit card systems and financial institutions have established to preclude access by the fraudulent telemarketer to the credit card system.

The FTC's prohibition of credit card laundering should be broad enough to cover all of the parties involved in credit card laundering—the fraudulent telemarketer, the merchant submitting the fraudulent telemarketer's sales drafts into the credit card system, and any third-party intermediaries causing or arranging the credit card laundering. This credit card laundering prohibition, however, should not cover the activities of a legitimate servicing organization which provides services directly to merchants. It should not cover a practice expressly permitted in a valid agreement with a member of a credit card system or the member's authorized agent. An agreement in violation of the rules of the applicable credit card system should not constitute a valid agreement for these purposes. In addition, this prohibition generally should not apply to a messenger or other delivery service that is used by a telemarketer merely to physically transport sales drafts.

Our bill also expands the FTC's authority to obtain enforcement of its court orders through criminal, as well as civil, contempt proceedings. I am pleased to note that our previous Senate-passed provisions extending the FTC's enforcement authority with respect to such issues as venue and subpoena power have been included in the recently completed conference on FTC reauthorization, and therefore need not be included in this bill.

Additionally, our bill permits State attorneys general and other authorized State officials to bring civil actions in U.S. district courts for violations of the telemarketing rules promulgated by the FTC, and the FTC is permitted to intervene in such actions. This provision, however, in no way prohibits State officials from proceeding in State court on the basis of any State civil or criminal statute.

Our bill also permits private parties to bring lawsuits to enforce the newly promulgated FTC telemarketing rules directly against those engaged in telemarketing fraud, if the amount of damages exceeds $50,000. This private party right of action is intended to include a financial institution that has incurred loss or damage. Finally, the bill creates jurisdiction in Federal courts for actions brought under the bill.

I would like to commend my colleague on the House side, Congressman SWIFT, for his continuing interest in

the issue of telemarketing fraud and his diligence in moving this legislation forward. I also would like to express my appreciation to all the Senate cosponsors of this bill—Senators MCCAIN, GORTON, BURNS, DORGAN, and BINGAMAN—for their able assistance.

Mr. President, this legislation is vitally important. So often, the activities of the Congress seem far removed from the every day lives of our constituents. With the passage our bill, however, Congress will have acted to directly protect the consumers of all the 50 States, including the citizens in my own State of Nevada, from becoming unwilling victims of unscrupulous and fraudulent telemarketers. I ask for the unanimous support of my colleagues and ask that the text of H.R. 868 be printed in the RECORD.

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering H.R. 868, legislation designed to protect consumers and legitimate businesses from the ever-growing abuses and costs associated with telemarketing fraud. Such abuses cannot be permitted to go unchecked. According to some estimates, the costs from this fraudulent activity are in the billions—possibly as much as $40 billion.

Under fraudulent telemarketing practices, consumers are frequently lured into purchasing goods and services with offers of investment opportunities, fabulous prizes, deluxe vacations, and even household products such as vitamins, all at little or no cost. Consumers often are required to pay in advance, and are generally asked to pay by credit card. The offer is often, however, too good to be true. Sometimes the item is never received, and even when delivered, the consumer discovers that it is not of the promised value. In some instances, an individual is promised a valuable prize if a purchase is made, but never receives the prize. In addition, the required purchase typically costs much more than the value of the item. The most common mode of telemarketing fraud is fly-by-night, boiler room, anonymous operators, whose contact with the consumer is limited to the telephone, and whose mobility and anonymity preclude the consumer from having any recourse if the goods are deficient or undelivered.

Despite the difficulties in locating and pursuing fraudulent telemarketers, both State and Federal law enforcement agencies continue to report that telemarketing fraud remains high on their list of enforcement priorities. H.R. 868 will aid their efforts by enhancing the Federal Trade Commission's ability to pursue fraudulent telemarketers, and creating a new cause of action for State attorneys general and private parties with damages exceeding $50,000.

The original Senate bill, S. 568, was favorably reported by the Commerce Committee on May 25, 1993, and its text was passed unanimously by the full Senate on June 30, 1993, as a substitute for the text of the House-passed telemarketing bill, H.R. 868. The telemarketing bill now before the Senate is the culmination of many years of efforts by both the Senate and House Commerce Committees and is a measure that is certainly ripe for passage. I commend Senator BRYAN, chairman of the Consumer Subcommittee, for his untiring work on this bill.

I would note also that both the House and Senate are poised, after more than a decade, to reauthorize the FTC. The Congress recognizes the important role this agency can play to increase competition in the marketplace and improve the lives of consumers. The Telemarketing and Consumer Fraud and Abuse Prevention Act confirms the commitment by this Congress to assist the FTC in its enforcement efforts, particularly with respect to telemarketing fraud.

Mr. President, I urge my colleagues to support this important consumer protection measure.

Mr. GORTON. Mr. President, as the ranking Republican of the Consumer Subcommittee, I am very pleased that the Senate is considering the conference report on the Telemarketing and Consumer Fraud and Abuse Prevention Act on the floor today. I was a cosponsor of S. 568, the Senate's companion bill which we passed on June 30, 1993 and am delighted that we stand prepared to enact this vital bill to protect American consumers from telemarketing fraud. I also want to acknowledge the efforts made over the last two Congresses to advance this legislation and applaud the work of the distinguished chairman, Senator BRYAN and my colleague on the subcommittee, Senator MCCAIN. I also wish to commend my colleague from Washington State, Representative AL SWIFT, who tirelessly pursued enactment of this legislation on the House side. AL is retiring at the end of this year. I will miss him as a friend, as well as a strong partner and very effective advocate for consumer issues.

Mr. President, telemarketing is one of the fastest growing industries in the United States, involving more than 140,000 firms employing 2 million people. Although the vast majority of telemarketing firms are legitimate, fraud is a major problem. According to a recent report by the House Committee on Government Operations, telemarketing fraud may cost Americans as much as $40 billion annually.

One survey conducted by the National Consumers League found that 92 percent of all Americans had been contacted about a guaranteed prize. Most of those who responded received no prize at all. Those who did receive a prize found that it was worth far less than the promised value.

Combating telemarketing fraud is particularly difficult, since scam artists often operate out of boiler rooms consisting of banks of phone lines on which solicitors place calls to likely prospects. If the scam artists determine that legal action by State or Federal authorities is imminent, the boiler room is packed up and moved to a new location. These criminals also avoid soliciting in the State in which they are located, since interstate prosecution is much tougher for State law enforcement officials than intrastate prosecution.

Both the magnitude and variety of the scams and the difficulty of enforcement make the provisions of this bill crucial to the FTC's ongoing fight against telemarketing fraud. For example, pursuant to this legislation, the FTC will promulgate rules clarifying what telemarketing practices are acceptable and establishing requirements and restrictions that legitimate telemarketers will follow. This is vital to protect every family with a telephone from becoming the victim of unwanted and abusive intrusions which are often coercive or misleading.

Once perpetrators of telemarketing abuse or fraud are targeted, moreover, this bill helps the FTC shut them down. Scam artists are notorious for ignoring FTC "cease and desist" orders and are not afraid of the possibility of civil sanctions because their scams are so lucrative. By allowing for the Commission to bring criminal contempt charges under certain circumstances, this legislation enhances the sanctions available to the FTC for use against those that repeatedly violate Commission orders.

As a former attorney general, I believe that one of the most important elements in this bill is the expansion of enforcement power at the State level. For the first time, State attorneys general can bring scam artists who have defrauded their citizens to justice, even when the scam artists are located outside their State. Individuals, too, will have standing to sue in Federal court on their own behalf, if the amount in controversy exceeds $50,000.

Mr. President, the business of ripping off Americans is booming. I am pleased that we are moments away from passing legislation that will strengthen the enforcement efforts to the FTC and the States in their fight against telemarketing fraud.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

SANTA FE NATIONAL FOREST BOUNDARY ADJUSTMENT ACT

RIO PUERCO WATERSHED ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 510 and 512 en bloc; that the committee amendments, where appropriate, be agreed to; that bills each be read a third time and passed and the motion to reconsider be laid upon the table en bloc; and that any statements appear at the appropriate place in the RECORD.

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

So the bills (S. 1897 and S. 1919) were deemed read the third time and passed as follows:

S. 1897

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Santa Fe National Forest Boundary Adjustment Act of 1994".

SEC. 2. ACQUISITION OF LANDS.

(a) IN GENERAL.—(1) The Secretary of the Interior and the Secretary of Agriculture (hereinafter referred to as the "Secretary") are authorized to acquire the lands and interests therein identified on the map entitled "Santa Fe National Forest Boundary Expansion—1994", and dated June 13, 1994, by donation, purchase with donated or appropriated funds, or exchange: *Provided, however,* That no lands or interests therein may be acquired except with the consent of the owner thereof.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the Office of the Chief of the Forest Service, in Washington, D.C.

(b) WITHDRAWAL.—Upon the acquisition of the lands referred to in subsection (a) by the Secretary or the Secretary of the Interior, and subject to valid existing rights, such lands shall be withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

SEC. 3. ADDITION OF LANDS TO SANTA FE NATIONAL FOREST.

(a) IDENTIFICATION OF LANDS FOR TRANSFER TO BLM.—As soon as practicable after the lands referred to in section 2(a) have been acquired by the Secretary of the Interior, the Secretary shall, in consultation with the Secretary of the Interior, identify appropriate lands within the boundaries of the Santa Fe National Forest (hereinafter referred to as the "forest") which are suitable for transfer to the Secretary of the Interior, to be administered by the Bureau of Land Management.

(b) TRANSFER OF JURISDICTION.—Upon the mutual agreement between the Secretary and the Secretary of the Interior on the lands to be transferred from the administrative jurisdiction of the Secretary to the Secretary of the Interior—

(1) administrative jurisdiction over all of the lands and interests therein acquired by the Secretary of the Interior pursuant to section 2(a) shall be transferred to the Secretary; and

(2) administrative jurisdiction over the lands identified by the Secretary and the Secretary of the Interior pursuant to subsection (a) shall be transferred from the Secretary to the Secretary of the Interior, to be administered by the Bureau of Land Management.

(c) MODIFICATION OF FOREST BOUNDARIES.—(1) Upon the transfer of lands as provided in subsection (b) the boundaries of the forest shall be modified accordingly.

(2) Upon the acquisition of lands by the Secretary pursuant to section 2(a), the boundaries of the forest shall be modified to reflect the inclusion of such lands within the boundaries of the forest.

(d) MANAGEMENT.—(1) Upon the inclusion of the lands and interests therein referred to in section 2(a) within the boundaries of the forest, the Secretary shall administer such lands in accordance with the laws, rules, and regulations applicable to the National Forest System: *Provided,* That the Secretary shall manage such lands so as to preserve and maintain the natural and scenic resources of the area.

(2) The Secretary shall not convey by exchange, sale, or otherwise, the lands or interests therein added to the forest pursuant to this Act.

(e) EFFECTIVE DATE.—For purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(1)), the boundary of the Santa Fe National Forest, as modified pursuant to this Act, shall be treated as if it were the boundary as of January 1, 1965.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

S. 1919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Puerco Watershed Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) over time, extensive ecological changes have occurred in the Rio Puerco watershed, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentation;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

(F) loss of available surface water;

(2) damage to the watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of existing communities that were based on the land and were self-sustaining; and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has damaged the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which have disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, State, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, in consultation with the entities listed in paragraph (8), and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco watershed; and

(10) accelerating the pace of improvement in Rio Puerco watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SEC. 3. MANAGEMENT PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Land Management and in consultation with the Rio Puerco Management Committee established pursuant to section 4, shall—

(1) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994, as described in the attached map, including—

(A) current and historical natural resource conditions; and

(B) data concerning the extent and causes of watershed impairment;

(2) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994; and

(3) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) RIO PUERCO MANAGEMENT PLAN.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Rio Puerco Management Committee, shall prepare a report of appropriate alternatives for the improvement of watershed conditions in the Rio Puerco Drainage Basin. The alternatives shall—

(1) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(2) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(3) recommend voluntary implementation of appropriate best management practices on both public and private lands;

(4) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on both public and private lands;

(5) provide for the development of public participation and community outreach programs that would include proposals for—

(A) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(B) involving private citizens in restoring the watershed;

(6) provide for the development of proposals for voluntary cooperative programs among the Rio Puerco Management Committee membership to implement best management practices in a coordinated, consistent, and cost-effective manner;

(7) provide for the encouragement and support implementation of best management practices on private lands; and

(8) provide for the development of proposals for a monitoring system that—

(A) builds upon existing data available from private, Federal, and State sources;

(B) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(C) will provide information to—

(i) assess existing resource and socioeconomic conditions;

(ii) identify priority implementation actions; and

(iii) assess the effectiveness of actions taken.

SEC. 4. RIO PUERCO MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(b) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management, and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the National Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Soil Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department and the State Engineer;

(11) affected local Soil and Water Conservation Districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) DUTIES.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

SEC. 5. REPORT.

Two years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives a report containing—

(1) a summary of accomplishments as outlined in section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SEC. 6. LOWER RIO GRANDE HABITAT STUDY.

(a) IN GENERAL.—The Secretary of the Interior shall, in cooperation with the State of New Mexico, conduct a study of the Rio Grande from Caballo Lake to Sunland Park, New Mexico. The study shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and restoration of habitat through reintroduction or establishment of appropriate native plant species.

(b) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall transmit the study authorized by this section to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

REMOVAL OF INJUNCTION OF SECRECY—ILO CONVENTION (NO. 150) CONCERNING LABOR ADMINISTRATION

Mr. FORD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the ILO Convention No. 150 Concerning Labor Administration (Treaty Document No. 103-26) transmitted to the Senate by the President on July 26, 1994; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President, is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Convention (No. 150) Concerning Labor Administration: Role, Functions and Organization, adopted by the International Labor Conference at its 64th Session in Geneva on June 7, 1978.

The report of the Department of State, with a letter from the Secretary of Labor, concerning the Convention is enclosed.

As explained more fully in the enclosed letter from the Secretary of Labor, the Current system of labor administration in the United States fully satisfies the requirements of Convention No. 150. Ratification of this Convention, therefore, would not require the United States to alter its law or practice in this field.

Ratificaton of additional International Labor Organization (ILO) conventions will enhance the ability of the United States to take other governments to task for failing to comply with the ILO instruments they have ratified. I recommend that the Senate give its advice and consent to the ratification of ILO Convention No. 150.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 26, 1994.*

WINTER RUN CHINOOK SALMON CAPTIVE BROODSTOCK ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 504, H.R. 2457, the Winter Run Chinook Salmon Captive Broodstock Act of 1993; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this measure be placed in the RECORD at the appropriate place as if read.

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

So the bill (H.R. 2457) was deemed read the third time and passed.

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 374, designating "National Neighborhood Crime Watch Day," and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read three times, passed, and the motion to reconsider be laid upon the table; that the preamble be agreed to; and that any statements appear in the RECORD as if read.

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

So the joint resolution (H.J. Res. 374) was deemed read the third time and passed.

The preamble was agreed to.

DESIGNATING 1994 AS THE YEAR OF GOSPEL MUSIC

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 157, designating "1994 as the Year of Gospel Music," and that the Senate then proceed to its immediate consideration; that the joint resolution be

deemed read three times and passed, and the motion to reconsider be laid upon the table; that the preamble be agreed to; and that any statements appear in the RECORD as if read.

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

So the joint resolution (S.J. Res. 157) was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 157

Whereas Gospel music is a uniquely American art form, one that has provided hope and inspiration for generations of Americans;

Whereas Gospel music is the forerunner of many forms of popular music in the United States;

Whereas Gospel music is an important art form, and a vital part of our cultural heritage; and

Whereas it is in our national interest to promote and preserve Gospel music for generations of Americans to come: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1994 is designated "The Year of Gospel Music", and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to mark that year with appropriate ceremonies and activities.

CONCLUSION OF MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that morning business be closed.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. 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 MITCHELL-CLINTON HEALTH CARE BILL

Mr. GRAMM. Mr. President, the distinguished majority leader has presented his health care bill. And it seems to me that basically what the distinguished majority leader has done is taken the Clinton health care bill, stripped away the title page, and made it 1,341 pages long, and we now have the Mitchell-Clinton health care bill. We have a bill that expands the Government bureaucracy, a bill that expands spending, a bill that taxes health insurance benefits, and a bill that contains many of the basic Clinton components. And the basic Clinton component is to have the Government take over and run the health care system.

We can pass a good health care bill in this Congress, but for us to pass that bill, the President, Senator MITCHELL, and majority leader GEPHARDT are going to have to give up on one dream that they have but a dream that is not shared by the American people, and that is a dream that the Government is going to run the health care system in this country. That dream is never going to come true.

The American people are against it in overwhelming numbers, and they are not willing to turn over the greatest health care system in the history of the world to the Federal Government, or to any other government, for that matter.

So if the President wants a bill, if Senator MITCHELL wants a bill, if majority leader GEPHARDT wants a bill, they are going to have to give up on the central tenet of their bill, and that is a Government-run health care system. That is not going to happen in this Congress, and God willing it is never going to happen in any Congress in the history of the United States of America.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2442

(Purpose: To provide mandatory minimum terms of imprisonment for criminals who use guns and for drug traffickers who use children)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and Mr. DOLE, proposes an amendment numbered 2442.

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

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.

"Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. . FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

(c) SUPERSEDURE OF OTHER LAW.—The amendment made by subsection (a) supersedes any other law authorizing a downward adjustment of a mandatory minimum term of imprisonment for an offense as described in subsection (a).

SEC. . MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be no less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SUBTITLE E—RULES OF EVIDENCE, PRACTICE AND PROCEDURE

SEC. 831. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

Mr. GRAMM. Mr. President, my colleagues and perhaps the people who are following this debate will remember that we passed a tough crime bill in the Senate. That crime bill had a provision that tried to deal with those who use a gun to commit a crime.

When you ask the American people what they are most concerned about with crime, they tell you they are most concerned about violent crime.

So what we offered in the Senate bill was a get-tough provision on people who use firearms to commit violent crimes. We agreed to 10 years in prison without parole for possessing a firearm during the commission of a violent

crime or a drug felony, 20 years for discharging the firearm, life imprisonment for killing someone, and the death penalty in aggravated cases.

That provision was not only adopted in the Senate by an overwhelming vote, but it has been adopted every time that we have debated crime in the last 6 years.

People are outraged about drug pushers who are selling drugs to children and who are using children in drug trafficking. The American people want something done about it, and in the Senate we did something about it: 10 years in prison without parole for using a child in the commission of a drug felony or selling drugs to a child and life imprisonment without parole on a second offense.

Mr. President, that provision was adopted in the Senate overwhelmingly, and it has been adopted in the Senate on numerous occasions. But what happened when the crime bill passed through the Senate and went to the conference with the House bill is that that provision was dropped.

As I am sure many know, despite all the talk about getting tough on crime from the day that Bill Clinton became President until today, he and his Justice Department have fought to overturn mandatory minimum sentencing for drug felons. They have spent every day they have been in office trying to do that. They have sent directives to U.S. attorneys giving them leeway in terms of not prosecuting under our mandatory minimum sentencing provisions and they have worked to overturn minimum mandatory sentencing.

Mr. President, let me go back and make my point, and then I will yield the floor and go back to the Whitewater hearings. I am not leaving out of disrespect to our dear colleague, who is chairman of the Judiciary Committee. We know each other's views very well, and I have the highest respect for him, and I would guess if he and I could have written the final bill I would probably be here on the floor supporting it.

But after we adopted a get-tough bill with mandatory minimum sentencing for people who use guns in violent crimes and with mandatory minimum sentencing for people who sell drugs to minors, those provisions were stripped out of this so-called crime bill, which is now coming back to the Senate, which is now an anticrime bill in many ways.

But the worst provision of that bill goes back to the Clinton agenda that I was speaking about when I yielded to the distinguished Republican leader.

The Attorney General and the President have sought from day one to overturn mandatory minimum sentencing for drug felons. I have fought that effort, but in a bipartisan effort in the Senate to pass a crime bill I reached a compromise with them which was not a compromise that I was happy with but it was a compromise that I was willing to make to get a crime bill, something that I have tried to do for 6 years. Here was my compromise. Leave the law as it is, mandatory minimum sentencing for drug felons, but give the judge a little discretion under the following circumstances.

First, the defendant had no previous criminal record.

Second, the defendant was not a leader in the drug conspiracy.

Third, the defendant was not carrying a gun and no one involved in the crime was armed.

And, fourth, nobody was hurt in the commission of the crime.

Now, under my provision, several hundred people a year would have been exempt from mandatory minimum sentencing out of more than 10,000 people who were charged. I think that ought to tell you something. But that was a compromise I was willing to make.

But what happened, Mr. President? What happened was, when they got to conference, where a small number of Democrats control the votes, my provision was stripped out and a provision was adopted which overturns mandatory minimum sentencing and which works retroactively so that as many as 10,000 drug felons who are currently in the Federal penitentiary could be released under a bill that is being called a crime bill.

Now, if people wonder why there is so much cynicism in America, why people are so outraged with our Government, think about it a minute. The President is talking about this great crime bill that we are getting ready to pass.

How many people know that this great crime bill is overturning mandatory minimum sentencing and is letting people who are currently serving in the Federal penitentiary under a mandatory minimum sentence, many of whom have more than one conviction, out of prison on a retroactive provision that, if used to the maximum extent, could let 10,000 convicted drug felons back out on the streets of America; basically furlough them because we know many of these people are going to go out and do it again. I assert, Mr. President, that the American people do not know that provision is in this bill now.

What I have tried to do today is, I have taken three important provisions that were in our crime bill which have been stripped out and I am offering those provisions, along with Senator DOLE's provisions, as amendments to this education bill because I believe one of the biggest problems in trying to educate our children is the presence of violence in our communities and in our schools.

So I hope my colleagues will adopt this amendment. We have voted on it before. We have adopted it by overwhelming numbers. Unfortunately, because the debate on crime is not in the media, not in those bright areas where the public can see, but in the dark areas where politics as usual still dominates, these provisions were dropped from the crime bill.

Mr. President, I would just say that I have worked for a long time for a crime bill. I worked very closely in the Senate with the distinguished Senator from Delaware. He and I do not agree on everything. But we agreed on what I thought was a good crime bill.

I want people to understand, I am not saying everything about this crime bill is bad. There are a lot of good provisions in the crime bill. But we have larded it up with another $5 billion of social spending on midnight basketball and other things that we defeated in last year's economic stimulus package, and that same old lard is back.

Second, these three provisions that are critically important to getting tough on crime were deleted. So I wanted to give our colleagues an opportunity again today, as I will now on every bill that comes through the Senate that is not an appropriations bill, until we adjourn, I am going to give our colleagues an opportunity to vote on these provisions with some hope that if they are adopted again and if we go to conference on the bills, that at some point, reason and responsibility will prevail and we can bring these provisions back to life—tough mandatory minimum sentencing for thugs who use guns in crime; mandatory minimum sentencing for people who sell drugs to our children or use our children in drug trafficking; and a provision that would overturn the provision in the crime bill which could retroactively go back and let 10,000 drug felons out of prisons.

I feel very strongly about this amendment. I hope it is adopted.

I hope my colleague will forgive me for leaving. I am in the midst of a hearing. He understands I mean no disrespect. I have listened to my colleague on this subject and he has listened to me. And, quite frankly, we have convinced each other on enough things that I think if the two of us had written this bill, we would have a good crime bill and we would both be supporting it.

I yield the floor.

Mr. BIDEN. Before the Senator yields—and I know he has to go back to those hearings—I just want to make one comment and then I will speak in detail, detail meaning 10 or 12 minutes, to the points he raised.

But one of the things that, last time we debated the crime bill and we went to conference a couple of years ago, there was a lot of talk about we just ramrodded this thing through, so on and so forth. This time now, in order to obviate that criticism, we made sure we picked the second biggest room in the House of Representatives, I am told, and C-SPAN televised all of it

from beginning to middle to end, to the point that my dear mother—I know the Senator from Texas is always talking about his mama's gun and how no one is going to take it away.

Well, no one is going to take my mama's television away. She stays up and watches her son Joey into the night. I caused my mother to lose a lot of sleep, going into the night on the crime bill.

I want to assure him that these provisions were detailed openly, in the open, clear light of day and night, and there was no politics as usual.

And with that, I will go to the substance of each of the amendments.

Mr. GRAMM. Your mama did not tell you that you need to listen to that nice man from Texas?

Mr. BIDEN. My mama told me, just be thankful that nice man from Texas, who disagrees with me a lot, does not have his mama's gun when he is debating. That is what my mama told me.

I kid—and I want to say it; I say it enough publicly, and it is said with affection—I occasionally kid and call my distinguished friend from Texas, to distinguish him from Senator GRAHAM from Florida, I refer to him as Barbed Wire GRAMM. And he has never taken offense to that. I want him to know that the distinguished Senator and I have a little bit of disagreement on these bills, but not nearly as much as is portrayed.

Mr. DOLE. Mr. President, I thank the Senator from Texas. I think he is making a very valid point with reference to the matter he just discussed.

Mr. President, I want to say a few words in support of the amendment offered by my distinguished colleague from Texas, Senator GRAMM. Unbelievably, the recent crime conference rejected Republican proposals to establish mandatory minimum penalties for vicious criminals who sell drugs to minors and who use a gun in the commission of a crime.

Another proposal rejected by the conference was one that I offered to the crime bill last November and which passed the Senate by an overwhelming vote of 75 to 19—with a bipartisan group of 39 Republicans and 36 Democrats expressing support. This proposal amended the Federal rules of evidence to allow the introduction of evidence of prior offenses of rape and child molestation in prosecutions for these same offenses. We had a debate on the floor on that. It was adopted again in a bipartisan way.

Ask any prosecutor, and he or she will tell you how important similar-offense evidence can be. In a rape case, for example, disclosure of the fact that the defendant has previously committed other rapes is often crucial, as the jury attempts to assess the credibility of a defense claim that the victim consented and the defendant is being falsely accused.

Similar-offense evidence is also critical in child molestation cases. These cases often hinge on the testimony of the child-victims, whose credibility can be readily attacked in the absence of other corroborating evidence. In such cases, it is crucial that all relevant evidence that may shed some light on the credibility of the charge be admitted at trial.

Unfortunately, Mr. President, the Federal Rules of evidence reflect a general presumption against, let me repeat—against—admitting evidence of uncharged offenses. This presumption has been widely reproduced in State rules of evidence, whose formulation has been strongly influenced by the Federal rules.

Take the 1988 case of Getz versus State. In Getz, the Supreme Court of Delaware overturned the defendant's conviction of raping his 11-year-old daughter because evidence that he had also molested her on other occasions was improperly admitted. The court went on to hold that the disputed evidence was impermissible evidence of "character" and could not be admitted under the State's evidentiary standards. The tragic result: the defendant walked.

Similar tragedies have been repeated in other courts and in other States.

Yes, the Federal rules of evidence have been around since 1975, but that does not mean they should not be changed when the need arises. For when someone is out there committing sex crime after sex crime, committing child molestation after child molestation, it is this Senator's view that this evidence should be admitted at trial without a protracted legal battle over what is admissible and what is not.

If you turn on television today, if you read the morning newspaper, or listen to the radio you have heard the sad story of 7-year-old Megan Kanka, who was recently strangled near her home in Mercer County, NJ. The police have arrested a twice-convicted sex offender. According to press reports, the person arrested for this vicious crime had been sentenced to 10 years in prison, but was released after serving just 6 years.

Should the killer's prior offenses be admitted at trial? You bet. Are these offenses relevant to the charge. Of course.

Mr. President, I am aware that even if my proposal became law, it would affect only Federal cases. State cases would still be governed by State rules of evidence. Nonetheless, the Federal Government has a leadership role to play in this area. Once the Federal rules are amended, it's possible—perhaps even likely—that the States may follow suit and amend their own rules of evidence as well.

So, Mr. President, I urge my colleagues to support the Gramm amendment. It restores some of the mandatory minimum penalties. It restores the important changes to the Federal rules of evidence. And it undoes some of the damage caused by the conference committee.

THE PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I am happy to have this statement as part of my amendment. It tries to get at exactly the repeat, violent felons; what I am trying to get at. I appreciate the Republican leader's leadership as usual.

Mr. BIDEN. Mr. President, I have just received a copy of the amendment. And I do not say that critically. I say that only by way of explanation, in case I leave something out that I am unaware of that has been included in the amendment.

Let me tell you about three things.

First of all, let me talk about the part I agree with Senator GRAMM about. A number of my colleagues, Senators THURMOND and SIMPSON on the Republican side among others, Senator SIMON and Senator KENNEDY and Senator LEAHY and a number on this side of the aisle, have all found some great difficulty with some of the unintended consequences of minimum mandatory sentences that we have passed in the past. So they came to me when we were debating the crime bill on the floor, Democrat and Republican, and said let us come up with a proposal how to deal with these aberrations. We do not want the second-year medical student who has had an exemplary record, has been a model student, a model citizen, a model child through school, a model young adult, because of being found in a circumstance one time to have to go to jail for 10 years without probation or parole for something that we would not send a dealer to jail for for that long, and so on.

So they came along, both Republicans and Democrats, and said we should have this so-called fix, a circumstance whereby you could review, under certain circumstances, a particular minimum mandatory sentence. I in good faith took that provision worked out by that bipartisan group of Senators to a conference with the House of Representatives. We conferenced for, I do not know, 20, 30 hours, a bill that is 1,100 pages long. One of the few things we could not get the House to agree on was this provision.

Democrats and Republicans in the House of Representatives, led by two conservative Republican crime fighters, Mr. HYDE and Mr. MCCOLLUM—Representatives HYDE and MCCOLLUM, two very conservative Members of the House, along with all the Democrats—did not like the Senate provision on reviewing these sentences and said under these rare circumstances you should be able to review those in the future and retroactively review them. That is where this figure of 10,000 drug dealers being let out of jail comes from.

That is pure hyperbole. It is not what will happen. But I happen, in substance, to agree with Senator GRAMM. I do not think we should have made this retroactive. I think it should have been prospective. But it was made retroactive.

But that is the place from which I depart from Senator GRAMM in agreeing with him on anything else he had to say here. On that one point about being able to look at these minimum mandatory sentences there is no disagreement on whether or not we should look at them. Democrats and Republicans say we should go back and look at them. The disagreement is whether or not it had a retroactive provision; that is, people who may have been unjustly sentenced, sitting in jail, should be able to say: By the way, take a look at my sentence and see whether or not I got a minimum mandatory sentence I should not have gotten.

The Republicans on the House side and Democrats thought that should be done. The Democrats, with the exception of me and one other, thought that should be done. I lost. GRAMM's position lost. The other team won. That means out of a 1,100-page bill, that one paragraph was amended. Big deal.

No. 2, the other Gramm provision of making it a crime with a minimum mandatory sentence of 10 years for anyone 21 years or older to buy even an ounce of marijuana from someone 17 years or younger—this is how his amendment works. If a 21-year-old kid in college bought marijuana from a 17-year-old kid on a college campus, under the Gramm amendment that person, the 21-year-old, must go to jail and serve 10 years, no probation, no parole, no exceptions. And if it happened a second time he must be put in jail for life, no probation, no parole.

All those folks who stole the billions of dollars from the S&L's in Texas —none of them are in jail serving 10 years. None of them are in jail even considering life. But we are going to send a 21-year-old college student to jail for purchasing one ounce of marijuana—for life. An incredibly enlightened position. But that is the aberration on the one side, why we cannot have such a crazy law.

But there is some substance to what the Senator says, and I dealt with that in the bill, at least I attempted to. There are also those 23-year-olds and 25-year-olds who go into schoolyards and sell cocaine, go into schoolyards and sell heroin, go into schoolyards and sell methamphetamines, go into schoolyards and hook young kids on drugs. Now those sons of guns should spend a long time in jail. Nobody should have any sympathy for them. So how, on the one hand, do you deal with a provision in my crime bill which is designed to put those people away and not put away the 21-year-old kid who buys an ounce of marijuana from a 17-year-old kid—all of whom, in the Gramm amendment, would be caught up and swept up in one big net and treated exactly the same? The way to do that, in my view, is that using kids to sell drugs near schools or playgrounds provides triple the penalties otherwise authorized—using a juvenile to sell drugs in a drug-free zone. Right now, if you use a juvenile to go into that schoolyard—and that is how they do it, by the way. It is by peers.

The 30-year-old drug dealer does not go into the schoolyard and say, "By the way, I have some drugs." He goes out and hooks some 17-year-old or 15-year-old or 13-year-old kid and he gets that 17- or 15- or 13-year-old kid to go into the schoolyard and sell his drugs for him. When he does that he is covered, he is not selling the drugs.

Or he gets the young kid to carry drugs. That is where the phrase "mule" came from. Because those kids did not go to jail as long and therefore he does not get nailed.

I want to put that person in jail. Right now that person gets, in Federal court, a minimum of 5 to 6½ years in jail, under the sentencing guidelines. Under the crime bill that just passed out of conference, the maximum penalty for that offense will be tripled—tripled. So the person will get up to 19 years in jail, if a 21-year-old or 30-year-old or 50-year-old goes in and takes my 13-year-old daughter or your 17-year-old son and gets them to sell drugs to other kids. That is treating harshly the person who should be treated harshly in my view.

I realize I get criticized that that is too harsh. I am told constantly that is not fair. I do not have any sympathy at all for an adult using a child to distribute drugs to another child: None, zero. So I make no apologies for that person under the Biden crime bill going to jail for a long, long time.

The second way we took care of what Senator GRAMM is trying to get after with a sledgehammer, we use—not a scalpel but a big Bowie knife: Not precise, kind of harsh, but not a sledgehammer to grab in the net almost totally innocent people. The second way we do this is we not only triple the sentence for using kids to sell drugs, any crime that an adult engages a child in for purposes of committing a crime—any crime, not just drugs—any crime where it involves kids, the current penalty is 5 to 6½ years and we mandate that the Sentencing Commission increases that penalty. It is a mandate.

So, not only do we cover what Senator GRAMM wants covered—and in all fairness he may not know this was in the bill—we pick up not only drug crimes but all crimes where an adult is involved in using a child and increase the penalties.

There is another amendment that we debated hotly. I think it is absolutely, positively the wrong thing to do. It would stand on its head, as they say, 800 years of English jurisprudential thinking on admissible evidence. It says, translated in terms of how it really works, if a man is accused of a crime and the charge is a sex crime against a woman or a child, the way it works now the prosecutor can say: "This person here, John Doe, I allege raped Mary Smith. And John Doe is a bad guy. Your Honor, I want to seek permission to enter into evidence acts, prior convictions or similar crimes to show a pattern and practice that this guy operates under, to prove to you—to lend credibility to the fact that this is the guy who did this to this woman."

Under our system the judge looks carefully at that and says, "Is this a pattern? Does this give you any insight? Is this prejudicial?" Sometimes lets that stuff in and sometimes does not.

What Senator GRAMM wants to do on behalf of Senator DOLE—which we defeated in the conference—is to say the prosecutor can say: "You know, if I can go out and find anybody"—this is literally true now, I am not making this up—"if I can find anybody, from any time in the defendant's past, who alleged that the defendant did anything similar to the crime for which he was charged, I, the prosecutor, can go get that person, bring them into court and say, 'When John Smith, the defendant here who is now 47 years old—when you went out on a date with him when he was 15 years old, what did he do to you?'"

And now a 42-year-old can say, "Well, 27 years ago, I remember John forcibly tried to make love to me."

It is incredibly prejudicial. Under our system, for 800 years, we developed these Rules of Evidence because they work. Why do they work? They get at the truth. That is the purpose of them. And to allow total, uncorroborated, unsubstantiated testimony about something that could have happened—anything—from the day before to 50 years before into a trial, I think, absolutely violates every basic tenet of our system.

Remember, I am the guy who wrote this crime bill. I am not "Mr. Soft On Crime." I am the guy who put these death penalties in this bill. I am the guy who added these penalties for all these other things in the bill. But this is crazy.

If the person has a pattern, if he has been convicted of similar crimes, if he has been engaged in that kind of activity and there have been complaints, there are ways to bring that in. There are ways with our present evidentiary rules to bring that in, as I say, to the Presiding Officer, who is an accomplished lawyer himself. There are ways to do that. But not this, just waiving all existing rules.

One other thing. Let me tell you what we did here. Notwithstanding the

fact I think it is crazy, and that is just my opinion, we have a system whereby when we are going to change the Federal Rules of Evidence—we set up a system a long time ago. The Judicial Conference sets up an advisory committee. The way it works is they suggest changes in the rules, the Judicial Conference meaning Federal judges. We have a system we put in place because it made sense a long time ago. Federal judges come along and say we should change the Rules of Evidence the following way. And then if we, the U.S. Congress, do not act to stop those changes, essentially those changes become law.

So in this case, what I say we should do is let us go to the judges, let us go to the experts and say, "Does this approach of Senator DOLE make any sense? Study it, take a look at it, and come back and tell us whether we should change the Rules of Evidence."

That is how we have changed the Rules of Evidence in the 22 years I have been here. There are no fundamental changes in the Rules of Evidence that have been sui generis, that have been spontaneous, that have come from the floor. They come from legal scholars and judges sitting down and saying we should change the Rules of Evidence the following way.

So if it is any consolation—it probably would not be because I think they will agree with me, but maybe I am wrong—if it is any consolation to my friends on the Republican side, there is the ability in the request of the Senate and the House to ask the Judicial Conference to take a look at these rules changes—and they are, in fact, doing that. That is the orderly way in which we should do this, rather than haphazardly, willy-nilly, on the floor of the U.S. Senate, in a conference on the floor of the Congress, changing these Rules of Evidence, with all due respect, that a lot of people do not fully understand the significance of.

Let me ask a rhetorical question of the Presiding Officer: What do you think would happen if there were no fifth amendment and I came on the floor of the U.S. Senate and submitted an amendment to the Constitution called the fifth amendment? And I said, essentially, the fifth amendment says that nobody should have to make a case against themselves. How many votes do you think that would get on the floor of the Senate? And especially with the public the way they are today, ready to listen to the Rush Limbaugh malarkey and all that right-wing garbage, they would all go, "Oh, no, fifth amendment; that's ridiculous."

I wonder how many people would think if I walked on the floor in this atmosphere today and offered the fourth amendment saying the Government cannot engage in an unreasonable search and seizure of your property, I wonder how many votes I would get.

I wonder if people listening to this ask themselves—as Barry Goldwater would say, in your heart you know whether he is right. In your heart, what do you think would happen if we put the Bill of Rights up for a vote today? What do you think the Rush Limbaughs of the world today would do with the Bill of Rights? Do you think they would sustain them?

Thank God, there were people like Madison. Thank God there were people like the Founding Fathers, who debated these things called the Bill of Rights.

But I ask a very serious question. I ask those of you on the floor, what do you think would happen if we had a referendum on this floor on the Bill of Rights? How many people would vote for them? Then I ask you the rhetorical question: What country would this be if there were no Bill of Rights?

When you start changing fundamental Rules of Evidence, you start affecting fundamental questions that, on the surface, are awfully hard to explain. For how could I be against allowing Mary Smith, who said, "John Doe did that to me, too," from coming into court and saying that? How could I be against that, the author of the Violence Against Women Act, the guy who spent more of his waking hours dealing with the problem of violence against women, presuming to say, than any man or woman serving in the U.S. Congress today. How can I be against that? The same way I could be for a fifth amendment. The same way I could be for a fourth amendment. But the public "ain't" ready for that today, because they all want instant answers, instant answers, instant answers.

It is very appealing to put up this bogeyman of this horrible rapist, which there are horrible rapists. That is why in this bill I increased the penalties for rapists.

The Senator said he did not understand what was in this bill that was of any consequence; I mean, this is a soft-on-crime bill.

I ask unanimous consent to print in the RECORD a list of those added penalties beyond the death penalty.

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

NON-DEATH PENALTIES IN CONFERENCE REPORT

GUN PENALTIES

Semiautomatic Weapons (§401): Enhances penalties for using, carrying semiautomatic weapon during federal crime of violence or drug trafficking crime.

Second Offense for Using or Carrying Explosives (§402): Enhances penalties for second conviction for using or carrying an explosive to commit any federal felony (current enhancement—10 years).

Smuggling Firearms (§403): Increases penalty for smuggling a firearm into U.S. to violate a federal or state drug trafficking law or to commit a crime of violence—up to 10 years.

Theft of Guns and Explosives (§404): Provides up to 10 year penalty for stealing a firearm or explosive which has moved in interstate commerce.

Revocation of Supervised Release (§405): Mandates revocation of supervised release and institution of prison term for defendant who possesses drugs or firearm in violation of condition of supervised release.

Revocation of Probation (§406): Mandates revocation of probation for possession of drugs, firearms.

Lying on a Gun Application (§407): Increases penalty for lying on a gun application from 5 to 10 years.

Felons Possessing Explosives (§408): Prohibits felons, drug addicts from possessing explosives.

Explosives Destruction (§409): Authorizes the summary destruction of explosives subject to forfeiture where the explosives cannot be safely removed and stored.

Prohibition against Transactions Involving Stolen Firearms or Stolen Guns (§411): Prohibits possession, receipt, sale of stolen firearm, ammunition that has moved in interstate commerce—up to 10 years.

Using Firearm in Commission of Forgery (§412): Enhances penalties for using or carrying a firearm in commission of felony counterfeiting or forgery.

Firearms Possession by a Violent Felon (§413): Enhances penalties (depending on number of prior convictions) for gun possession by defendant previously convicted of a violent federal felony or serious drug offense.

Receipt of Firearms by Nonresidents (§414): Prohibits non-licensee from receiving firearm if not a resident of any state unless for lawful sporting purposes.

Firearms of Explosives Conspiracy (§415): Enhances penalties for conspiracies to violate federal firearms, explosive laws.

Stealing Guns or Explosives from a Licensee (§417): Provides up to 10 years for theft of firearm or explosive from a licensee or permittee.

Disposing of Explosives to Prohibited Person (§418): Prohibits any person from transferring explosives to felon or other prohibited person (current law forbids transfer by licensees)—up to 10 years.

Interstate Gun Trafficking (§420): Increases penalty for interstate gun trafficking—up to 10 years.

Drive by Shooting (§208): Up to 25 years for shooting into group of 2 or more to further or escape from major federal drug offense.

Adult Prosecution of Juvenile Offenders (§614): Expands category of federal offenses for which juveniles may be prosecuted as adults to include receiving a gun with the intent to commit a felony; traveling interstate to get a gun with intent to commit violence, drug trafficking crime; transferring a gun knowing that it will be used in a crime.[1] Directs court to consider extent to which juvenile played leadership role in an organization, or otherwise influenced others to take part in criminal activities in deciding whether to transfer to adult status.

DRUG PENALTIES

Using Kids to Sell Drugs (§615): Up to three-fold penalty increase for using kids to sell drugs in "drug free" zones.

Drug Dealing in Public Housing (§616, §1503): Increases penalties for dealing drugs near public housing.

Drug Dealing in Drug-Free Zones (§1505): Enhances penalties for dealing drugs in a drug-free zone.

[1] Senate bill also included drug possession as transferable crime—mark deletes.

Drug Use in Federal Prison (§1506): Enhances penalty for simple drug possession in federal prison or detention facility.

Smuggling Drugs into Prison (§1506): Enhances penalty for smuggling drugs into federal prison or detention facility.

Drug Trafficking in Prisons (§1501): Mandates that sentence imposed for providing or possessing drugs in prison be served consecutively to any other drug sentence imposed.

Selling Drugs at a Truck Stop (§1411): Enhances penalties for drug-dealing near truck stops and rest areas.

Cocaine Penalty Study (§3092): Requires Sentencing Commission to submit a report on sentencing disparities regarding crack and cocaine. (House)

OTHER PENALTIES FOR VIOLENT OFFENDERS

Three Time Loser (§501): Life imprisonment for 3 convictions of serious violent felony or serious drug offense. (House)

Criminal Street Gangs: Additional 10 year penalty for gang member who commits federal drug crime or crime of violence who has previous conviction (state or federal).

Using Kids to Commit Crimes (§5130): Enhances penalties for all crimes where defendant used a juvenile or encouraged a juvenile to commit a crime.

Repeat Sexual Assault Offenders (§3211): Doubles maximum penalty for repeat sexual assault offenders (first offense can be federal or state). (VAWA)

Aggravated Sexual Abuse: Federal Penalties (§3212): Directs Sentencing Commission to review and recommend enhanced penalties for aggravated sexual abuse. (VAWA)

Interstate Travel to Commit Spousal Abuse (§3321): Creates new federal offense to travel interstate or to cause someone else to travel interstate to intimidate, harass, or injure. (VAWA)

Sex offenses Against Victims Under age of 16 (§3702): Broadens definition of sex offense as the intentional touching through clothing with intent to abuse, humiliate, harass.

Assaults Against Children (§301): Increases penalty for simple assaults against a youth under 16; creates new penalty for assaults against youth under 16 resulting in substantial bodily injury. (House)

Hate Crimes (§2409): Directs Sentencing Commission to enhance sentences at least 3 levels for persons convicted of hate crimes.

Travel Act (§2906) (also see §617): Increases penalty for interstate travel to commit violent crime in furtherance of drug trafficking from 5 to 20 years.

Federal Prosecution of 13-Year Olds as Adults (§1101): Discretionary transfer for 13-year olds who commit assault (with intent to commit murder or felony, with dangerous weapons) murder, attempted murder and with gun: robbery, bank robbery, aggravated sexual abuse, sexual abuse. (House)

Assault (§2901): Increases penalties for adult of: federal officer, foreign officials, official guests, within U.S. maritime and territorial jurisdiction, Congress, Cabinet or Supreme Court, and President and President's staff.

Manslaughter (§2902): Increases penalty for involuntary manslaughter on federal territory from 3 to 6 years.

Conspiracy to Commit Murder for Hire (§2905): Broadens the murder-for-hire statute to include conspiracy to travel interstate to commit murder-for-hire.

Addition of "Attempt" Offenses to Federal Robbery, Burglary, Kidnapping, Smuggling, and Malicious Mischief Statutes (§2969).

Civil Rights Violations (§2903): Conspiracy against rights. Broadens criminal civil rights conspiracy statute to punish kidnapping, aggravated sexual abuse and attempted murder in connection with civil rights deprivation—up to 10 years.

Official deprivation of rights. Broadens criminal civil rights statute to punish use or attempted use of dangerous weapon, explosives or fire in official rights deprivation—up to 10 years.

Federally protected activities. Broadens criminal civil rights statute to punish use or attempted use of dangerous weapon, explosives or fire in deprivation of federally protected activities, such as voting, serving as juror, or joining labor organization—up to 10 years.

Religious property/free exercise. Broadens statute to punish use or threatened use of dangerous weapon in defacing religious property or obstructing free exercise of religious beliefs—up to 10 years.

Fair Housing, Broadens Fair Housing Act to punish use or threatened use of dangerous weapons or explosives or fire.

Arson (§2907): Increases penalties for damage or destruction of property by fire or explosives.

Extension of Civil Rights Statute (§2911): Extends protection of civil rights statutes to include all persons (now limited to state "inhabitants").

Crimes Against Elderly (§2002): Directs Sentencing Commission to ensure increasingly severe punishment for physical harm imposed on elderly victim; requires enhanced penalties for violent second offenders.

TERRORISM PENALTIES

Failure to Depart (§5005): Increases penalties for failing to depart or reentering the U.S. after an order to deportation, to a maximum of 20 years.

Alien Smuggling (§215): Increases penalties for alien smuggling for profit.

Counterfeiting U.S. Currency Abroad (§721): Extends counterfeiting laws to acts committed overseas.

Terrorist Felonies (§724): Enhances penalties for any felony involving international terrorism.

Weapons of Mass Destruction (§711): Outlaws use of weapons of mass destruction against U.S., Americans overseas—up to life; death penalty if death results.

International Airport Violence (§719): Increases penalties for acts of violence or destruction at international airports—up to 20 years.

Document Forgery (§712, §5124): Enhances penalties for various offenses involving false documents for immigration purposes to 10 years; 15 years if used for drug trafficking; 20 years if used for international terrorism.

Maritime Violence (§701): Up to 20 years for violent acts against maritime navigation (e.g. forcible seizure, property destruction, injury to person).

Violence against Fixed Platforms (§701): Up to 20 years for violent acts against fixed maritime platforms.

WHITE COLLAR PENALTIES

Mail Fraud (§2103): Broadens the mail fraud statute to include use of private interstate carriers to commit fraud.

Receiving Proceeds for Extortion of Kidnapping (§2941): Provides up to 3 years for the knowing receipt of extortion proceeds; up to 10 years for the transport or receipt of ransom.

Receiving Proceeds of Postal Robbery (§2942): Provides up to 10 years for the knowing receipt of postal robbery proceeds.

Credit Card Fraud (§2102): Makes it an offense to: use with intent to defraud another person's credit card; solicit a person to offer credit card or sell information regarding the same; show without permission a person's transaction records.

Insurance Fraud (§2101): Creates a new offense of insurance fraud, including false statements, embezzlement, and obstruction, with maximum penalty of 15 years.

Computer Crime (§2601): Strengthens federal laws in relation to hackers; prohibits transmission of programs to cause damage to, or to deny the use of, a computer or system; provides a civil remedy.

Theft of Major Art Work (§2966): Prohibits and penalizes the theft or procurement by fraud of any object of cultural heritage held in a museum.

SCAMS (§3901): Enhances penalties for telemarketing and other fraud targeted at senior citizens.

Animal Pests (§5105): Makes it a federal offense to mail non-indigenous species.

Interstate Wagering (§5109): Makes it a federal violation to transmit in interstate commerce information for the purpose of procuring a lottery ticket.

MISCELLANEOUS PENALTIES

Drunk Driving with Kids (§1602): Enhances penalties imposed by state for drunk driving on federal lands if child is in vehicle—up to 1 extra year; up to 5 extra years if minor is seriously injured; up to 10 extra years if child is killed.

International Child Pornography (§824): Provides up to 10 years in prison for engaging or conspiring to engage in sexual explicit conduct with minors outside the US.

Crediting of Good Time (§5101): Amends 18 USC §3624 regarding release of prisoners to change the requirements for violent criminals (serving sentences of more than one year and less than life) to receive good time credit. criminals. Such offenders may receive credit of up to 54 days for each year served after the first year of the prisoner's sentence if the Bureau of Prisons determine that the prisoner has displayed exemplary compliance with disciplinary regulations.

Trafficking in Counterfeit Goods (§2904): Increases penalty for trafficking in counterfeit goods or services from 5 to ten years; increases penalty for second offenders from 15 to 20 years.

Military Medals and Decorations (§3056): Amends 19 USC §704 to provide a maximum punishment of one year for the unauthorized wearing, manufacturing or selling of a Congressional Medal of Honor (current punishment is up to 6 months); broadens the meaning of the term "sells" as applied to Congressional Medals of Honor to include trades, barters, or exchanges for value. (House)

(Mr. ROBB assumed the chair.)

Mr. BIDEN. Mr. President, I will just number them. There are over 60 in this "soft-on-crime" bill, 60 new penalties or penalty increases, which is interesting. I know I must be doing something right, because the liberals are mad at me because I entered these in, and they are part of the bill, and the conservatives do not think they are enough. So we probably hit a pretty good balance here—probably.

It increases the penalty for alien smuggling for profit; extends counterfeiting laws to acts committed overseas; enhances penalties for any felony involving international terrorism; outlaws and penalizes use of weapons of mass destruction; increases penalties for acts of destruction at international

airports; increases penalties for some 16 gun crimes; increases penalties for damage or destruction of property with use of explosives; increases penalties for simple assaults against youths under 16; creates new penalties for assaults against youths under the age of 16 that sustain bodily injury; broadens definition of sex offense as intentional touching through clothing with intent to abuse, humiliate, or harass.

It goes on and on. I am not going to go on and on and on any more. The fact of the matter is that what the Senator wants done is done in the bill. What is not done in the bill that the Senator wants done in the bill should not be done, in my humble opinion.

The last amendment that he has here is a little beauty. This one is the one we talked about a lot. It is formally known as the "D'Amato amendment." It is a provision that we expand Federal jurisdiction over all crimes of violence, including property crimes and drug trafficking in which the offender possesses a gun.

Let me tell you how many of those crimes there were last year, Mr. President. There were 900,000 of those crimes. Let us just put this in perspective. I do not know if anybody here is from Philadelphia. Philadelphia is the largest big city near me. The DA in Philadelphia prosecutes roughly 30,000 crimes a year. We don't prosecute that many in the entire Federal system in all 50 States and territories. One DA's office does more than the entire Federal Government. The reason for that is 96 percent of all the crimes committed in America are committed within state jurisdiction.

Let me make the following point, and I will cease. When you think about it, what are my friends, my Republican friends and some of my Democratic friends, asking me to do in this crime bill, and asked me to do when I wrote the crime bill? They are saying why not make the States as responsible as the Federal Government? The Federal Government's sentencing bill, which Senator KENNEDY and I wrote in the late seventies, declared that we would have a sentencing commission. If you are convicted in Federal court of a crime, the judge has very limited discretion. You go to jail. If the sentence says 10 years, you go to jail for at least 85% of the sentence. I defy anyone listening to this debate back in their offices, on television in their homes, or in the gallery, to name a single case they have read about in the paper where they have heard that the awful crime was committed by a Federal prisoner out on bail, a Federal prisoner out on parole, a Federal prisoner who got a sentence that had been reduced. It does not exist. Guess why? Because I and a bunch of us who were around in the late seventies led by Senator KENNEDY.

So my friends do not want the States to do the same thing. That is why they have this truth-in-sentencing stuff. In the average State, when someone gets convicted for 10 years in prison, they will only serve 4 years and 3 months; your State. Your Governors are not telling you the truth. They tell you they want to get tough on crime. They do not want to build more prisons. They want us to build them for them. But federally we do it. Once we nail them, they are nailed. And they stay in jail.

What is the second thing the Federal Government has done? We have a Speedy Trial Act. I happen to be the author of that act of 10 or 12 years ago. You get convicted, arrested for a Federal crime, and you go to jail. You go to trial within 70 days; no screwing around, no fooling around. It is called the Speedy Trial Act. Most States do not have that.

What is the third thing we do? We convict someone. We build a prison, and we put them in the prison. We do not have any prison overcrowding federally because we had the nerve to go back and tax you, and tell you we are going to build more prisons.

There are three things that I take blame and credit for as chairman of the Judiciary Committee and as someone who has had the responsibility to deal on this side of the aisle with the criminal justice situation in the last 22 years in part or in whole. My friends want that done to the States. I would like that done to the States, too.

They are going to take the one system that is not broken—that is the Federal system as it relates to the criminal justice system—and they are going to say, "Let us break it. Let us take 900,000 cases that the States are not handling and drop them into the Federal courts." Crime has been a local problem, a local responsibility.

What do we do in this bill? We help the way we should help. We do not federalize new crimes. We say you need more cops. We—the Federal Government—will go to the American taxpayer, and say, "We are going to spend 9 billion of your dollars to get 100,000 more cops; not Federal cops, local cops."

What else do we do? We say to the States, "We don't have enough prisons." Last year 30,000 convicted violent felons in State courts were convicted, and then never served a day in jail. Why? Because 34 States are under court orders for prison overcrowding. They do not have any place to put them.

I keep mentioning Philadelphia because I know the city well. But every other city is the same. Every Friday a group of judges on the court of general jurisdiction meet with a list given to them by the clerk of 25, 20, or 500 people, and they are told. "Like Barabbas, you must release X number of people because we have no room for them." They sit there and they release convicted felons because they have no place to put them.

What do we do? We come up with almost $9 billion for the States; Federal money given to the States to build and operate prisons. So next year there will not be 30,000 people, and the next year and the next year released in the States because the Federal Government did what we should do. We used Federal revenue to give to the States, give to the cities, to build more prisons, to buy more cops, and to have tougher penalties. But we should not do it this way.

Now, my friend from Texas, Senator GRAMM—and I guess I should stop using that. Before all of these debates were televised, there is part of a civility here in the Senate which I think is a useful thing where we refer to our opposition as our friends. Every time I say that, people say to me when I get on the train to go home they say, "You got so mad at him but you kept calling him your friend. How can he be your friend? Are not you all being a little phony?" He really is my friend. PHIL GRAMM and I have incredible disagreements on policy. But he is my friend. He has always been straight with me, and I think he would tell you I am always straight with him.

But PHIL GRAMM has a problem. A Democrat is about to pass the toughest crime bill in the history of the United States of America. That is a problem we used to deal with, we Democrats, when Republicans passed all these tough bills. Now it is a problem.

This kid, BIDEN, used to be a public defender. He wrote this bill, and guess what? All the cops like it. Guess what? All the prosecutors like it. Guess what? It is tough on crime. Guess what? It means it is hard to make a case. Those soft-headed Democrats, big spending, taxing liberals, are soft on crime. They have a problem.

I make a prediction. When we bring this crime bill up, they will spend at least 2 days on the floor arguing against it; arguing against 100,000 new cops; arguing against 9 billion dollars' worth of new prison money; arguing against 64 new penalties; arguing against over 50 death penalties. Why? If this passes, how can they say Democrats are soft on crime?

It is a problem. I sympathize with it; I really do. I feel badly for them being put in this position. I understand the dilemma, and I suspect we are going to see 50 different versions of what happened here on every single bill. But as we pass this crime bill, God willing—and as my grandfather would say, "and the creek not rising"—it is going to become more and more a hollow echo when we talk about getting tough on crime.

Go out and find me any police agency, any law enforcement agency, or anyone who tells you that this bill is soft on crime. It is true that the Senator from Texas did not get all he

wanted in the bill. I did not get all I wanted in this bill either. I happen to agree with him and disagree with the Senator from Illinois and the Senator from Massachusetts and my Republican friends over in the House. I think retroactivity should not be in this bill. I lost. But I have a 1,100 page bill, and I lost something, so I am going to be against it?

So as trial lawyer—one of the best in Delaware, for whom I used to work "100 years ago"—Sid Balik used to say—and I will never forget going to my first trial with him as a young trial lawyer. He stood before the jury and said:

I want you to look at my defendant in this trial. He is not somebody you would want to bring home to dinner, someone you would want your daughter to go out with; he does not dress very well, and is not well educated. But that is not the issue in this trial. The issue in this trial is whether or not he committed the crime. Did he rob John Doe?

And then he said, "So I want you to do the following: I want you to keep your eye on the ball. Watch the ball. Do not be distracted. Keep your eye on the ball."

I say to my colleagues and to anyone listening to this debate: Keep your eye on the ball. Is the crime bill that we are soon going to debate a tough, honest, straight, significant attempt to deal with violence in America, and to prevent youth who are at risk from becoming violent predators? If it is, be for it. If you think it is not, be against it.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. BIDEN. Mr. President, I move to table the Gramm amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMON. Mr. President, I wonder if the Senator from Delaware could refrain for 5 minutes so that I can speak on this amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent that Senator SIMON be able to proceed for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois [Mr. SIMON], is recognized.

Mr. SIMON. Mr. President, while I do not agree with every word the Senator from Delaware said, I agree in opposition to the Gramm amendment.

Mandatory sentences simply do not make sense all the time. And what the bill does is to substitute the Federal guidelines which are tough for the mandatory sentences.

Let me quote from a few people. Cato Institute, which is more conservative than Senator PHIL GRAMM, said in an article study entitled "How America's Foolish Sentencing Policies Endanger Public Safety":

Mandatory minimum sentences enacted in the 1980's, have led to the early release of violent criminals to make room in our prisons for nonviolent, first-time, drug offenders.* * * Instead of spending more money on prison space for nonviolent offenders * * * we should return prisons to their original purpose of incapacitating violent criminals.

Justice Kennedy of the U.S. Supreme Court, a conservative Justice, testifying before the House Appropriations Subcommittee this morning said:

I am in agreement with most judges in the Federal system that mandatory minimums are an imprudent, unwise, and often unjust mechanism for sentencing.

The Rand study—a highly regarded group—of this whole field points out that California went from 22,500 prisoners in 1980 to 106,000 in 1992. "This 500-percent increase is the largest of any State in the Nation."

Then they conclude, "The data suggests that the massive investment in crime control * * * may have had little effect on California's crime rate, particularly violent crime."

Justice Rehnquist, the Chief Justice of the Supreme Court, has criticized mandatory minimums. Is he a wild-eyed liberal, a radical? Of course not. The two people who are responsible, particularly for the one change that was criticized on the floor by our friend from Texas, are HENRY HYDE and BILL MCCULLOM. Is Congressman HENRY HYDE a wild-eyed liberal radical? Is Congressman BILL MCCULLOM a wild-eyed liberal radical? Well, we know the answer to that.

Much of the provision for taking away the mandatory minimum sentence on the nonviolent crime was a bill that I introduced, together with Senator STROM THURMOND and Senator ALAN SIMPSON. The Federal judges are just overwhelmingly on that side of things. The National Center for Crime and Delinquency is studying my State of Illinois. The study found that shorter prison terms saved taxpayers $100 million a year without jeopardizing public safety.

And then, finally, there is one provision in the Gramm amendment that my colleague from Delaware did not mention. He did not mention this. It says:—and I think this is unprecedented— "any prior conviction, foreign or domestic." We have never before, to my knowledge, ever considered foreign convictions. If someone was a student at Tiananmen Square and was convicted there, should that be used against that person here? I think we are taking a step that clearly we should not be taking, and I hope the Gramm amendment is soundly defeated.

The PRESIDING OFFICER. The question is on the motion to table amendment No. 2442.

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 Arkansas [Mr. PRYOR] is necessarily absent.

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—55

Akaka	Feingold	Mathews
Baucus	Feinstein	Metzenbaum
Biden	Ford	Mikulski
Bingaman	Glenn	Mitchell
Boren	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Hatfield	Murray
Breaux	Heflin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Reid
Byrd	Jeffords	Riegle
Chafee	Johnston	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
DeConcini	Kerry	Simon
Dodd	Kohl	Wellstone
Dorgan	Leahy	Wofford
Durenberger	Levin	
Exon	Lieberman	

NAYS—44

Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Brown	Grassley	Packwood
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Coats	Helms	Sasser
Cochran	Hutchison	Shelby
Cohen	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Lautenberg	Specter
D'Amato	Lott	Stevens
Danforth	Lugar	Thurmond
Dole	Mack	Wallop
Domenici	McCain	Warner
Faircloth	McConnell	

NOT VOTING—1

Pryor

So the motion to lay on the table the amendment (No. 2442) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2443

Mr. KENNEDY. Mr. President, I send technical amendments to the desk and ask that they be considered en bloc and agreed to en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2443.

The PRESIDING OFFICER. Without objection, the technical amendments are agreed to en bloc.

So the amendment (No. 2443) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

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

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

SUPPORT OF AN AMENDMENT TO S. 1513 ADDING THE FAMILIES OF CHILDREN WITH DISABILITIES SUPPORT ACT OF 1994 AS A NEW PART I TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. HARKIN. On May 23, 1994, I introduced S. 2144, the Support for Families With Children With Disabilities Act of 1994, along with my colleagues Mr. JEFFORDS, Mr. KENNEDY, Mr. SIMON, Mr. DODD, Mr. LEAHY Mr. METZENBAUM, and Mr. WELLSTONE. The legislation adds a new part I to the Individuals With Disabilities Education Act.

Today, I am offering this bill as an amendment to S. 1513, the Improving America's School Act of 1993. I would like to thank the managers of this bill for including my amendment in the managers' amendment.

For the past 18 months, families of children with disabilities from Iowa and throughout the country, together with the Consortium for Citizens With Disabilities, have worked to develop recommendations for Federal legislation on family support for families of children with disabilities.

Mr. President, I would like to take this opportunity to thank them for their effort. This is your legislation; congratulations.

Let me briefly explain why I believe this legislation is necessary. When Congress enacted the Americans With Disabilities Act in 1990, we did more than pass comprehensive civil rights legislation. We also enunciated the fundamental precept of our national disability policy—that disability is a natural part of the human experience that in no way diminishes the fundamental right of individuals with disabilities to live independently, enjoy self-determination, make choices, contribute to society, and enjoy full inclusion and integration in all aspects of American society.

On the day the Senate finally passed the ADA, I made a dedication:

All across our Nation mothers are giving birth to infants with disabilities. So I want to dedicate the Americans With Disabilities Act to these, the next generation of children and their families.

With the passage of the ADA, we as a society make a pledge that every child with a disability will have the opportunity to maximize his or her potential to live proud, productive, and prosperous lives in the mainstream of our society. We love you all and welcome you into the world. We look forward to becoming your friends, your neighbors, and your coworkers.

We say, whatever you decide as your goal, go for it. The doors are opening and the barriers are coming down.

The unfortunate truth is that our current so-called system of services does not empower families desiring to raise their children with disabilities at home and in their communities consistent with the precepts of the ADA.

I believe this legislation will help us transform those current State systems, many of which foster dependence, separation, and paternalism into systems that foster inclusion, independence, and empowerment. The bill assists States, through systems change grants, develop or expand and improve family-centered and family-directed, community-centered, comprehensive, statewide systems of family supports for families of children with disabilities that are true to the precepts of the ADA.

On May 10, 1994, I held a hearing before the Subcommittee on Disability Policy, which I chair. One of the witnesses was Allan Bergman who testified on behalf of the Consortium for Citizens with Disabilities Task Force on Children and Families. He shared with the subcommittee his understanding of the vision of the legislation:

This bill declares a set of values and principles in Federal law that sends a message throughout this country and to all the States and to all families that we believe in the family unit and we are prepared to support you as you go forward in maintaining your rightful place in the community.

Dave Novak, from Cedar Rapids, IA, stressed to the members of the Subcommittee the importance of enacting this legislation:

Federal policy needs to support families. We don't need a federal policy that would divide families. We need to have a federal policy that is going to bring families together.

Sue Swenson from Minneapolis, explained the need for this legislation to focus on systems change:

We desperately need in this country Federal systems change legislation to address family support for families who are raising a child with, perhaps, extraordinary needs. The systems, as they are right now, don't work. In fact, in many instances, they hurt families. We cannot afford, as a nation, to pour money into systems that hurt such a basic piece of our democracy as the family unit, as the family structure.

One of the important provisions in the legislation calls for the establishment of a State policy council for family support for families of children with disabilities. Cathy Ficker-Terrill of Elmhurst, IL voiced strong support for this provision:

This legislation allows each state to have a council that is not only family-centered but family-driven. We don't need to create another system that is solely professionally-driven. The Council will allow each state to focus on the entire family. It will respect changing family needs, and most importantly, the council will respect cultural, economic, and spiritual differences of families.

I asked the witnesses whether they believed that this modest bill could truly make a difference. According to Donald Shumway, the director of the Division of Mental Health and Developmental Disabilities for the State of New Hampshire:

This modest statute has the potential to influence government policy, federal, state, and local, more positively than do many of the federal government's largest pieces of legislation. I know, because New Hampshire has taken its first steps in this direction of family support, and it is the best human services policy that we have made in at least two decades.

Mr. Shumway explained to the subcommittee that the proposed legislation is similar to New Hampshire's family support law supported by and signed by Governor Sununu in 1988, and strongly supported and expanded by Governors Gregg and Merrill. He then asked a rhetorical question about the nonpartisan nature of support for family support legislation:

Why, you might ask, are three consecutive Governors of a very conservative state wild about family support? The answer lies first in the values that underlie family support. This is a self-help program; however, it does not stop there. Family support is a commonsense problem solver, and family support is a community builder.

These witnesses provided compelling testimony in support of this legislation.

I urge my colleagues to vote in favor of my amendment adding family support for families of children with disabilities to our national disability policy.

Mr. President, I ask unanimous consent to insert in the RECORD following my remarks a brief description of the legislation.

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

FAMILIES OF CHILDREN WITH DISABILITIES SUPPORT ACT OF 1994 BRIEF SUMMARY

INTRODUCTION

The major focus of the bill is to provide competitive grants to States to develop or enhance statewide systems of family support for families of children with disabilities. The bill recognizes that States have different levels of development of statewide systems of family support for families of children with disabilities. For States that are just beginning to develop family support systems for families of children with disabilities, the bill allows them to apply for State grants to "develop and implement" these systems. States that have made significant progress in the development of family-centered and family-directed approaches to family support for families of children with disabilities may apply for State grants to "expand and enhance" statewide systems of family support for families of children with disabilities.

The legislation is not intended to provide support for direct services to families of children with disabilities or to create a new entitlement. Rather, the legislation is designed as a "systems change" bill to assist States and families to work in partnership to develop statewide systems of family support for families of children with disabilities that are family-centered and family-directed and that use existing resources more efficiently. It is intended to address the priorities and concerns of those families who want to raise their children with disabilities at home and in their communities. Thus, under the legislation, "family support" for families of children with disabilities is intended to foster in-home care when it is desired by the family and appropriate for the child with a disability.

Findings. The findings of the bill recognize, among other things, that: children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment; many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities; there are financial disincentives for families to care for their children with disabilities at home; supporting families to enable them to care for their children with disabilities at home is efficient and can be cost-effective; and there is a need for statewide, comprehensive, coordinated, interagency systems of family support for families of children with disabilities that is family-centered and family-directed, easily accessible, and that avoids duplication, uses existing resources more efficiently, and prevents gaps in services.

Purpose. The purposes of the bill are to (1) provide financial assistance to States to support systems change activities to assist each State to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities and to ensure the full participation, choice and control by families of children with disabilities; and (2) enhance the ability of the Federal Government to identify Federal policies that facilitate or impede the provision of family support for families of children with disabilities, provide States with technical assistance and information, conduct a national evaluation of the program of grants to States, and provide funding for model demonstration and innovation projects.

Policy. The bill states that it is the policy of the United States that all activities carried out under this Act shall be family-centered and family-directed, and shall be consistent with the following principles: Family support for families of children with disabilities must focus on the needs of the entire family; these families should be supported in determining their own needs and in making decisions concerning necessary, desirable, and appropriate services; these families should play decision-making roles in policies and programs that affect their lives; family needs change over time, and family support for families of children with disabilities must be flexible, and respond to the unique needs, strengths and cultural values of the family; family support for families of children with disabilities is proactive and not solely in response to a crisis; these families should be supported in promoting the integration and inclusion of their children with disabilities into the community; family support for families of children with disabilities should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources; youth with disabilities should be involved in decision-making about their own lives; and services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences and cultural differences.

Construction. Nothing in this legislation shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

Grants to States. The bill authorizes grants to States to be awarded on a competitive basis. No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant. Grants may range from $200,000 to $500,000 based on the amounts available and the child population of the State. The bill directs the Secretary to award grants to States in a manner that is geographically equitable and distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

In order to receive a grant, States must submit an application with specified information and assurances, including:

The designation of a lead entity in the State, which may be an office or commission of the Governor, a public agency, an established council, or another appropriate office, agency, or entity.

The establishment of a State Policy Council For Families of Children with Disabilities, comprised of a majority of family members of children with disabilities or individuals with disabilities, as well as State agency representatives, and others. Family members of children with disabilities are eligible to serve on the Council whether the child is currently in the home, in an institution, or in other settings. The Council shall advise the lead entity in the development and implementation of a statewide system of family support for families of children with disabilities. Established Councils or committees of such Councils may be designated as the State Policy Council under specified circumstances.

A preliminary plan, and a description of the steps that the State will take to develop a strategic plan. A State receiving a grant must, within the first six months, prepare and submit a strategic plan designed to achieve the purposes and policy of this Act. The plan must be developed by the lead entity in conjunction with the State Policy Council For Families of Children with Disabilities, and must be updated annually.

An assurance that families are actively involved in all aspects of the State program.

An assurance that the State will expend at least 65% of the funds made available on grants and contracts to conduct authorized activities and expend not more than 5% for administrative expenses.

The bill describes a number of authorized activities that a State may carry out to accomplish the purpose of the Act. These activities include training and technical assistance, interagency coordination, support of local and regional councils, outreach, policy studies, hearings and forums, and public awareness and education.

The bill specifies that grant applications shall be reviewed by panels of experts that are composed of a majority of family members.

Technical assistance. The bill authorizes the Secretary to provide, through grants, contracts or cooperative agreements, technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. The technical assistance and information shall be provided to the lead entity, the State Policy Council For Families of Children with Disabilities, families, organizations, service providers, and policymakers.

The entity providing the technical assistance must submit periodic reports to the Secretary of HHS including, among other things, recommendations regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in the legislation in other Federal legislation.

Evaluation. The bill authorizes the Secretary to conduct, through grants, contracts or cooperative agreements, a national evaluation of the program of grants to States.

Projects of national significance. The bill authorizes the Secretary to conduct a study to review Federal programs to determine the extent to which these programs facilities or impede family support for families of children with disabilities. The Secretary may also fund demonstration and innovation projects to support the development of national and State policies and practices related to family support for families of children with disabilities.

Authorization of appropriations. The bill authorizes to be appropriated $10,000,000 for FY 1995 and such sums for FY 1996 and 1997.

Mr. GORTON. Mr. President, when the Senate first took up this bill, I expected to vote against it because I believe that people in communities across the Nation know better how to educate their children than do Federal Government bureaucrats in Washington, DC. The original bill, while well-intentioned, transfers too much control to Washington, DC.

Centralized decisionmaking in Washington, DC, is not the answer to improving the education of our children. Before the Senate began its work, I was convinced that this bill would have increased the Federal Government's power and control over the education of our children.

Substantial revisions to this legislation during our debate have removed many of my objections. Compared to what was originally introduced, this bill now has significantly fewer Federal mandates, increases local control and flexibility, protects home and private schooling, and addresses school violence. Because of these improvements, I will vote today in favor of the bill.

One of the most significant improvements to this bill is the Gorton-Lieberman school violence amendment. My top priority this year has been to deal with the issue of violence in our schools. In January, I held an education summit at which I listened to nearly 200 parents, teachers, administrators, and students share their concerns with our schools. Their No. 1 concern was violence in the classroom.

To address this issue, Senator LIEBERMAN and I offered an amendment to give parents, teachers, and administrators in local communities the authority to discipline violent students—without the heavy hand of the Federal Government interfering with their judgment. With this amendment, parents and school leaders in Seattle, Walla Walla, St. Louis, and Baltimore will decide how best to discipline violent children in their schools—not Federal Government bureaucrats in Washington, DC.

The Gorton-Lieberman amendment is a strong first step toward making our schools safer. I am grateful that the Senate has begun to address the issue of school violence and I thank my colleagues for their bipartisan support of my amendment.

But I must warn the chief backers of this reauthorization bill—while you have my support today, my vote comes with this caveat—strip the provisions which have been added to make this a better bill, and I will help lead the opposition to the conference report.

Specifically, the provisions I want kept in the final version of the bill are:

Amendments that protect home and private schools, and the freedom of local schools to choose not to participate in Goals 2000 programs.

The Gorton-Lieberman amendment to let local people determine how best to stop violence in their schools, without interference from Federal bureaucrats.

The Danforth amendment to create demonstration programs that allow for the development and study of same gender classes for low-income, educationally disadvantaged children.

The Smith-Helms amendment to prohibit the spending of Federal taxpayer dollars for school programs that promote or encourage homosexuality as a positive lifestyle.

The Hatch amendment to distribute fairly chapter 1 funds to schools in communities throughout the Nation, including my home State of Washington.

Mr. President, there should be no negotiations over these provisions. These provisions have turned a bad bill into a piece of legislation for which broad consensus has been reached. These amendments must stay in the bill. If the bill is returned to its original form in the conference committee, I will be forced to vote against the conference report.

Why am I sounding the alarm bells on the potential stripping of these provisions from the conference report? Because it has happened before. When the Senate passed the Goals 2000 bill, it contained my school violence amendment. But despite the Senate's clear support, it was taken out in the conference committee. I do not want that to happen again.

If we are truly committed to improving our schools and the education of our children, the Gorton-Lieberman amendment, and the other provisions that improved this legislation, must stay in the final version of the bill.

If they are not, we should vote it down when it comes back from the conference committee.

Mr. HATFIELD. Mr. President, with the passage of this legislation to reauthorize the Elementary and Secondary Education Act, we have the opportunity to make this the most productive Congress in decades for precollege education. But the productivity of Congress as far as education is concerned cannot be measured by what we build, but in what we enable others to build.

In our role, we may provide a few of the guidelines for the master plan, and we may also provide some of the basic tools needed to build the education program, but we here in Washington cannot build the kind of quality system that is desirable in each local community. We are dependent on the parents, the teachers, the local school administration, the State education officials, higher education representatives, and the business community to design and implement the plan that meets the needs of their children.

Local and State school personnel must supplement the tools that we have provided with those of their own to construct a system that strengthens their community, their State and, ultimately, their Nation.

Incorporated within this bill is a tool that has already proven its usefulness. It is one of the real success stories in Federal support to education, the Dwight D. Eisenhower Mathematics and Science Education Act. It is also a story that is close to my heart due to my role in advancing math and science legislation and my sponsorship, along with Senator KENNEDY, of the Excellence in Mathematics, Science and Engineering Education Act in 1990.

The latter legislation contained two new programs—a national network of 10 regional consortia to provide assistance to local educators as they reform their math and science programs, and the National Clearinghouse for Science, Mathematics and Technology Education Materials to serve as a central repository of all math and science teaching and curricular materials. The emphasis on reform that is in Goals 2000 and other recent legislation make these two programs even more vital than they were previously.

After canvassing educators throughout the country, I introduced legislation during the first session of this Congress that refined and reauthorized the Eisenhower program including the consortia and the clearinghouse. The refinements placed a priority on elementary education, provided for a greater emphasis on informal education, and strengthened minority teacher recruiting and retraining. The Elementary Mathematics and Science Equipment Act of 1993, S. 232, that I had introduced earlier in the session was included in that bill. Also included was an idea contained in the original Kennedy-Hatfield bill which established demonstration projects for training in early childhood science education. This is a powerful program based on the experiences gained from an institute now in place at Marylhurst College in my own State of Oregon and termed "Science Start." While Science Start is not included in this bill, I intend to pursue it in the future on an appropriate vehicle.

What accounts for the success of the Eisenhower program? The essential component is that the money flows through very few hands before being put to work in professional development opportunities for math and science teachers. The professional development is focused from three essential directions—the State, higher education, and the local education agency with the local folks receiving the greatest share.

I am sure that each of you has received, as I have, numerous letters from individual teachers that describe the changes that they have been able to make in their classrooms as a result of Eisenhower funds. I am extremely pleased that the majority of these letters came from elementary teachers. That indicates that the funds are getting to the area of greatest need. In addition, pilot projects and long-term programs directed at disseminating productive approaches for teaching math and science have been developed. The point is that the Eisenhower math and science program is starting to make a real difference, and we must continue to support it to the fullest extent possible.

We must not lose sight of the need to evaluate, coordinate, and disseminate the excellent programs being developed throughout the various regions and the Nation. It is this area that the importance of the regional consortia and the national clearinghouse become evident. To avoid duplication and to learn from the efforts of others, a system must be put in place. The regional consortia are already providing an essential link, and the clearinghouse is building an impressive catalog of free materials available to schools.

In addition, the vast majority of materials being developed for math and science education recognizes what outstanding teachers have known for decades and current research is verifying—students learn best by doing challenging hands-on activities that is related to their lives. Unfortunately, the typical elementary classroom does not contain the basic supplies necessary to carry out such activities. To make these materials available, this legislation contains the proposal I had introduced earlier as the Elementary Mathematics and Science Equipment Act. Again, if we ask teachers to build a better program, we should provide some basic tools which must include sufficient knowledge of subject matter and methods and the materials to apply those methods.

Mr. President, we must strongly support the professional development sections of this bill for it is professional development that will drive our efforts toward effective school reform. I have directed my remarks toward math and science because of the greater need in these areas and because of the infrastructure that is already in place to address the national goal directed at math and science. Let us continue to move forward in the core subjects where progress is underway and, at the same time, initiate programs in the

other subjects using what we have learned from the math-science model.

I would also like to briefly comment on a provision which was included in the Manager's package of amendments—legislation to find a permanent home for the Albert Einstein Distinguished Educator Fellowship Program. I introduced legislation this year to authorize this program within the Department of Energy. The Senate Energy Committee held hearings and is due to markup the bill tomorrow. In the meantime, I have worked with Members of the Energy Committee and the Labor Committee to reach agreement so that this program could go forward on S. 1513. I firmly believe that the Nation will benefit from having outstanding secondary educators giving advice to Federal policymakers in the areas of math and science. This provision will allow for such counsel in the core Federal agencies which deal with math and science issues and in the Congress. I am grateful for the Senate's support.

Finally, the legislation before us is quite comprehensive and provides assistance in critical educational areas. Already this year we have seen the Goals 2000 legislation signed into law. The national goals in that law are indeed lofty. Many say far too high to be attainable. But goals should always be beyond immediate grasp and perhaps should appear to verge on the impossible. These goals must challenge the talented, the enthusiastic, the dedicated among us to build an education structure in which all can thrive and succeed to the best of their ability. We should not fool ourselves into thinking that this is an easy task or one that we can foist off on others entirely. We must share the blame for failures, but we can rejoice in the successes for we have helped point a direction and have supplied some of the tools. Hopefully, we have also supplied encouragement toward positive change.

Normally, Mr. President, I am skeptical of groups or individuals claiming to be the "Education this" or the "Education that". But when I consider the legislation that has already passed this session and all that will be added with the passage of this bill, there should be little doubt that this Congress deserves the title of the "Education Congress". I am grateful for the leadership of my friends and colleagues on this committee, Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS. Once again, they have moved the country forward with this comprehensive education program.

Mr. SIMPSON. Mr. President, I rise in support of S. 1513, the Improving America's Schools Act. Before making this decision, I took a long, hard look at the provisions of this most important piece of legislation, and I listened at great length to the wise and sensible counsel of the ranking member of the Senate Labor and Human Resources Committee, Senator NANCY KASSEBAUM. This bill has broad bipartisan support. It passed the Senate Labor and Human Resources Committee by a vote of 16 to 1.

The till which we are voting on today would increase funding for students that need it the most. I supported Senator HATCH's title I amendment. It adopted an equalization factor which would allow States to control the distribution of Federal resources among local school districts rather than leaving the distribution to the Federal Government.

Wyoming received $13,473,000 in fiscal year 1994 under the current formula. Applying the committee formula, Wyoming would receive $14,916,000 in fiscal year 1995. Under the Hatch formula, Wyoming would receive $15,488,000 in fiscal year 1995

The bill invests more in America's teachers. Under the new Eisenhower Professional Development Program, Federal grants will be made available to train teachers. Helping to improve the quality of our Nation's teachers is a critical component of education reform.

Finally, the bill would advance the use of technology in our schools. This bill recognizes the need for young Americans to acquire the technological skills necessary to function in the 21st century workplace.

Mr. President, some who opposed the final version of the Goals 2000 legislation have said that this bill is cut from the same cloth. That is not so. Many months ago I supported the original Senate version of Goals 2000 only because I believed that it retained the extremely important element of local authority over the education of our children. I have always strongly supported the power and authority of State education administrators, local school boards and most importantly, the rights and responsibilities of parents in the education of their children.

However, after reviewing the final version of the legislation, which is known as a conference report, I realized that the conferees made a major departure from the Senate's attempt to eliminate Federal mandates on local governments and also struck the provision allowing voluntary prayer in schools. Despite the recitation in the conference report that the bill only had voluntary guidelines and standards, it was my view that the standards were really, quite effectively, mandates saddled upon the States.

I further opposed the Goals 2000 conference report because I have always believed that when it comes to education, we do not need more Federal Government oversight and intrusion. What works best at the Federal level is encouragement and financial support for locally structured and locally developed strategies for education improvement. When the Goals 2000 legislation was reported from the House/Senate conference, it was no longer consistent with my philosophy and I opposed it.

Now through town meetings, letters, and telephone calls, I have heard concerns that this bill before us restricts local authority, home schooling, and school prayer. Some Wyoming citizens also have fears that the bill takes steps towards implementing the controversial outcomes-based education [OBE] education reform initiative. That is not so either.

There is nothing in this bill that would restrict home schooling. There is nothing in this bill that should be construed to advance the principles of the controversial Outcomes-Based Education [OBE] Education Reform Initiative. And Mr. President, constitutional school prayer will continue to be protected under Federal law. My father worked for that while in the Senate. I have carried on his work. The ranking member of the Senate Labor and Human Resources Committee, NANCY KASSEBAUM, and my own research has assured me in great detail that these concerns are unfounded.

However, I am concerned with the impact aid provisions in this bill. Impact aid was created in order to neutralize the negative impacts on the local tax base caused by a Federal presence in local school districts. It is money that I believe school districts and local taxpayers rightfully deserve.

In seven Wyoming school districts—Campbell, Fremont No. 9, Sublette No. 9, Sweetwater No. 1 and No. 2, and Uinta No. 4 and No. 6, civilian B children make up more than 25 percent of total daily enrollment. In Laramie County, civilian and military B's make up 15 percent of total enrollment. The House bill entirely eliminated funding for impact aid civilian B's. This bill, at least, salvages some of the funding for this program.

I would always vote against any education reform initiative which endorses a philosophy of federalized education. I will be carefully watching the conference committee activity on this bill to make certain that the balance we have reached here today between Federal support and local control is not disrupted by the House. If that should happen, I will oppose the final conference report, just as I did in the case of the Goals 2000 legislation.

Mr. BINGAMAN. Mr. President, I would like to express my overall support for S. 1513. The Clinton administration and the Department of Education presented us with a cohesive bill designed to raise standards for all our Nation's children, and to ensure that those most in need have access to the high quality teaching and learning that will help them reach those standards. I am pleased that the Education and Labor Committee has further refined the administration proposal

through several key changes, including: the addition of the Technology for Education Act, my S. 1040; adjustments to the administration's impact aid proposal; and the addition of several new programs designed to promote innovations in our schools, such as increasing the time spent on academic learning, creating smaller learning communities, health education and services integration, and easing transitions from pre-school to school for title I children.

Throughout the reauthorization process I have fought to ensure that the title I formula would realize the administration's goal of targeting resources to where the needs are greatest—high poverty schools and school districts. Research has shown that poor children in high-poverty schools are consistently outperformed by their peers in low-poverty schools. Our limited title I resources clearly must focus on those States, and schools and school districts within those States, with the highest poverty rates. An equitable and responsible title I formula should incorporate measures that accurately reflect where needy children are and the extent of their needs, as well as the most up-to-date information on the numbers of such children in each area. I am afraid that the formula now in the bill does not accomplish that goal but I am hopeful that formula will be changed as the bill is considered further.

This bill has the potential to radically improve education in our Nation's poorest schools. Lowering the eligibility threshold for schoolwide programs will empower those at the school level to design comprehensive, coordinated programs of instruction that best meet the needs of all the children in that school; results-based accountability mechanisms will help ensure that all children, especially those most in need, progress toward higher levels of performance.

Schoolwide programs will challenge teachers and principals to break down categorical distinctions among children, and to organize and teach in new ways. I do not believe that innovation will come at the price of protection. Schoolwide programs will still have to meet the specific needs of all children served in that they must meet the intents and purposes—the underlying framework—of any program from which funds are used for schoolwide operation. Peer review and school support teams will provide a mechanism of both support and expertise in constantly improving schoolwide programs so that all children are taught to, and reach, challenging State standards.

This bill also recognizes the importance of ensuring that our teachers are prepared to teach to the new State standards which are being developed under the Goals 2000 State reform initiative. The Eisenhower Professional Development Program will provide much needed resources for school districts to supply teachers with intensive and sustained professional development opportunities, and to develop professional networks and other means of sharing innovative teaching practices and strategies.

By expanding the present Eisenhower Math and Science Program to incorporate professional development in all subjects, the committee has recognized that professional development will be crucial to all teachers, as emerging standards in each subject area call for greater depth of understanding on the part of both teachers and students. Title II will also establish a new technical assistance structure that consolidates disparate, categorically oriented technical assistance centers into integrated, comprehensive centers with expertise in ESEA programs and school reform in general. These comprehensive centers will maximize the reach of technical assistance by using electronic networks and other technologies to offer teachers, schools, school districts and States more immediate and thorough information about federal programs and educational innovations.

Title III, parts A and B, of S. 1513 incorporates S. 1040, The Technology for Education Act which I introduced earlier this year along with my colleagues, Senators KENNEDY, COCHRAN and HARKIN.

Part B is the Star Schools Program which has been so successful over the years. Part A is a new program, combining Federal leadership and a State grant program which, I hope, will lead the way to better education for our children, especially those who are disadvantaged.

Over and over again I have stood here describing the benefits which technology can confer on education. A recent report by the Department of Education "Using Technology to Support Educational Reform" describes the impact of technology on improvements in education:

Software, such as the Higher Order Thinking Skills Program which teaches disadvantaged students advanced thinking skills, is credited with producing substantial gains in achievement in reading and math by chapter 1 students over those such programs;

Technology application can engage students in authentic, complex real life tasks which increase their interest in school and expand their abilities to think critically and solve problems;

Use of word processing software in the classroom has proven valuable in teaching students higher-order thinking skills and improving their writing ability by focusing attention on ideas and ways to communicate rather than just mechanics. The revision process which is possible through computers encourages students to refine and edit their work with concomitant improvement in the final product; and

Distance learning technologies have brought advanced classes to remote school districts and have opened horizons for rural students across the country. In my State of New Mexico, students in some of the most remote areas are able to take advanced classes through interactive video—classes that were unavailable to them only a few years ago.

In sum, I think we no longer have any doubt that we are shortchanging our students and our future if we do not do everything we can to give our schools the same access to technology that most of us enjoy in our everyday lives—telephones, cable and satellite TV hookups, interactive services, video recording, PC's, modems and so forth.

The question then is not whether technology is an effective tool for learning. It is instead, how can we give all students, no matter where they live or what their economic circumstances, access to that technology.

The Department of Education report I referred to earlier notes that important equity issues are beginning to arise as technology plays a greater and greater role in schools across the Nation. Schools serving high socioeconomic status students report higher-computer-to-student ratios than do schools with low socio-economic status students. White students are more likely to have used a computer than Hispanic or African-American students. The Department points out that the problem is exacerbated by large differences in access to computers in the home. In 1991, a survey found that one third of white students had a computer in their homes, compared with a little over one-fifth of African-American and Hispanic students having that access.

Furthermore, there are important differences in the way in which computers are used in the classrooms for disadvantaged students versus higher-ability students. Lower ability students use computers for drill and practice while higher achieving students use computers in ways that are more congruent with our education reform goals—that is, to expand and develop order thinking skills, to learn to access and use information from outside the school, to perform authentic, real life tasks that hold their interest and motivate them, and to work cooperatively with others inside and outside the school.

Title III seeks to remedy that disparity in access to and use of technology. It also addresses the issue of the place of education in the technological and information revolution which is now underway.

Title III, part A addresses the issue of equity by providing Federal support for the integration and dissemination of technology, especially to the poorest schools. Part A—the former 1040—provides this support in two ways:

First, the Office of Educational Technology—which was established pursuant to the Goals 2000 legislation—is given funding and authority to conduct leadership activities at the Federal level. This Office will coordinate with all the other Federal programs and Departments which deal with or consider technology policy to ensure that education is included in that policy and the developments in technology which have applications for education will be brought to bear on education.

The Office will also award grants to consortia for the development of curriculum-based software in support of the development and dissemination of professional development materials related to technology. These national efforts will produce resources available to all schools—but most importantly, the focus of the work which these grants support will be on advancing and achieving the high standards for all students, in all settings, which Goals 2000 and this bill, S. 1513, seek to set for our students.

The teacher training and curricular materials which we hope will result from the consortia supported by this act will have special benefits for schools which do not have the resources to provide or acquire such resources for themselves. Those resources will be developed with an emphasis on serving the disadvantaged.

In addition to Federal leadership, title III, part A provides money to poor schools to acquire technology. Under this part, resource grants will be made which will enable schools with the highest numbers and percentages of disadvantaged students and with the greatest need for technology to acquire that technology. The resources targeted by this title are not just computers—but connections and linkages, such as cables, wiring, phone lines, modems, and software, professional development materials and other curricular materials.

A very important part of this section is its requirements that the acquisition of technology be made in accordance with a plan. Too often technology, especially hardware, has been purchased by schools and districts, many times with Federal money through chapter 2, without due consideration for the need to educate teachers in the use of the technology or for the need for technical support. Too often insufficient attention was paid to issues of interoperability and compatibility of hardware and software. Part A encourages States and localities to think strategically about their technology purchases and plan for all aspects of technology so that they can take maximum advantage of developments in technology and the information highway as they evolve.

Unfortunately, for this year at least, we are facing very limited funds for education—title III contains an authorization in excess of $300 million, $200 million of which is for State and local resource grants, yet on the House side the appropriation is only $20 million for education technology and here in the Senate we have been given only $50 million for this part.

In drafting title III we anticipated that initial funding for the program might be low—accordingly, part A provides that in the event appropriations for the year are less than $50 million, half the money shall be used for the Federal leadership activities described in the part, including funding for the product development and professional development consortia, and half will be used for local resource grants. It is our intent that at any level of appropriations, at least some schools will receive financial assistance to acquire technology. We have also provided that in the event of appropriations less than $50 million, the resource grants will be awarded to local school districts on a competitive basis, with priority for districts with high percentages or numbers of disadvantaged students. At higher appropriations, the grants will be made on the basis of the title I formula and then awarded by States to local districts based on their poverty and need for technology.

I hope that considerably more than the amount we see this year is appropriated next year for this part—technology is key to the success of the programs we are launching here with Goals 2000 and with title I. While establishing the Office of Educational Technology and getting demonstration projects and other leadership programs underway is important, we have to recognize that the Federal Government's role in ensuring equity in access to technology will only be fulfilled when we are able to make significant grants to States so that schools serving the disadvantaged can share in the benefits of technology. We run the risk in this area—as we do in so many others—of seeing the gap widen between the haves and the have-nots unless we step in to help.

Which brings me to one last point about part A of title III. We need to be concerned not only with the have-not students but also with the fact that too often education itself is a have-not when it comes to technology and information—and threatened to become more so. Poor schools are especially disadvantaged, but the fact is that education in general is often at the bottom in terms of access to the technology we all take for granted in our lives—much less to advantaged applications. The great majority of classrooms do not have telephone jacks, much less cable connections, and many have insufficient electrical outlets to support computers or monitors or televisions. While many schools do have computers, a recent international survey of computers in classrooms showed that most computers in American schools are 8-bit machines—woefully out of date and unable to run the new software that is being developed to support school curricula.

There is a lot of talk of making sure that schools are given on-ramps to the information superhighway and in various places across the country combinations of private industry and States and localities are trying to make this happen. But little concrete has been done at the national level to ensure schools' access. If we do not pay attention to this here we run the risk of perpetuating what we have seen so often in other areas—the affluent school districts and schools will be fully connected and equipped and rural America and the inner-city will be left behind.

Title III, part A provides some help to these schools through the leadership role given to the Office of Educational Technology. That Office is charged with providing leadership at the Federal level to establish guidelines to ensure ease of access for emerging technologies so that no school system will be excluded from the technological revolution. I see the Office of Educational Technology taking an active role in discussions and plans at the Federal level for the deployment of the information highway and the development of national technology policy. This bill gives education a seat at the table when these matters are discussed and decided—education will no longer be sitting on the floor waiting for some crumbs to drop from the decisionmakers.

As I said when I rose to speak here today—I have been talking about the benefits of technology for education for several years now—finally, we are about to pass a bill that will for the first time provide meaningful and purposeful Federal support for technology in the classrooms of America. Title III, part A provides the structure for constructive Federal involvement in this crucial area of education reform. Its combination of creative and energetic Federal leadership and financial support for the neediest schools will, I believe, help all our students meet the 21st century with the education they need and deserve.

I also appreciate the committee's inclusion of several measures I proposed to foster other improvements in teaching and learning. The Extending Time for Learning Program will help schools implement the recommendations of the Commission on Time and Learning. In its excellent report, "Prisoners of Time," the Commission encourages schools to change the way they structure the school day, week or year, so that they maximize the amount and quality of time students spend learning the core academic subjects. The Commission reports that many Americans support a longer school year, while increased need for after-school care for

the children of working parents has also made extended-day schedules more appealing and more imperative. The amount of time students spend in school will not help students excel unless the quality of that time is significantly upgraded as well. Mastery of world-class standards will require more time of students, as well as increased time for teachers in learning new and innovative methods of teaching to the new standards. Through the Extending Time for Learning Program, I hope to provide teachers, students, and parents the opportunity to redesign school schedules around high standards and achievement, instead of clocks and Carnegie units.

I have also proposed the Creating Smaller Learning Communities Program, through which I hope to stimulate efforts to reduce class size, while promoting student-teacher interaction and strengthening students' connections to their school. Research and experience have shown that smaller learning communities, such as schools-within-schools can contribute to increases in student achievement, grade promotion and attendance, as well as decreases in violence and disruptions. I am sure my colleagues from Pennsylvania are familiar with Philadelphia's charter schools, which function as schools-within-schools in nearly all the city's comprehensive high schools. Smaller school size, increased interaction among teachers and students, and an emphasis on high-quality academics have helped students in Philadelphia's charter schools become 7 percent more likely to advance to the next grade than their peers who are not in charters. Funds from this program would: provide grants for teachers, administrators, parents and other community stakeholders to design and create smaller learning communities; enable schools to offer students a variety of curricular and instructional themes and approaches; and help schools and school districts establish new administrative and managerial relationships.

In many States, teachers, administrators and parents interested in testing new forms of management and administration are developing charter schools—public schools that operate independently of the school district. I have added several amendments to the charter schools provision of ESEA to ensure that charter school developers may also apply for funds to assist in the planning and development of charter schools that exist as schools-within-schools, in States where the law permits such charters. Smaller learning communities can promote the kind of variation in curricular and instructional approaches that will offer students greater educational choices within the public school system.

I would also like to discuss some of the important changes the Improving America's Schools Act incorporates to the Impact Aid Program which provides funds to school districts which are fiscally impacted by the presence of Federal property.

Federal property is not subject to State or local taxes and activities conducted on the property are frequently exempt from taxation. When that property has connected to it children who are entitled to receive a free public education, the State or locality providing that education is burdened with the expense of educating the child, often without the financial support which would otherwise be generated by the property on which the child resides or—in many cases—by other taxes related to that property.

This is an especially acute situation in New Mexico where we have large Indian reservations occupying tens of thousands of acres. Ninety percent of the children who live on those reservations attend public schools funded by the State of New Mexico and the nearby localities. In 9 of our 88 school districts, federally connected children—by and large children residing on Indian lands—constitute more than 50 percent of the children served by those school districts. In 20 percent of our school districts those children constitute more than a quarter of the school population.

Those school districts are required to provide a free public education to Indian children with virtually no financial contribution from the property on which their parents live or from activities on the property. State and local property may not be levied on Indian lands or other Federal property. But it is not just property taxes which are lost to the State and localities by reason of the Indian lands.

The other taxes on which New Mexico relies to support education are also adversely affected by the presence of Federal property, including Indian lands.

In particular,

Gross receipts tax—also known as sales tax—is not collectible on sales on military posts or on any sales made on Indian reservations by Indians or to Indians on the reservations;

Cigarette taxes are not payable on sales of cigarettes on the reservation or any tobacco products sold to the United States;

State income tax is not payable by any member of a tribe living and working on a reservation;

Indian-owned corporations located on Indian lands are not subject to the corporate gross receipts tax;

Severance taxes may not be imposed if a tribe is the interest owner and operator;

New Mexico estate taxes are not imposed upon Indians living on reservations.

In short, few if any of the traditional sources of revenue for schools are available to New Mexico or to school districts from Indian lands. Compounding the problem for schools educating Indian children are the high poverty rates among those children and their parents, their limited English proficiency and the additional costs of transporting children who live on reservations.

New Mexico and other Western States bear a heavy financial burden in connection with the education of children residing on Indian lands—contributions by the Federal Government to support the public schools serving these children is essential.

Title IX of the committee substitute is well-crafted to achieve the goal of ensuring an appropriate education for federally connected children—particularly Indian children. The Senate has reduced the weight to be accorded the so-called civilian "b" children, leaving more of the resources appropriated for this program for the districts which are truly needy such as districts serving children residing on Indian lands.

The committee substitute also includes a provision that is especially important to my State where we have several school districts enrolling substantial percentages of Indian children. In those districts Impact Aid makes up a large percentage of the district's budget; when appropriations are not enough to fully fund the program, these districts suffer acutely because they have nowhere else to turn for funds. The committee substitute includes a concept of a learning opportunity threshold to deal with this situation. The learning opportunity threshold determines the allocation of funds among districts where funds appropriated are insufficient to fully fund the program. Under this provision, districts which are more heavily reliant on Impact Aid funds receive a greater percentage of funds than do districts with less reliance on those funds. This is especially important because districts which are heavily reliant on Impact Aid do not have other, local sources of tax revenue with which to make up any shortfall in funding—there is simply no place left to turn.

The committee substitute recognizes the disparate effects on school districts of less-than-full funding of Impact Aid. The committee substitute provides for reductions to be made on a sliding scale which avoids the cliff effect of current law wherein districts which derive 20 percent of their budgets from Impact Aid are treated the same as those who derive 90 percent and those deriving 19 percent are treated differently still. I commend the National Association of Federally Impacted Schools for their help in producing this improvement to current law.

I am also pleased with the revisions which have been made to the construction provisions of the law. Heretofore there were two construction programs, one for districts impacted by Indian

lands and one for all federally impacted districts. Construction grants were made on an all or nothing basis based upon evaluations of need and a waiting list. Schools could remain on that waiting list for decades without receiving a dime of help. At most, two schools a year would receive funds under this law—all the others would have to wait. The schools serving large percentages of Indian students often have little or no bonding capacity, thus they must rely heavily on these Federal sources for construction moneys—but those moneys were very, very scarce.

The committee substitute provides for only one program for all impacted districts, tightly constrains the districts which can participate, and provides each with an annual amount which can be used or accumulated for construction or repair. While annual grant amounts are not anticipated to be enough to construct an entire school, there will in many cases be enough to allow a district to accumulate sufficient funds to accomplish needed construction within a reasonable period of time and with some reasonable certainty—unlike the current situation, which, as I have said, results in only a couple of school districts being able to build or renovate a school each year.

Finally, I would like to commend the committee substitute for the way in which it handles the issue of equalization. Payments under Impact Aid can create inequalities in States which equalize spending among school districts. New Mexico has such a law. It provides for State funding of education under a scheme in which students are weighted according to their grade level, special needs, and the density or sparsity of their districts. Among other things, in this way, the State seeks to provide appropriate levels of funding for all students, regardless of the district in which they live or the resources of that district. This system has been formed and refined over many, many years in New Mexico; it is intricately balanced to take account of the many differences in educational conditions that exist across our State and it recognizes that equivalence of dollars is not always equity for students.

If my State could not take Impact Aid payments to districts into account in calculating amounts to be paid to local districts for education, the entire equalization system would be undermined and would undoubtedly have to be reformulated. That process would be a long one and once completed, those districts now heavily dependent on Impact Aid would be even more dependent because they could no longer look to a State equalization scheme to make up any shortfall in the event the Federal appropriations process does not provide enough funding in any year.

Under current law and regulations, New Mexico has been allowed to take Impact Aid payments into account when calculating payments to districts under the equalization formula. The committee substitute continues the current law. It has been suggested that the law be revised in various ways to make it more difficult for States to take Impact Aid payments into account in their equalization formulas. The suggested changes would make the test for equalization more rigid—but rigidity in determining whether a State's school financing is truly equalized is inappropriate because of the very different conditions in each State. It is obvious that Alaska faces dramatically different costs to provide the same educational opportunity to children in extremely remote areas as it does to children in Anchorage. The same is true in my State where our State financing law has to take into account great differences in transportation costs, differences in costs attributable to scarcity or density, and the challenges of limited-English-proficient students.

The current law is stringent enough—only three States are currently allowed to take these Impact Aid payments into account. There is no showing of any abuse or problem with the application of the law or that current law in any way discourages equalization of school financing. The committee substitute's approach to this issue should be adopted.

Impact Aid is a crucial component of the Federal Government's responsibility to the States and to native Americans. The education of American Indian children is largely dependent on the Federal Government's contributions through this program—as I said when I began, over 90 percent of all American Indian children living on reservations attend public schools. The committee substitute is a thoughtful and responsible reworking of the current law which provides support for the education of those children. While there are certainly aspects of it which I would change—for example, an increased weighting for Indian children as opposed to other federally connected children—on the whole it represents a reasonable compromise of many competing interests and is worthy of our support.

The committee has also made two significant changes to title XIV of the Elementary and Secondary Education Act, which establishes the collection of national education statistics.

First, the committee substitute includes a provision which I requested concerning the collection and analysis of data concerning school administrative expenses.

Through Goals 2000 and this bill, we are providing greater Federal resources to the schools to assist them in reform and improvement of their programs, especially their programs for economically disadvantaged students. We hope that the funds which we are sending to the States will promote the activities we are seeking to affect—better teaching in the classroom, more services to kids. I think that all taxpayers want to see their money go to the classroom—to services to children—and they want those services to be provided efficiently.

Yet we really know very little about exactly how education dollars are spent. There is a fair amount of data collection at the State level and even the district level—but it is exceedingly difficult to trace funds to individual schools and to the expenditures at the school level.

In the reform movement—especially with charter schools and the kind of accountability we are building into the title I program—we are seeking to put more responsibility on the individual school. Yet, at the same time, we have very little information about the finances of individual schools.

In an article last year, Education Week observed that we lawmakers have only a tenuous grasp of the real impact of our finance formulas and "local school officials are in the dark about how their money is being spent and whether their programs are worth the cost." By the time funds get to a classroom, it is hard to retrace the logic of how and why they got there or what they buy.

I have sometimes seen in my home State of New Mexico what appear to me to be wasteful spending practices—money being spent on nice offices for administrators while classrooms are ramshackle and lack even telephone connections. I am sure many of my colleagues have seen similar things—and we have all been told by members of the public that they question being asked to provide more funds for education until they are satisfied that the money is not going for unnecessary overhead or "perks." But schools are hard-pressed to respond to that criticism or to streamline their operations because they do not know where the money went, either.

Title XIV of the committee substitute now includes a direction to the Commissioner of Education Statistics to work with one or more of the few States which are working on collecting school level financial data to study, design, and pilot a model data system that will yield information about spending for administration at the school and local educational agency levels. Upon the completion of the pilot model data system, the Secretary of Education shall study the information gained through the use of such a system and or the relevant information and report to Congress on first, the potential for the reduction of administrative expense at the school and LEA level; second, the potential usefulness

of such data to reduce such expenses; and third, other methods which could be employed by schools, LEA's or States to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning and, if appropriate, steps which may be taken to assist schools, LEA's and State education agencies to account for and reduce administrative expenses.

I want to see our education dollars go as far they can. I believe that more information about where our dollars actually go will help the schools in several ways—first, it will help them manage themselves more efficiently as they see better just how their money is spent and how other comparable schools and districts manage themselves fiscally; also, it will provide more information to the public about the use of their tax dollars, and, that those dollars are being spent wisely, that information will bolster public support for the schools and finally, that information may assist our reform efforts by helping us to understand better how results are influenced by funding decisions.

Our schools need all the help they can get—one kind of help which the Federal Government is uniquely positioned to provide is information and analysis. I hope that with this modest change to the tasks of the Center for Education Statistics and of the Department, we can help States and localities make better decisions about their education dollars and drive more of those dollars to the level of the kids where they are most needed.

I would also, however, like to indicate for the record my disagreement with the committee's decision, in title XIV, to prohibit the use of the National Assessment of Educational Progress [NAEP] exams at the school district level.

The NAEP is a nationwide test administered to a sampling of American students in grades 4, 8, and 12 at least once every 2 years. NAEP is the best indicator we have to gauge the achievement levels of our children. This information helps parents understand what kinds of things American students know and can do, and it helps inform teachers, administrators, and policymakers about the areas in which progress have been made, and those that need improvement. The National Education Goals Panel, on which I serve, uses NAEP results to report on student progress toward meeting the national education goals, particularly goals 3 and 5, which call for higher levels of student achievement in the core academic subjects.

International comparisons provide increasing evidence of the need for American students to be challenged by higher standards. These comparisons have helped spur educational reforms at all levels—through Federal efforts such as Goals 2000 and ESEA, State systemic reform initiatives, and local efforts to improve the quality of teaching and learning in schools. States can elect to administer NAEP exams, and can tabulate results at the State level, although they must help defray the costs of the examinations. Many States have begun to use NAEP to chart progress within the State, and to compare results with those at the national level.

It is at the local level, however, that change is most critical, and often the most difficult to inspire. Too many parents feel that, while there may be a need for educational reform in our Nation, "my school is OK." In too many communities, the same citizens that complain about the need for a better-trained work force veto school bonds, constricting already tight school budgets. Information at the local level about student achievement can break the pattern of complacency that enables community members to point beyond their own backyards when citing the need for reform.

The administration originally proposed that NAEP be made available for assessing aggregate student achievement at the school or school district level. Under this proposal, school districts could, on a voluntary basis, use NAEP tests to gauge student progress in relation to student performance across the Nation. NAEP tests are developed and supported by public funds; thus they should be available for use at the local level.

NAEP data collected at the school district level can provide parents with better information about the progress of schools in their community. Several school districts in our country are larger than some States; these communities in particular could benefit from a better gauge of student achievement. It is important to note, however, that NAEP tests could not be used to report individual student achievement—local NAEP results would only be reported in terms of total student scores.

Some have argued that the use of NAEP at the district level could result in its use for accountability purposes, which may in turn encourage teachers to base curriculum and instruction on the content of NAEP exams. Others have added that NAEP administration at the local level may erode incentives to develop innovative assessments called for in Goals 2000 and title I of ESEA. I do not find these arguments persuasive, for several reasons.

The reasons described in Goals 2000 and title I of ESEA must be based on a set of standards developed by the State. NAEP exams are not—and will not be—based on a common set of standards, thus it would be difficult for schools to actually teach to the test or to substitute NAEP assessments for those necessary in Goals 2000 or title I.

In addition, schools administering NAEP tests would have to follow certain security requirements and protocols that would considerably stem the risk of polluting the results of national NAEP achievement data. Several nationwide tests administered on a local level, such as the SAT and the ACT, have strict administration requirements school districts are careful to follow. There is no reason to think that the NAEP testing process would be less secure than any other exam.

Local NAEP results would provide parents, teachers, and schools with a mechanism to gauge student progress in relation to other students in the Nation. At this time, it is the best such national indicator we have, and I believe that the Federal Government has an obligation to parents, teachers, and communities to supply these publicly funded exams to school districts who wish to use them within the guidelines established by the Department of Education. I hope that the Senate can revisit and reconsider its position on the local use of NAEP tests in the Conference on this bill.

In closing, I would again like to reiterate my overall support for this legislation. The committee and the administration have done a fine job of balancing many competing concerns and priorities. This comprehensive bill addresses today's most pressing problems in a holistic fashion—by insisting that all children are taught to the same high standards, and then providing resources—such as professional development, technology, and drug and violence prevention funds—to the areas critical to ensuring that children are able to learn to those standards. This bill will benefit our children and it will benefit the Nation.

Mr. GRASSLEY. Mr. President, I am pleased that the committee accepted a number of my proposals to the Elementary and Secondary Education Act to update the Family Education Rights and Privacy Act of 1974 [FERPA]. FERPA provides parents the right of access to their childrens' education records. Unfortunately, the law is rather strict on schools and has historically been difficult for the Department of Education to administer.

The suggestions I made to the committee were based on discussions with parents, educators, and the enforcement divisions at the Departments of Education and Justice.

The changes I have proposed will provide greater parental access, a lighter burden on schools and ease of enforcement for the Department.

The issue of parental access to a child's records has been widely accepted since FERPA passed in 1974. Under the law, a parent has the right to see their child's education records within 45 days of request and to modify the records if they believe the records to be misleading or inaccurate.

Not only this, but if modification of the education record is not allowed,

parents may appeal this decision and place a letter in the education record to accompany the information they believe to be inaccurate or misleading.

These provisions are crucial to parental involvement in the education of their children, which we all agree is tied to student academic achievement. In my proposal, I made several suggestions concerning how to enhance parental access to their children's records.

One of the limits of the law was that it only applied to local education agencies and schools. If State education agencies were keeping records on children, parents had no right of access to those records. My amendment provides for that access so that parents may review any records kept by the State on their individual children. To avoid burdens on the State, I modified my amendment so that parents are not trying to change State records; if they find something at the State level that requires modification, they will need to approach the officials at the local level.

They may modify the local records and go through the appeals process outlined under FERPA. The key to this provision is that parents should always have access to records on their children, whether they are kept at a State or local level.

Also under current law, a parent must typically be consulted before anyone has access to their child's education records. Again, the goal is to guard the privacy of the child and family. There are exceptions to the parental notice requirement, however, for specific occasions when it is decided that there is cause for that access. Confidentiality provisions were established to protect the child and family in cases of access without consent.

One example of access without consent is when there is a "legitimate educational interest." This provision of a "legitimate educational interest" has historically been interpreted as the big picture educational interest, meaning the education interest of all the children, not necessarily the educational interest of this particular child whose record is sought.

I offered an amendment to require that the specific child's educational interest must also be considered with the big picture in cases where access to a child's record is obtained without parental consent.

Another provision I proposed for greater protection for families is concerning third party organizations which receive information from a child's education record without parental consent. Organizations may receive information from student records for the purpose of developing, validating, or administering predictive tests, or for improving instruction.

In order to receive this information, the organization must not permit the personal identification of students and their parents. Further, the organization must guarantee the destruction of the records when they are no longer needed for the particular purpose for which the records were obtained.

Unfortunately, for 20 years since FERPA's creation, there has been no enforcement mechanism against an organization which violates these requirements for confidentiality and destruction of records. My amendment provides that enforcement mechanism.

If an organization violates its responsibilities to protect confidentiality and destroy records, the organization will be prohibited from access to any education records for a period of at least 5 years. By having an enforcement mechanism in the law, organizations will be more likely to live up to the responsibilities placed in the law since 1974.

Additionally, under the original law, parents must be notified of their rights under FERPA. Unfortunately, there is no requirement that the notice actually get to parents.

It is acceptable under the original law to simply put a notice in the local newspaper that may not ever reach parents. Rights that citizens don't know about are meaningless.

Let me make clear, Mr. President, that there is nothing in my amendment that tells school districts how they are to make this notice. However, a school district must assure that the notice to parents concerning their rights under FERPA is effective.

Finally, under the original law, the Department of Education was responsible to draft regulations "to protect the right to privacy of students and their families in connection with surveys or data-gathering activities conducted, assisted or authorized by the Secretary or an administrative head of the agency."

After 20 years, Mr. President, these regulations have never been drafted. The Department indicated in discussions with me that there is no need for new regulations because there are regulations concerning the National Center for Educational Statistics, the division that does most of the Department's data gathering activities. However, what about any other data-gathering activities performed by the Department or an administrative head?

In light of the its response, I modified the language to say that the Secretary shall either adopt appropriate regulations, as mandated in the original law, or identify existing regulations which protect these rights of privacy.

If, as the Department says, they already have regulations which provide for the protections, in every area of data gathering performed by the Department, I am happy to simply have those regulations assembled in a way that clarifies to parents how their family privacy is protected.

However, Mr. President, as far as I am concerned, it is not an option for an administrative agency to simply ignore a specific congressional mandate for action. Congress had reason to pass this language 20 years ago, and the Department needs to comply with the requirements established.

I have also made several suggestions, Mr. President, for ways to lighten the burden on local school districts.

Unfortunately, parents occasionally bring claims never intended under FERPA. Because of specific language in the act, there is a loophole allowing for frivolous claims. FERPA provides that parents can challenge information in the student record that they believe to be "inaccurate, misleading, or otherwise in violation of the privacy or other rights of students." Most of this language is very clear; however, what does "or other rights of students" mean?

This particular provision, "or other rights of students," has been used by parents to challenge provisions of a child's individual education plan under the Individuals With Disabilities Education Act [IDEA] and even to challenge grades. The problem with both of these true-life examples is that the enforcement office at the Department of Education has no authority to address these concerns. But because of the way the FERPA is drafted, parents continue to bring these claims.

My amendment drops the language "or other rights" of students so that if parents have rights under other laws—like IDEA—they must bring their claims under the law that created the right, not under FERPA, which was not designed for this purpose.

With this language dropped from the law, school districts and those in charge of enforcement at the Department will be free from dealing with these frivolous claims.

Another problem that school districts have had under FERPA is in dealing with subpoenas issued by courts concerning students at their schools.

Under the original law, a school district receiving a subpoena to release records without notice to any person is in a legal bind. Under FERPA, the district cannot release the records without notifying the parent or student. To do so, the district risks losing its Federal funds. But under the specific language of the subpoena, the district could be held in contempt of court for violating the subpoena if it obeys FERPA and notifies the student or parent.

Unfortunately, with increasing crime among young people, this double bind is becoming more prevalent for school districts.

What is a school official to do?

My amendment addresses this dilemma by creating a bifurcated approach. If a Federal grant jury issues a

subpoena for a student's records, the court is mandated, "for good cause shown" to issue the subpoena saying not to notify the student. In this case, the school is not in violation of FERPA.

In the case of a State court subpoena, the amendment is permissive and simply allows the State court, "for good cause shown" to tell the school officials not to notify the student. In this case also, the school district will not be held in violation of FERPA.

Note that in both the Federal and State examples, good cause must be shown for why a parent or student should not be told that records will be released.

With the addition of this amendment to the law, school districts will no longer be placed in the double bind of deciding whether to violate Federal law and release the records without notice, or be held in contempt of court for providing notice.

This provision was brought to my attention by counsel at the Departments of Education and Justice and was carefully drafted to avoid Congress telling State courts what to do.

Finally, Mr. President, there was a specific provision of my original proposal that I dropped, reluctantly, after much discussion with the Department and committee members. My original proposal required that a parent should have access to any records maintained as the result of any social or health services provided to their child on school grounds.

I want to make clear that I still believe parents have a right of access to any records kept on their children at school.

It does not matter to me if those records are kept by school officials or by health or social services officials. I do not believe anyone should have a right to keep records on a child without a parent's knowledge or access.

Understand that the provision I dropped did not require parental consent, which I personally believe should be the standard. No, it simply required that parents have access to the records after the fact.

I still believe this is a reasonable requirement.

Only in the case of child abuse or neglect allegations can I agree that a parent should not have access to health or social service records kept on their child. Even then, I believe the parent should have access to all of the records except for those records concerning the alleged abuse or neglect.

Unfortunately, this provision was not accepted.

Mr. President, I believe the suggestions accepted in the committee bill provide for greater parental access, a lighter burden on schools, and ease of enforcement for the Department of Education.

I have made every attempt to provide a balanced proposal that addresses the concerns of all involved in the application of the Family Education Rights and Privacy Act. I commend these provisions to the Senate and the conference committee as important modernizing amendments to this crucial law.

THE EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994

Mr. CAMPBELL. Mr. President, I would like to give my support for an amendment which is included in the manager's bill to the Elementary and Secondary Education Act [ESEA]. I am pleased to see the Equity in Educational Land-Grant Status Act of 1994 attached to this year's ESEA bill, which will give 29 tribally controlled colleges the land-grant status they need and deserve.

There are currently 14,000 students enrolled in the 29 tribal colleges and the student count continues to rise. Clearly, these colleges and students are a great resource in the communities where they are located, providing a unique learning experience that benefits not only the students, but community members as well. Because most of the tribal colleges are located in rural areas, they provide a general curriculum that is practical to students, but also need to be able to provide technical expertise and research opportunities that will benefit the community at large. It is for this reason that land-grant status should be extended to these schools, so that tribal colleges have the opportunity to provide the services that land-grant schools are already providing.

Land-grant schools were established to develop programs that would deal with problems of the rural poor and to then study how to improve the economic situation for rural people. The native American population is by far the poorest and most rural of Americans. It is imperative then, that tribal colleges receive adequate funding and resources necessary to continue to operate programs of outreach and technical assistance which make up a large part of the schools curriculum. In fact, land-grant institutions were originally established for these types of programs. By extending this status to tribal colleges, graduating students will not only become productive citizens, but will also have gained the appropriate skills to better their community.

The extension of land-grant status to tribal colleges would not affect the programs of existing land-grant schools. It would, however, authorize an endowment to tribal colleges payable in installments over a 5-year period. Namely, this status would provide $10 million, as provided under the 1862 Morrill Act, to operate "colleges for the benefit of agriculture and the mechanic arts" and tribal schools would also become beneficiaries of annual appropriations in the budget of the Department of Agriculture. If fully funded, this legislation would bring these severely underfunded schools closer to the level of funding already enjoyed by other land-grant schools.

This act will provide the tribal colleges with better resources needed to foster and develop programs in agriculture, natural resource management, and other related fields. In addition, the colleges will be able to seek technical assistance from the Department of Agriculture. I think it will provide an invaluable opportunity for native American peoples to fully develop their agricultural resources and realize self-sufficiency through education. Understanding that there is no debate on this amendment, I would just like to share my support and appreciation for the committee and my colleague from New Mexico, Senator BINGAMAN, on his work with the Equity in Educational and Land-Grant Status Act. I am pleased to see this language attached to the Elementary and Secondary Education Act of 1994.

Mr. RIEGLE. Mr. President, I rise today to speak in support of S. 1513—Improving America's Schools Act.

Americans have come to a consensus that the education of our children is the fundamental starting point in building a strong future for our country. Unfortunately, our schools cannot educate in a vacuum, by simply ignoring the problems that face our society. As a result, poverty, crime, drugs, hunger, and the condition of the family all show up in the classroom. S. 1513 recognizes this reality and provides some critical support to local schools in confronting these problems.

In 1965, President Johnson recognized that Washington must provide a leadership role and the Elementary and Secondary Education Act was created. Back then we recognized the inequities that exist from school district to school district. Since 1965, as the challenges to society have changed and in some instances worsened, so have the problems in the classroom. This reauthorization takes new strides to deal with these challenges and recognizes that, while Government cannot act alone, it can provide some needed leadership and funding.

The leadership we are extending with this act reaches out in many directions. In the 1980's, we recognized the threat of drugs to our classrooms and attempted to assist local communities in creating drug free environments. Today we are continuing that fight and recognizing that we must include violence as a related challenge to the integrity of the schoolhouse. As the world economy has become more competitive so has the challenge to the U.S. work force, and this legislation makes a commitment to that challenge by increasing our support of professional development of teachers and by helping to bring technology into the classroom.

Just as we have recognized the need to keep drugs and violence out and to bring training and technology into the classrooms, we also know that much of what we accomplish in America's schools is affected by what happens to the child before he or she sits down to learn. Efforts such as Even Start recognize the importance of adult literacy and parenting on a young child who has just entered the school system. Similar to earlier education legislation passed in this Congress, we are placing special emphasis on the involvement of parents in their child's education and their schools.

Finally, this act reaffirms the fact that, although we are providing national leadership, the critical difference will be made by local school boards, teachers, community and business leaders, and parents. This country's education system is the most democratic and local form of government. We can lead from Washington, but it will be local people—especially parents—who will determine what ultimately happens.

I commend President Clinton and Secretary Riley for their leadership on education. The enactment of this legislation will add to a growing list of accomplishments that now include: Goal 2000, the School-To-Work Act, reform of college student loan programs and—perhaps most importantly—the creation of a National Service Program that will extend, to college students, both an opportunity at higher education and require a commitment to our communities. The administration has strongly supported these programs and worked with Congress in developing the legislation and the needed funding. Let me also take this opportunity to commend Senator KENNEDY and Senator PELL for their continued leadership and hard work on education issues.

LAND GRANT STATUS TO TRIBALLY CONTROLLED COLLEGES

Mr. BINGAMAN. Mr. President, I am pleased that the managers have accepted an amendment to S. 1513, the Improving America's Schools Act that will provide limited land grant status for 29 educational institutes serving Native American students. I am pleased to have a distinguished group of original cosponsors, including, Senators BAUCUS, CAMPBELL, DORGAN, LEVIN, RIEGLE, and SIMON. In addition, I would like to thank Senators DASCHLE, EXON, WELLSTONE, KERRY, CONRAD, INOUYE, BURNS, and DOMENICI, who have joined me as cosponsors.

Of the 29 institutions that would become land-grant institutions, 24 are tribally controlled community colleges, established pursuant to the Navajo Community college Act of 1970 and the Tribally Controlled Community College Assistance Act of 1978. These colleges offer 2-year degrees, except for Salish Kootenai College and Oglala Lakota College, which offer 4-year degrees, and Sine Gleska University, which offers both a 4-year and a graduate degree program. These colleges are located in 12 States and enroll more than 14,000 students.

Two other institutions that would be designated are tribally controlled postsecondary vocational institutions—Crownpoint Institute of Technology and United Tribes Technical College—both of which offer 2-year programs. Together the two have an enrollment of 675 students.

Other institutions that would also be designated as land-grant colleges are the Haskell Indian Nations and the Southwest Polytechnic Institute [SIPI]. Enrollment in 1993 at Haskell was 906 students and at SIPI, 519 students. Both schools are operated by the Bureau of Indian Affairs.

The final college that would be designated is the Institute of the American Indian and Alaska Native Culture and Arts Development, an institution offering 2-year degree program. The institute, an independent agency governed by a Presidentially appointed board, currently enrolls 250 students.

The amendment would provide additional resources to further the agricultural capacity of the tribes and their members through these colleges.

In considering this amendment, it is important to understand the background of the land-grant program. In the middle of the last century, life in America underwent dramatic changes and many educators realized that an entirely new educational system was needed to provide accessible education suited to the needs of our citizens. In 1862, Congressman Justin Smith Morrill sponsored the Land-Grant Act which authorized States to use the income from certain public lands to establish and operate colleges or universities for students of agriculture and the mechanic arts.

A major goal of the land-grant program has been to include equally all people of the United States and the trust territories in the educational benefits which these land-grant colleges and universities provide. This served as the impetus behind the 1890 Second Morrill Act which established numerous institutions for black students, to ensure that these students had equal access to higher education even in States which already had existing land-grant colleges. In addition to setting the precedent that land-grant colleges could serve special populations, the Second Morrill Act demonstrated that there could be more than one land-grant college established in each State. In 1968, Federal City College, now the university of the District of Columbia, in Washington, DC was included as a land-grant institution. It established that trust areas were to be included in the land-grant programs; this trend continued with the addition of colleges in Guam and the Virgin Islands in 1972. Finally, the addition of colleges in Micronesia, American Samoa, and the Northern Mariana Islands in 1980 demonstrated that community colleges are also eligible for land-grant funding.

The original intent of the land-grant colleges statutes was the development of programs to deal with problems of the rural poor and to study means of improving economic opportunities for rural people.

Presently 74 colleges in the United States and their trust territories receive money under land-grant programs. Of these, 50 had their origins in the Morrill Act of 1862. Sixteen black colleges were also designated as land-grant institutions pursuant to the 1890 act. The seven other colleges were designated pursuant to separate acts of Congress between 1968 and 1980. The Department of Agriculture annually appropriates over $700 million to these colleges and universities, with each institution receiving an average award of approximately $9 million. This legislation confers on these schools some of the benefits now available to other schools.

Granting limited land-grant status to the institutions would significantly assist the approximately two million Native Americans living in the United States, 800,000 of whom live on 314 reservations. The 29 colleges listed in the amendment are all located on or near reservations. Most are 2-year colleges and technical schools. However, three are 4-year institutions and one offers a master's degree program. The schools are the most important providers of higher education opportunities for Native Americans, and have been particularly successful at retaining students and sending them on to 4-year colleges. They also are a source of community support—operating programs of family counseling, alcohol and drug abuse programs, job training, and economic development. The tribal colleges also conduct numerous types of programs of technical assistance similar to that on which the original land grant institutions were founded. Generally speaking, the schools are poorly funded, due in large part to the depressed economies in and around the reservations, but also due to a lack of adequate Federal support. This amendment would make the resources available to continue the technical assistance now provided by the schools as well as to allow the schools to enhance their agricultural program.

Furthermore, land-grant resources would allow tribal colleges to ameliorate the gross funding inequities which they suffer. Presently, tribal colleges receive approximately $2,974 per full-time equivalent [FTE] student compared with approximately $17,000 per FTE student for Historically Black Colleges and Universities students and

approximately $7,000 per FTE student at comparable mainstream community colleges. I would note that funding for tribally controlled community colleges has not been included but in fact has decreased over the last year while Federal support increases for other minority institutions continue to grow.

In my home State of New Mexico, there are four tribal colleges that serve over 1,700 full-time equivalent students. These institutions provide their students with the education and technical skills necessary to dramatically improve their lives. With a land-grant college designation, the Crownpoint Institute of Technology, the Navajo Community College/Shiprock Campus, the Southwestern Indian Polytechnic Institute, and the Institute of American Indian Arts, will have access to additional resources for the study of agriculture, traditional arts and culture, and ways to help Native American people become self-sufficient. By enabling tribal colleges throughout the country to become participants in a variety of agriculture research programs, this legislation would assist them in developing research and extension services.

This amendment also will provide an endowment payable in $4.6 million installments over 5 years. This endowment will be held in trust and its annual dividend will be used to supplement current educational programs of the schools.

The amendment also makes clear that the series of these existing institutions will not be duplicating or competing with the existing State land-grant institution extension services or experiment stations. It provides for a separate annual authorization of $50,000 for each tribal institution to be used for instruction in food and agriculture sciences; the existing land grant schools would not have this annual allocation to them diluted by the addition of these new schools.

The amendment also authorizes an institutional capacity building grant program of $1,700,000 per year for the next 5 years and a grant program of $5,000,000 per year for research and extension services to be administered through the already-existing land-grant institutions.

The legislation was reported out of the Indian Affairs Committee in November 1993; the substitute bill which comprises the amendment was unanimously approved by the committee. The bill has full support from the Department of Agriculture. In addition, the National Association of State Land Grant Universities and Colleges endorses the legislation.

The institutions which are listed in the amendment are similar in many ways to those institutions currently eligible for Department of Agriculture assistance under the Morrill Act to strengthen its commitment to equal educational opportunity for all Americans, including American Indians. Unfortunately, American Indians are too often last in educational opportunity and development. By providing equitable access to agriculture education-related programs, it is not too late to help remedy this situation.

Mr. WOFFORD. Mr. President, the Improving America's Schools Act will give our communities the tools they need to improve their schools. It will help schools strengthen basic skills—through an invigorated chapter I program and expanded staff development. It will also bring badly needed technology to schools around the Nation.

I am particularly pleased that this legislation includes the Safe and Drug Free Schools Act—legislation I introduced to provide parents, teachers, and students with the tools they need to fight violence in our schools.

A recent survey showed that only 29 percent of parents believe that their children are safe in school. According to the Centers for Disease Control, nearly 3 million crimes occur on or near school campuses very year—one every six seconds. It is estimated that over one hundred thousand students carry guns to school each day. Thousands of students and teachers alike are victims of physical attacks or threats of violence. It is a terrifying situation. And, it is a scandal.

Marleihia Harper, a student at a Philadelphia high school, says that violence is an everyday occurrence. She says that even the hand-held metal detectors are not enough to keep guns and knives out of her school. And when it rains, the crack vials float in puddles in the schoolyard.

Marleihia attends a large urban school. But school violence has infected our rural and suburban schools as well. I recently visited a smaller school in Wilkes-Barre where a poll of students found that 52 percent of students knew someone who brought a weapon to school and 72 percent said they witnessed violence at their school in the past year.

The seventh National Education Goal, established by the Nation's Governors, states, "By the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning." The legislation we are considering today will bring us closer to that goal.

The Safe and Drug Free School Act will help local school districts develop and carry out comprehensive programs to prevent destructive behavior. Schools will be able to attack their own individual problems head-on. Schools could use funds to fit their own unique needs to develop programs such as teacher training, conflict resolution training for students, antigang efforts, or they could use funds to develop a partnership with the police, or a mentoring program with members of the business community.

Feelings of hopelessness, alienation, and cynicism that lure children into using drugs also lead to violent behavior. Since drug use and violence often go hand and hand, the most promising strategy is comprehensive, coordinated school and community efforts, efforts that bring together families, students, community organizations, and law enforcement. This legislation will support these efforts.

This legislation does not create another Federal program and bureaucracy. Rather, it alters an existing program to better meet the challenges facing our schools today. It will not burden schools with rigid, top-down, bureaucratic rules, but will leave communities free to produce the best course of action and give them some of the resources needed to get things done.

Many Pennsylvania communities have taken the lead in attacking violence in schools. In recent months I have met with students, parents, teachers, and administrators from all parts of Pennsylvania who told me their own stories of the violence they see in their schools and how this legislation will help them do something about it. In Pittsburgh, the school district formed a task force that's taking the ideas of parents to work to eliminate violence among young people. In Philadelphia, I walked with a group of concerned parents and clergy—led by my friend Rev. William B. Moore—in the safe corriders program, which protects children on their way to and from school. Also in Philadelphia, Veronica Joyner, a caring and dynamic community leader, has created a parents program that brings activities into some of the cities most violent schools. In Reading, a peer mediation program is teaching children how to settle their own disputes without resorting to weapons, punches, and insults. In Wilkes-Barre, the district attorney is working with local schools to prevent youth violence. And in Harrisburg, parents have joined together to provide a daily presence in the schools.

Education is the one sure path to a better life for every American child. But children cannot learn if they do not feel safe. The Safe and Drug Free Schools Act will help us to once again make our schools a safe haven of knowledge, hope, and security.

I am also pleased that this legislation incorporates key provisions of the Service Learning Act of 1993, which I introduced with Senators DURENBERGER, KENNEDY, and WELLSTONE. The Service Learning Act is based on a simple yet powerful truth: students learn best by doing, by being active and engaged in the process of learning.

In 1990, the President of the United States and all 50 Governors recognized this approach as an integral part of our Nation's educational goals. In their Charlottesville Declaration, they proposed that all States and school systems act to ensure that by the year

2000 "all students will be involved in activities that promote and demonstrate good citizenship, community service and personal responsibility." Service-learning was seen as an important way to achieve goal three: that all students are "prepared for responsible citizenship, further learning, and productive employment in our modern economy."

Service-learning can be a critical element in education reform. Active learning through community service, especially if it is curriculum-based, improves student achievement by making classroom learning more meaningful. It can reengage students turned-off by traditional teaching methods. Service-learning promotes teamwork, leadership, and problem solving. In successful programs of service-learning, students replace alienation with engagement, exchange boredom with excitement, and learn the exhilaration of making a difference. In this active form of education, the community becomes the classroom and students become resources. Thus service-learning will help us achieve all of the national education goals set in Charlottesville—for better teaching and better learning.

Mr. President, with this legislation we are also going farther than ever before in recognizing that the best ideas about how to improve schools do not come from Washington—but from communities across the Nation. I commend Senator KENNEDY, Senator KASSEBAUM, Senator PELL, and Senator JEFFORDS for their leadership in crafting this bipartisan education bill, and I encourage my colleagues to join me in offering their full support for the Improving America's Schools Act.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 1513, the Improving America's Schools Act. This the third major education bill that the Senate has passed this Congress. The legislation complements the Goals 2000 and School to Work acts that President Clinton signed into law last year.

This legislation represents the Federal commitment to local education. The Federal commitment to education is an important one, although it is limited. The Federal Government provides only 7 percent of all funds for education. However, the Federal role has traditionally been one that helps disadvantaged children and promotes innovative education.

This bill provides funds for such items as increasing the use of technology in the classroom, school-based violence prevention programs, public charter schools, gifted and talented programs, repairing school facilities, foreign language programs, and math and science programs. It also makes significant changes in the so-called chapter 1 program, which provides resources for our schools to help our disadvantaged children.

The Federal Government cannot and should not run our public school systems. It can only provide them resources and encouragement to improve our education system. This bill provides approximately $13 billion to our States and schools to better educate our children. It is now up to our parents, teachers, principals, and administrators to finish the job of improving our schools and empowering our children to learn and compete in the next century.

I urge my colleagues to support this bill.

SCHOLAR-ATHLETE COMPETITIONS

Mr. CHAFEE. Mr. President, the amendment that I offered, and that the managers have agreed to accept, authorizes $1 million to support scholar-athlete competitions in 1995. I believe that competition can encourage greater understanding and friendship between the participants. Academic and athletic competitions can bring together economically and culturally individuals who might otherwise never have the opportunity to interact.

In 1993, the University of Rhode Island hosted the World Scholar-Athlete games. These games were an enormous success, with 2,000 young scholars and athletes participating from 125 different countries and all 50 States. Young people between the ages of 16 and 19 who are talented in art, creative writing, singing, poetry, and athletics met in Rhode Island to engage in healthy competition and performances. I have no doubt that life-long friendships were forged at the World Scholar-Athlete games. As we help to build these individual friendships, we help to dismantle the walls that divide us.

The Institute for International Sport at the University of Rhode Island conducted the World Scholar-Athlete games. The same group created National Sportsmanship Day to bring attention to ethics and fair play both in athletics and in society at large. Now, the Institute for International Sport plans to host the Rhode Island Scholar-Athlete games in the summer of 1995. The Rhode Island games are intended to be a model for other States to replicate.

Like the Scholar-Athlete games, the Rhode Island Scholar-Athlete games are designed to bring together young people from diverse economic and social backgrounds in educational, athletic, and cultural activities intended to foster mutual understanding and respect. The Rhode Island Scholar-Athlete games, with the cooperation and guidance of the Rhode Island Department of Education, will gather scholars with demonstrated proficiency in a particular sport or cultural activity, to participate in a program which will motivate them to achieve greater academic, athletic, and artistic excellence.

The sports activities that are planned include: baseball, softball, sailing, basketball, volleyball, soccer, tennis, swimming, and track. The cultural activities will include: art, band, debate, choir, theater, poetry, and creative writing. The Institute for International Sport also plans to hold theme days on the subjects of ethics and fair play, the environment, and substance abuse.

To qualify for participation in the games, students must have a record of academic excellence or must have demonstrated notable progress or improvement. Special attention will be given to encouraging students from high poverty areas to participate.

Educators and civic leaders from every State will be invited to attend and observe the games. The Institute will offer training sessions to these individuals to enable them to emulate the Rhode Island Scholar-Athlete games in their home States.

My amendment authorizes the Secretary of Education to provide $1 million to an organization such as the Institute for International Sport to implement Scholar-Athlete games in 1995. The Institute is prepared to conduct the games and is uniquely qualified to do so. I appreciate the cooperation of the managers in ensuring acceptance of the amendment.

IMPROVING AMERICA'S SCHOOLS ACT

Mr. COCHRAN. Mr. President, I support the passage of this bill which reauthorizes nearly every Federal elementary and secondary education program and provides Federal support to supplement State and local efforts. It strives to improve the quality of education for all students through ongoing staff development, remedial assistance for disadvantaged students, and by encouraging the adoption at the local education level of course work that is challenging enough to enable America's students to achieve the National Education Goals. This bill is intended to promote effective and equitable education for all students. The bill recognizes that ongoing professional development for teachers and other educators must be an integral part of every educator's career; schools and school districts must be given flexibility to implement reforms geared to their individual needs; technology can be used as a powerful tool to improve student learning opportunities; and reaching high academic standards requires a strong partnership with parents and others in the community.

I would like to commend the committee chairman, Senator KENNEDY, the subcommittee chairman, Senator PELL, and the ranking members, Senator KASSEBAUM and Senator JEFFORDS for their hard work and commitment to the futures of our children and our Nation which is evidenced in every title of this bill.

The Chapter 1 Program is probably the most important education program supported with Federal dollars. Its purpose is to improve educational opportunities for low-achieving, poor students

by providing extra assistance to the Nation's over 5 million disadvantaged students.

S. 1513 states that "although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated." I am disappointed the bill does not follow the recommendations of the administration, Government Accounting Office, or the assessment of chapter 1 by redirecting greater Federal resources to those States with the highest concentrations of poverty. However, the bill does introduce a better within-state targeting mechanism to focus resources within a State to areas where needs are greatest.

Other changes to the program will allow more flexibility in the use of funds, particularly in schools where more than 50 percent of the students are from low-income families. The Chapter 1 Program continues to hold great promise for those children in our society who do not have the same opportunities students in wealthier schools have.

This reauthorization also emphasizes the notion that schools can't do it alone. Ensuring the best education for children is a parent's responsibility and the community should and can make a big difference by placing a high priority on student achievement.

Another successful Federal program reauthorized by this bill, which was first authorized with the 1988 amendments, is the Even Start Program. It has been important to Mississippi's efforts to combat illiteracy. Even Start combines early childhood education and adult basic education into a unified program. Its success is due in part to its ability to build partnerships within families and encourage family members to work together to improve literacy and learning skills. It is closely coordinated with other Federal programs including chapter 1, adult education, Job Training Partnership Act and Head Start. S. 1513 extends the program for another 5 years and expands eligibility to a much neglected segment of our population—teen parents.

Title III of the bill, "Education Technology for All Students," includes many of the same provisions which were part of S. 1040, "the Technology for Education Act," a bill I was pleased to introduce along with Senators BINGAMAN and KENNEDY earlier this year.

S. 1040 was developed over a 2-year period in consultation with students, teachers, school administrators, representatives of the technology industry and other experts. These provisions, now part of S. 1513, will establish a Federal leadership role in promoting greater integration of technology into the classroom; support teacher training programs; encourage the development of curriculum specific software; and provide assistance to needy schools for the purchase of equipment and linkages necessary to become technologically connected. I am pleased to report that the Senate Appropriations Committee approved $50 million for this new educational technology program at last week's markup of the Labor HHS appropriations bill for fiscal year 1995.

Also included in title III is the reauthorization of the highly successful Star Schools Program. The Star Schools Program supports grants to telecommunications partnerships to enable them to provide distance learning services, including facilities and equipment, programming and technical assistance.

Star Schools programs are designed to improve educational opportunities for students residing in areas of the country where there are teacher shortages by making available subjects such as mathematics, science, and foreign languages, as well as other subjects such as literacy skills and vocational education. First enacted in 1988, the Star Schools Program has supported various consortia which now provide satellite access to every region of the country. Changes made by this reauthorization allow grants to be made for a 5-year period, thus preventing disruption of services.

I ask unanimous consent that an article which appeared in the the Journal, authored by Senators BINGAMAN, KENNEDY, and myself on the promise of educational technology be printed in the RECORD at the conclusion of my remarks.

I appreciate also the committee's including in this bill the National Writing Project and extending this worthwhile staff development program for 5 years. First authorized in 1991, this program has received modest Federal support over the past 4 years and has made a significant impact on the teaching of writing in the Nation's classrooms and on student ability to use writing as a way to improve learning in all subjects. The bill I introduced in January 1993 to reauthorize the National Writing Project, S. 70, had 42 cosponsors from both sides of the aisle at the time the committee adopted it as part of S. 1513.

The National Writing Project operates through 144 sites in 44 States, most of which are associated with universities. Last year, 105,009 teachers voluntarily sought training in one of the National Writing Project intensive summer and school-year workshops.

The National Writing Project has reached 20,000 students through summer young writers camp and over 7,300,000 students of all ethnic and linguistic backgrounds through their classroom teachers. In other words, in a single year 18 percent of the Nation's K–12 public school students benefited from a Federal investment that amounts to 34 cents per student.

The National Writing Project is a teachers-teaching-teachers program which identifies and promotes productive techniques used in the classrooms of our best teachers. It is a positive program celebrating good teaching practice, one which through its work with schools, increases the Nation's corps of successful classroom teachers. When the project was funded for an unprecedented 10th year by the National Endowment for the Humanities, a spokesman said:

> I have no hesitation in saying that the National Writing Project has been by far the most effective and 'cost effective' project in the history of the Endowment's support for elementary and secondary education programs.

In Mississippi, National Writing Project sites have contributed greatly to the remarkable improvement in the quality of teaching. Program participants include not only English teachers but also teachers of history, geography, math, reading, science and elementary classes. The result has been a measurable improvement in student performances and rekindling of teachers' enthusiasm, confidence and morale.

For every Federal dollar, the National Writing Project has been able to garner 5 additional dollars from State, university, school district and other local sources.

By improving writing instruction as part of a basic education, I believe this legislation will provide a very high return for a modest investment and will take us further toward our goal of improving the quality of education in our Nation.

Another new program the bill includes will support a grant to demonstrate "Mathline," a national telecommunications-based demonstration project to assist elementary and secondary school teachers in preparing all students to achieve State content in mathematics. The Senate Appropriations Committee included $3 million for fiscal year 1995 to support the initial phase of implementing this program.

The "Ready to Learn," television as teacher program is reauthorized to support the development and distribution of early education television programming and supporting written materials to help parents and daycare providers make the most of public television programming. The motivation behind this program was to reach preschool youngsters with high quality programs which are cost-effective and have broad availability in order to help them achieve the first National Education Goal, "All children will enter school ready to learn."

Other sections of the bill—Elementary and Secondary School Library

Media Resources Program, Foreign Language Assistance, Magnet School Assistance, Safe and Drug-Free Schools and Committees and the new Targeted Assistance Program replacing the current chapter 2 program—will make a significant contribution to the quality of education America's students receive.

I urge other Senators to join me in support of this landmark legislation.

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

[From the T.H.E. Journal, Aug. 1993]

A BLUEPRINT TO REVOLUTIONIZE AMERICA'S SCHOOLS

(By Senator Jeff Bingaman, Senator Edward M. Kennedy and Senator Thad Cochran)

New Mexico—In a cluster of nine small high schools scattered across the plains of rural eastern New Mexico, the classrooms, of the future are emerging. High school students in San Jose, House and Grady—some of the most rural communities in New Mexico—are taking advanced classes from a college 50 miles away. Through a two-way interactive video system, these students have been linked to each other and to the Clovis Community College. Through this innovative application of technology these students can participate in a regional classroom and have access to educational resources that do not exist in their small schools and communities.

Mississippi—At the Hayes Cooper School for Math, Science and Technology, a technology-centered K–6 public school in the heart of the Mississippi Delta, each child has an individualized educational program tailored to meet his or her learning needs, using computer programs that have been designed by the school's teachers to meet state curriculum standards and the National Education Goals.

As a result, teachers have more time to spend with small groups of students, while other students work in teams at one of the classroom's computer terminals. Classrooms are linked by computer networks to enable teachers to share ideas and participate in team-teaching activities. Computer-generated reports on each child's progress are sent home to parents on a monthly basis. After just one year in operation, Hayes Cooper students report significant gains over last year's standardized test scores. "This school is harder," explains one sixth grader, "but it is a lot more fun."

Massachusetts—During the last five years, hundreds of teachers in Boston Public Schools have observed the positive impact of technology on their students' ability to learn, especially in the area of mathematics. Each teacher involved in the Elementary and Middle School Math and Technology Project, which is funded by the National Science Foundation and Boston Public Schools, received two computers, a calculator and "hands-on" math materials for their classrooms.

Coupled with intensive workshops in mathematics and new strategies for teaching math (cooperative learning, interdisciplinary teaching, etc.), these materials have provided rich and vastly different learning experiences in math for Boston students. Listen to the comments from some Boston area teachers.

One teacher reported that "I no longer use textbooks. All lessons involve manipulatives, calculators and computers. I teach to develop concepts, not techniques for getting answers."

Another said that "my students are always engaged in problem solving. My students now work in groups, sharing their ideas and knowledge. I love to listen to them develop strategies as they work at the computer. They are always thinking and sharing their knowledge."

Still another remarked, "I have seen totally new ways to use calculators and computers. I always saw computers as a tool to reinforce or check skill work, but now I see that they really engage my students in much more complex problem solving."

EFFECTIVE EXAMPLES, BUT NOT YET PERVASIVE

Powerful examples like these show that creative uses of technologies by skilled teachers offer the promise to quickly and cost-effectively restructure education as we know it. These technologies can help teachers create an environment where all students are afforded rigorous, rich classroom instruction at a pace that suits their learning style and in a way that gives them a more active role in the learning process.

The problem is that there are few examples of exemplary use of technology in the classroom. Some of the reasons include: Lack of resources to wire schools, purchase equipment and develop technology plans; inadequate teacher training, both pre-service and inservice; little support from school administration; lack of availability of curriculum-specific software; and no interest by teachers because they have not had opportunities to become fully award of the vast resources technology can offer.

LEADERSHIP AT THE FEDERAL LEVEL

On May 27, 1993, we introduced S. 1040, the Technology in Education Act of 1993. It would authorize over $300 million in federal funds to help integrate advanced technology and communications systems into the classrooms of all the nation's elementary and secondary schools. The motivation behind this bill is to support state and local efforts to reach, by the year 2000, the ambitious National Education Goals established by the nation's governors. We want our elementary and secondary schools to be the best in the world.

We believe that these goals can be reached through the creative use of instructional technologies. Without the advantage of technology in the classroom, our students will not be able to achieve the level of competence they need in order to reach these goals or compete in a rapidly changing workforce.

THE TECHNOLOGY IN EDUCATION ACT OF 1993

The Technology for Education Act strives to make our elementary and secondary schools a part of the information technology revolution. In education, just as in technology, we are on the verge of a major restructuring of the way we live and learn. Americans have awakened to the need for dramatic improvements in education and reform of our educational system. We hope that the Technology in Education Act of 1993 will energize this revolution to change the way we teach our children and prepare them for the jobs of tomorrow.

In developing this legislation, we seek to provide much-needed federal leadership to integrate technology into K–12 classrooms. Although there are many technology-related programs supported by various federal agencies, the legislation will give the U.S. Department of Education a stronger and more visible role. Its primary responsibility will be to encourage state and local education agencies to integrate technology in all education programs and to coordinate technology efforts across all levels of the federal government.

The Office of Technology established by the bill will oversee new programs to provide funding to support state technology-in-education planning, staff development activities and the acquisition of technology by poorer school districts.

PROVIDING VISION, STRATEGY AND RESOURCES

Technology can revolutionize the way we teach our children and change the way they learn, just as profoundly as it has altered the American workplace. Advanced information technologies are obviously not the cure-all for America's educational problems, any more than chalk and the blackboard were cure-alls when they were invented. But technology can do a great deal to extend educational opportunities to all students and raise the level of performance of our schools and our students. The classrooms of the future that will utilize these educational technologies must be grounded with the goal of equity and access for all students.

We believe the Technology in Education Act of 1993 can provide the vision, the strategy and the resources to make that goal a reality.

SUMMARY: TECHNOLOGY IN EDUCATION ACT OF 1993, S. 1040

TITLE I

Title I sets out the leadership function of the Department of Education in the area of educational technology. It establishes an Office of Technology within the Department of Education to coordinate the technology-related activities in all of the department's programs.

The Office of Technology shall also provide the leadership necessary, both inside the federal government and throughout the country, to encourage the uses of technology that support systemic school reform. Some of the ways it will provide this leadership and encouragement is through:

A system of grants and loans to support the programs described in this bill;

Encouragement and support of ongoing research and development of new technology-enhanced software, programming and the advanced technologies themselves; and

Promotion of collaboration among business, educational organizations and others to expand and improve the uses of technology in education.

The Office of Technology shall manage the Star Schools programs and a new Division of School Library Media Services. Leadership functions will also include exploring the feasibility of interface guidelines to make technology truly accessible for teachers and students in schools and annually assessing the "state of the art" to make policy recommendations for the future.

An Assistant Secretary for Educational Technology is established to direct the Office of Technology and to provide leadership both inside the department and in working with other departments and agencies of the federal government to integrate technology into our schools.

TITLE II

Title II provides federal funding to promote the state planning necessary to use the ideas, skills and knowledge provided by technology as one of the tools to support state systemic reform.

This title also establishes a Division of Elementary and Secondary School Library and Media Services to fund media center resource development, innovative library

media specialist and teacher partnerships, and programs to electronically bring library media centers into classrooms. Through a series of grants and loans, schools having the highest percentages of children in poverty and demonstrating the greatest need for technology in the classroom will be eligible for funds to implement plans to integrate technology into the curriculum by purchasing equipment, installing wiring and training teachers.

Title II also provides for the dissemination of information of programs that have already successfully integrated technology into the curriculum.

TITLE III

Title III establishes a means to electronically disseminate information that schools need to support their programs by building on existing electronic networks and making them easily accessible to users.

This title also recognizes the need to provide long-term, on-site staff development in order to integrate existing technologies, and those yet to be developed, into the curriculum. It will establish grants to regional consortia to develop and implement these programs. The consortia will also provide technical assistance to states and schools to help them keep current with the newest information.

TITLE IV

Title IV supports educational technology product development, production and distribution through competitive grants for partnerships of businesses and educational institutions to develop curriculum-based software. Using a set of matching competitive grants, the Office of Technology will fund research, production and distribution of educational television programming that supports the National Education Goals and is targeted to school-aged audiences. Continuation and expansion of the successful Star Schools programs will also be administered through the Office of Technology.

TITLE V

Title V provides for the educational technology research, development and assessment necessary to annually gauge the effectiveness of technologies in our schools and also to look to the future by supporting development of new and better technologies through a series of grants.

TITLE VI

Title VI recognizes the continuing costs of maintaining and upgrading technologies by requiring funding models to support these costs in our schools.

Mr. SIMON. Mr. President, I want to commend my colleagues for their hard work on this critical piece of education legislation. In particular, the chairmen and ranking members of both the full committee and the Education Subcommittee, along with their staffs, have spent countless hours reviewing the recommendations and concerns that have been raised, and going over every detail in the bill. They deserve our thanks and our respect.

More than a decade ago, the Department of Education published the milestone report "A Nation at Risk." As the title suggests, the report raised grave concerns about the quality of American education. The intervening years have produced dozens more reports that echo these findings. Although these reports have raised awareness about the serious problems facing our system of education, our children, regrettably, are at no less risk now than they were at the time the original report was issued.

Perhaps what is most remarkable—and most telling—is that despite the fact that "A Nation at Risk" was issued by an administration whose central aim was to curtail Government involvement in social issues, the report called for stronger Federal leadership in reforming education.

These hopes have not been realized. The lack of action has led to heightened expectations for this administration, and this piece of legislation. While no one expects one President, or one bill, to instantly reverse more than a decade of neglect, this administration is to be commended for moving from rhetoric to action. In March, President Clinton signed into law his administration's blueprint for education reform, the Goals 2000: Educate America Act. This legislation is a solid first step toward realizing the Federal commitment to high academic standards for all students.

Along with the Goals 2000 bill, Congress also passed the School-to-Work Opportunities Act, which I was pleased to sponsor in the Senate. This initiative, open to all students, will be particularly useful to the so-called forgotten half of high school students who do not go on to college. This bill will help thousands of students receive the training and education they need to compete in today's work force by setting guidelines and offering start-up venture capital for statewide school-to-work transition systems.

President Clinton should also be commended for standing up to special interests to ensure that college will be a more realistic possibility for all Americans. With the passage of the new direct student loan program, both taxpayers and students will save billions of dollars. In addition, with the help of income-contingent repayment under the new student loan program and new funds under the National and Community Service Act, more citizens will be able to tutor those with limited literacy skills, assist the elderly, rebuild inner-city communities, and engage in other work that enriches our Nation.

ESEA REAUTHORIZATION

None of these measures alone will solve all our education problems, but each is an important piece of the puzzle. And the more than $9 billion in this reauthorization of the Elementary and Secondary Education Act represent several pieces.

The original Elementary and Secondary Education Act was passed nearly 30 years ago as part of the Johnson administration's war on poverty. The central aim was to provide extra educational assistance to poor children to help them overcome the adversities of poverty. The heart of this legislation was captured recently by Secretary of Education Riley who quoted John Dewey:

> What the best and wisest parent wants for his [her] child, that must be what the community wants for all of its children: Any other ideal for our schools is narrow and unlovely; it destroys our democracy.

To determine what changes need to be made to the various ESEA programs, I chaired hearings in Chicago and East St. Louis, and we heard from numerous witnesses here in Washington. In addition, valuable input came from two blue-ribbon studies of Federal education programs, many smaller such studies, and letters and meetings with hundreds of parents, teachers, students, and education researchers.

The Improving America's Schools Act includes many critical reforms, including: an increased emphasis on schoolwide approaches to encourage schools to abandon ineffective approaches that pull out and label students who need help; stronger accountability provisions to monitor schools' progress in educating economically disadvantaged students, and the elimination of perverse incentives that penalize schools that increase student achievement; an increasing emphasis on better tests tied to challenging content and performance standards rather than a dumbed-down curriculum; significant increases in funding for teacher training and professional development, and more flexibility for teachers and other staff to tailor these activities to the needs of their individual schools; and stronger parental involvement.

An important aspect of the reforms in the bill is that schools are provided with more flexibility in exchange for increased accountability. I must mention, however, that I am not comfortable with the waiver language included in title I. I raised my concerns at the committee markup, and there are improvements in the committee amendment. But I am afraid that the language is still too broad and will result in some abuse—either a misuse of funds, or students not receiving the assistance that was intended by Congress. I am hopeful that we can look more closely at this in conference.

FOCUSING ON POOR SCHOOLS

One of the most significant reforms the Senate has achieved is to refocus chapter 1, now title I, of ESEA on serving the needs of poor children. Title I, by far the largest program in the bill, is supposed to provide financial assistance to local education agencies with high concentrations of poverty. But the money is too thinly spread: More than 90 percent of school districts receive funding, while 13 percent of high-poverty schools get no money at all. Given the many obstacles they face in reaching their potential, economically disadvantaged students require special

attention and extra support. While it is politically difficult to take away funds from some school districts, we have done the right thing by revising the current formula to target more heavily on the higher poverty districts and schools.

We should not fool ourselves into thinking that we have solved the funding disparities faced by poor schools, however. In Illinois and many other States there are glaring disparities in school funding that can only be fixed by the States themselves—perhaps with some encouragement from the Federal Government. Last year, several of my colleagues and I held hearings to look at school finance and to explore the role of the Federal Government in encouraging States to equalize school funding. I held a hearing in East St. Louis, which has become a symbol of this problem, in part due to the vivid descriptions in Jonathan Kozol's book, "Savage Inequalities."

Through these hearings, Mr. Kozol's book, and my visits to schools in East St. Louis, Chicago, other areas of Illinois, and New York City, I have seen the deplorable learning conditions of our poorest students. It is discouraging to visit a school where students have workbooks in which students from previous years have already penciled in answers. It is discouraging to visit a school with 730 students and only one half-time counselor. During our hearings, Senator DODD mentioned that his sister, an elementary school teacher in Hartford, buys pencils, paper, and even toilet paper for her students with her own money. Teachers from across the country have similar stories.

Pencils, paper, and toilet paper—as well as textbooks, technology, competent teachers, and a safe and healthful learning environment—are basic and essential components of an effective education system. It is not fair to ask our students to meet world-class standards and then deny them the necessary resources.

The heart of the problem is the way education is funded, which, in most States, is primarily through property taxes. In Illinois, the per-student value of property ranges from $5,445 to $880,974. Our statewide annual average per pupil expenditure in 1990 was $4,200, with a high of $12,900 and a low of $2,100. Those that spend less do so because they have less. There are districts that could tax themselves to the point of ruin and still not be able to adequately fund their schools. It is interesting that Sweden, which does not have the extremes of poverty that we have, has a policy of spending two to three times more per student on education in the more disadvantaged areas. We have stumbled into a system in which we do exactly the opposite. This must change.

MONEY MAKES A DIFFERENCE

While opponents of school finance reform argue that money does not improve schools, we don't see them volunteering to send some of their money to the poorer urban or rural schools. It is interesting that in Sweden they spend more on the higher poverty schools, logically assuming that they will need more help.

And we did learn from our hearings that money, spent the right way, can make a significant difference in student achievement. Parental education, parental involvement and training, significantly smaller class sizes, teacher experience, and access to reading materials and modern technology are among those factors shown to boost achievement. All of these things take money. Of course, money alone is not the answer. There has to be some degree of accountability that assures funds will be used appropriately. However, we must begin to provide the types of resources that make a difference.

A few months ago, just after Robert Leininger resigned as the Illinois State Superintendent of Education, he lamented publicly that during his tenure very little had changed regarding education funding. "Adequate funding is the backbone of school reform," he said. "We know the solution. However, our collective leaders lack the desire, the inclination, and the fortitude to take legislative action." I would like to prove him wrong. Pressure has been mounting for greater school finance equity, with court cases in 28 States and legislative and referendum efforts in many others. We have taken small, but significant steps in the right direction. But our political leaders must overcome their inability, or unwillingness, to address unfair systems of funding education and take the larger strides that are necessary.

The Federal Government has two main roles to play in this process. The first is to lead the guide States toward reforming their own systems of funding. Under Goals 2000, the Federal Government will develop national opportunity to learn standards that describe the conditions and resources necessary for all students to achieve to high standards. States will develop their own standards as part of their plans for systemic reform. Goals 2000 also authorizes technical assistance grants to assist States in achieving greater equity in their distribution of education resources. That opportunity to learn standards were the most difficult issue to resolve in passage of the bill signifies the intensity of the debate. At the center of this debate is the tension between our tradition of local control of schools, and the national interest in a well-educated citizenry and a well-trained work force. Our passage of the bill shows that these issues can be resolved. While there will be many difficult fights ahead, we are clearly moving in the right direction.

Also part of this leadership role, in this reauthorization the Federal Government has signaled its concern about school finance equity by including an equity adjustment directly in the title I formula. States that have more equitable systems of school finance will see a bonus in their title I funds, while inequitable States will see a reduction. This is phased-in over a 4-year period, to give States like Illinois a chance to improve their funding systems. Frankly, the way that equity is measured in the bill is far from perfect. My preference would have been for a different approach. However, the provision does send a signal to States that the Federal Government is seriously interested in the issue.

The second role of the Federal Government is to identify specific areas of need, and to provide adequate funding to support these areas. Informed by the many studies both on ESEA programs and education in general, this bill does establish some clear priorities which are backed up with significant authorizations.

FAMILY LITERACY

One area in which we have had significant success is in asking more of parents and providing them with the support they need to take a more active role in their children's education. I am pleased that this bill continues the Even Start Family Literacy Program, which combines early childhood education for children in low-income areas and adult basic education for their parents. Many impoverished parents see academic failure as inevitable for their children—just as their parents did before them. The home is the child's first classroom and the parent is the child's first teacher.

Even Start, which was expanded and improved in my National Literacy Act, addresses the needs of the most at-risk families in the Nation through a family-centered approach, and it works because it gets at the root of school failure and undereducation. Working in coordination with other programs, including the Adult Education Act, the Job Training Partnership Act, Head Start, and volunteer literacy programs, Even Start builds partnerships within families so that members reinforce each others' learning. I am pleased that my amendment allowing title I funds to count toward the State match was incorporated in his bill, and I am hopeful that this will enable Even Start and title I programs to collaborate, resulting in greater learning gains for low-income children and their parents.

TEACHER TRAINING

Another area in which this bill has made significant advances is in supporting high-quality teaching. The bill marks a milestone by establishing a new title II for the funding of teacher training and professional development, which expands the Eisenhower Math and Science Program to include all core subject areas. I am happy that we

were able to include summer institutes for teachers to update their knowledge and hone their skills in a setting in which they have ample time for study and many opportunities for interacting with other teachers. I am particularly happy that these institutes will be undertaken in several core subject areas, including foreign languages.

PREJUDICE AND VIOLENCE

Our Nation's racial, religious, and ethnic diversity is increasing, and this trend—which will continue in coming years—is reflected in our Nation's classrooms. Unfortunately, many schools have experienced an alarming escalation in intolerance and conflict, according to a disturbing report by the Department of Education's Office for Civil Rights. In a 1993 report, the American Psychological Association documented the role of prejudice and discrimination in fostering conflict that can lead to violence. The APA found that education programs aimed at reducing prejudice and hostility are critical components in programs to prevent youth violence.

In a hearing before my Judiciary Subcommittee, director Steven Spielberg emphasized the importance of school-based efforts to promote tolerance and reduce prejudice. For example, the Anti-Defamation League's A World of Difference Program, founded in 1985 and now operating in more than 30 cities, provides training and educational programming about the roots and consequences of prejudice.

I am pleased that the Safe and Drug-Free Schools Program in this bill includes provisions that I advocated to address this issue. First, schools participating in the program—most schools in the Nation—will include prejudice and intolerance in their evaluation of the problems they face. Second, if they find there is a problem, funding from the program can be used to address it, preferably in partnership with community organizations. Finally, violence-reduction efforts at the statewide level will also be able to be used for efforts to reverse trends toward prejudice and intolerance. In addition, the Civics Education Act recognizes that respect and appreciation for cultural differences are critical to a healthy democratic society.

FOREIGN LANGUAGES

There are certain areas in which we have made some progress, but in which I hope we can do much more. One place in which it is clear that we must do more is in providing all students with instruction in foreign languages. It is significant that foreign languages are included as a core academic subject in the National Education Goals. Unfortunately, many States consider foreign language education a frill. And when budgets are tight, these courses are among the first to be cut. Over 95 percent of elementary students do not study a foreign language and 26 States face a shortage of foreign language teachers.

The Foreign Language Assistance Program, which this bill reauthorizes, is the only Federal program that funds foreign languages in elementary schools. Revisions that I promoted include focusing more on encouraging learning at the elementary level and adding a new foreign language incentive program that will reward elementary schools that offer foreign language education that leads to communicative competency. We had two wonderful demonstrations of this at a hearing I held in April.

Improving and expanding foreign language education is important because it contributes to cognitive and social growth of students. Children who have studied foreign language in elementary school score higher on standardized tests of reading, language arts, and mathematics than those who have not studied a foreign language. It also contributes to understanding and appreciating diverse people and cultures and our competitiveness in the global marketplace.

LIBRARIES

We also need to do more to support our country's libraries. Access to adequate library facilities is essential to the effective education of our Nation's young people. A recent study showed that library and media spending was one of the best predictors of student achievement, even after controlling for other factors such as the social and economic status of parents.

Yet in recent years, our school libraries have not received the funding they need to serve students and teachers effectively. The Elementary and Secondary Education Act of 1965 provided separate funding for school library programs. During the seventies and eighties, however, Congress merged funding for all school programs into block grants. As a result of the merger, funding for school libraries declined dramatically. The lack of funding has taken a heavy toll on the State of our school libraries. In California, for example, more than half of all school libraries have closed during the last 10 years. In that State, a young person in a correctional institution has better access to library facilities than does the average student. In those school libraries which remain in operation, collections are hopelessly outdated. The average publication date of a school library book is the late 1960's. Our school library collections are so obsolete that over half of the books on space exploration were written before the United States put a man on the moon. While ESEA provides some funding for school libraries, it is clearly inadequate. I look forward to achieving better funding for school libraries in future efforts.

LENGTHENING THE SCHOOL YEAR

I am also pleased that we have taken an important first step toward achieving a longer school year. Our children spend only about 180 days a year in school. In Japan students attend school 243 days a year. In Germany students attend school 240 days a year. If we want our children and future generations to do better and compete, we will have to give our students an education that is at least as rigorous as that of our competitors. Right now we are falling far short.

Funding constraints, as well as the strong tradition of an agrarian economy, have made expanding the school year difficult for most States and school districts. I am pleased that my amendment, which provides grants to States or local school districts that want to include lengthening of the school year as one of their school improvement efforts, was adopted. I hope that in future years we can do much more.

GENDER EQUITY IN THE CLASSROOM

I am also pleased that my amendment to increase the authorization for the Women's Educational Equity Act was incorporated. I am concerned that many textbooks still stereotype women. Girls deserve to learn with curriculum and materials that provide positive female role models. Girls do not see their own lives, experiences, or accomplishments reflected in the curriculum. In fact, only 2 percent of people in history books are women. This shapes their expectations of themselves—and having high expectations of themselves is absolutely crucial in achieving their potential. In addition to providing grants that can be used for introducing into the classroom materials that are free of gender stereotypes, grants under this program can be used for conducting research on ways to advance gender equity in classrooms, training teachers and other school personnel in gender-equitable teaching practices, and assisting pregnant and parenting students in remaining or returning to school.

The reauthorization of the Elementary and Secondary Education Act presents us with an unique opportunity. Nothing is more important to our country's future than our children. If we want our children and future generations to do better and compete, we will have to ensure that they are well-educated. This means demanding more of our students, but at the same time demanding more of ourselves.

Mr. President, I would be remiss if I did not note the hard work of my staff who have put a great deal of time and effort into this legislation: Alice Johnson has developed an in-depth knowledge of education issues—particularly literacy and foreign languages—and contributed major improvements to the bill; Dr. Charles Barone's background as a psychologist working with schools and troubled youth, as well as his technical skills and inquiring nature, have made him an invaluable resource; Kristina Zahorik knows the

role of libraries and technology in education and has contributed greatly; and Bob Shireman, though he is temporarily serving as my press secretary, continues to provide expert and superb overall direction for my efforts on education.

Mr. REID. Mr. President, I would like to take this opportunity to compliment the chairman of the Labor and Human Resources Subcommittee on Education, Senator PELL, and the other members of the committee on the inclusion of title XV in the Elementary and Secondary Education Reauthorization Act. This title will provide much needed assistance to school districts facing overwhelming renovation and construction needs. Federal, state, and local funding for repairs, renovation, and construction of public elementary and secondary schools have thus far been insufficient to meet the need across the country.

We are experiencing the devastating effect of insufficient educational facilities and a lack of resources for construction in my home State of Nevada. The Schurz Elementary School which is located on the Walker River Paiute Reservation in Nevada and is administered by the Mineral County School District has been determined unsafe for school purposes and condemned. This elementary school, built in 1938 of unreinforced block, is at a site affected by the highest level of earthquake potential, is located in the flood plain of the Walker River, and is within yards of highway and railway munitions transport to the Hawthorne Army Ammunition Depot. The children are currently being schooled in multiple classrooms and trailers throughout the campus under very crowded conditions. There is no communication system between these makeshift classrooms and currently no fire alarm system.

It is my understanding that section 15004, subsection (B) of title XV specifies an eligible local education agency as one in which the United States owns Federal property of 90 percent or more. Since the Mineral County School District consists of 94 percent Federal land then it is my understanding that this title will make the Mineral County School District eligible for funds to build a new school at a safer site. I would like to ask the chairman of the Subcommittee on Education, Mr. PELL, if I am correct about the eligibility of the Mineral County School District under the provisions for funding in this title?

Mr. PELL. The Senator is correct. The title specifically states that a local education agency is eligible under this title if the district consists of at least 90 percent Federal property owned by the United States.

Mr. REID. I thank the chairman for that clarification and for his support of our Nation's educational infrastructure. The Senator from Rhode Island has worked diligently and admirably to improve the standards for education and educational opportunities for students across the Nation.

Mr. PELL. It is my hope that the Secretary of Education will recognize the unique circumstances facing the Mineral County School District and the crucial need for a new school at Schurz when approving funds under this title. I would support the Secretary in approving the needed funds for Schurz as the Appropriations Committee has indicated it would in two separate places in its report accompanying the Labor, Health and Human Services and Education bill.

MULTIETHNIC PLACEMENT ACT

Mr. DURENBERGER. I have a question for the distinguished sponsor of the Multiethnic Placement Act, Senator METZENBAUM, related to the placement practices of my home State. Minnesota has a policy, absent good cause to the contrary, of first attempting to place a child with relatives. If that is not workable, the State agency attempts to place the child with a family of the same racial or ethnic heritage. If that is not feasible, the final preference is for a family of different heritage that knows and appreciates the child's racial and ethnic heritage. The search for relatives or families of similar race and ethnicity must be completed within a short and specified time period.

Would the Multiethnic Placement Act prevent a State from implementing such a policy of preferences?

Mr. METZENBAUM. Consistent with the best interests of the child, the bill would not prevent such policies.

Mr. DURENBERGER. I thank my distinguished colleague.

Mr. COATS. As you know, the goal of ending discrimination in adoption placements is one which we both share, Senator METZENBAUM, as cosponsors of S. 1224, the Multiethnic Placement Act of 1993. I believe that this bill is an important step toward the goal of ending policies which categorically deny adoption placements on the basis of race, color, or national origin.

Although the issue of transracial adoption is both controversial and complicated, you and I agree on certain basic principles. First, that it is generally preferable for children to be placed with families of their own ethnic origin when such homes are available and in the child's best interest. Second, that transracial placement is a positive and effective means of providing a child with a loving and permanent home, particularly when faced with the alternative of long term foster care. Finally, that children should not be forced into prolonged temporary care when good, stable families are ready, willing and able to adopt.

Mr. METZENBAUM. I have long been impressed by Senator COATS' dedication to helping children and protecting their best interests. I share his commitment to placing children in loving and permanent homes as quickly as possible. I also believe that transracial adoption should be encouraged when an appropriate same race placement is not available.

Mr. COATS. I am glad that Senator METZENBAUM and I are in agreement on this issue. I would like to ask for clarification of one section in the bill that states that a covered agency may consider race, color, or national origin as a factor in making placement decisions if it is relevant to the best interests of the child involved and is considered in conjunction with other factors. Does the Senator intend that this section allow the use of race, color or national origin as a determining factor between two otherwise appropriate and available families, when to do so is in the best interests of the child? The reason I am asking this question is that the bill also prohibits denial of adoption based on race. This appears to be a contradiction.

Mr. METZENBAUM. Perhaps this could have been worded more clearly—but the intent is to allow race to be considered as one of many factors and to allow race to be the determinative factor between two otherwise appropriate and available families, if and only if the consideration of race is in the child's best interest.

Mr. COATS. So, I gather from the Senator's response that the primary concern of this bill is the child's best interest.

Mr. METZENBAUM. That is correct—and prolonged foster care is not in the child's best interest.

Mr. COATS. I agree—but does the Senator intend that other factors such as religion, language, and cultural identify be considered when determining the child's best interests?

Mr. METZENBAUM. Yes. Any factors which contribute to a child's development should be taken into consideration when making placement decisions and determining the child's best interest.

Mr. COATS. I thank the Senator for his response. S. 1224 also prohibits any delay in making an adoption placement. While I have expressed concern about the effect of this prohibition I have determined that it is the best legislative approach we can take at this time. I do however want to reiterate my concern that this not be perceived as an excuse for agencies not to aggressively recruit prospective adoptive parents. Agencies should, on an ongoing basis—consistently, creatively, and vigorously recruit and study families of every race and culture of children needing adoptive families.

Mr. METZENBAUM. The Senator is correct—and anyone who uses this bill as an excuse not to recruit will have gone against the very spirit we have intended here.

Mr. COATS. I thank the Senator.

CHARTER SCHOOL GRANT PROVISIONS

Mr. DURENBERGER. Mr. President, I rise today to engage in a brief colloquy with my distinguished colleagues from Connecticut and Massachusetts, Senators LIEBERMAN and KENNEDY, on the new charter schools grant program authorized under title VIII, part C.

Charter schools are public schools that are frequently exempt from input-oriented mandates, but are accountable to a public agency through a contract that commits them to achieving specified academic or other results. Although States laws across the country vary, charter schools must be nonsectarian, may not charge tuition, and may not discriminate in admitting students.

What is the current status of State legislative activity authorizing charter schools? How broad a movement has charter schools now become?

Mr. LIEBERMAN. Charter schools have now been authorized in 10 States—Minnesota, California, Colorado, Massachusetts, Georgia, New Mexico, Wisconsin, Michigan, Kansas, and Arizona. In addition, Governors and legislators in my own State of Connecticut and a dozen or more other States are actively considering legislation to authorize charter schools.

Charter schools enjoy growing, bipartisan support. Advocates include both President Clinton and Education Secretary William Riley, as well as a number of leading Governors including Roy Romer of Colorado, William Weld of Massachusetts, John Engler of Michigan, Pete Wilson of California, and Tommy Thompson of Wisconsin.

The idea behind charter schools is to encourage innovation within public schools by allowing school staff, parents, and others in the community to apply for a charter to run their own public school. Charter schools are free from many onerous regulations and administrative burdens and at the same time, are dedicated to providing high quality and effective education. Charter schools foster and enable creativity. They allow educators who have ideas about how to teach students more effectively, to step outside the education bureaucracy to set up new schools. Charter schools will give students opportunities to learn in ways that better meet their needs. They will also establish a competing force that should help encourage ongoing improvements through out the rest of the public education system. Indeed, charter schools can point the way toward successful education reform and improved academic achievement for all students.

What are the origins of the charter school grant program authorized by S. 1513?

Mr. DURENBERGER. The new grant program authorized under title VIII is based in part on S. 429 and H.R. 1113, the Public School Redefinition Act, a charter school grant proposal that I introduced in February 1993 along with a bipartisan group of Senators and Representatives that included Senator LIEBERMAN, along with Senators BOB KERREY, and SLADE GORTON and Representatives DAVE MCCURDY, TOM PETRI, TIM PENNY, and TOM RIDGE. It also enjoyed bipartisan support on the Labor Committee, including support from Senator BINGAMAN who made several suggestions for improvement in this new program that I am pleased were also accepted.

Mr. LIEBERMAN. And, how do the charter school provisions in the House and Senate versions of the ESEA reauthorization differ?

Mr. DURENBERGER. During its consideration of ESEA, the House retained the administration's proposal for the new charter school grant program with one very important and limiting change—a requirement that charter schools receiving grants be authorized and in partnership with their local school district.

The House requirement that charter schools be authorized by local school districts is of particular concern to States like Massachusetts, Michigan, New Mexico, and Arizona. In those four States, some or all charter schools would not be eligible for Federal grants under the House bill since they are chartered by public bodies other than local school districts.

In addition, Minnesota and California make it possible for State or county boards of education to charter schools "on appeal" if they are turned down at the local level.

And, legislation adding postsecondary education institutions as possible chartering authorities passed the Minnesota Senate this year, but was not included in the final education conference committee agreement.

To make sure that all charter schools are eligible for grants under this new program, I offered an amendment in the Labor Committee that does two things:

First, States are given authority for making grants to individual charter schools.

One goal of this change is to encourage States to adopt charter school laws. Hopefully, having authority to administer the program and award grants would also encourage States to put their own funds into this program. And, if encouraged in this manner, States are more likely to promote the charter idea and offer technical assistance to groups of parents, teachers, or others who are interested in starting a charter school in their community.

This change is also consistent with the Goals 2000 legislation under which States make subgrants to districts and schools for local reform initiatives. By placing the State in the grant-making role, a charter school program could be better integrated with other State/local initiatives funded by Goals 2000 that are designed to meet the education goals and standards each State is pursuing.

Second, States are given more discretion to decide who may charter schools.

The Federal Government should not be dictating to States how charter schools should emerge as a part of systemic reform. With that in mind, the Senate bill now allows schools receiving grants to be chartered by "a State education agency, local education agency, or other public agency that has the authority pursuant to State law to authorize or approve a charter school."

Beyond these two changes, the Labor Committee added several "allowable uses" for grants that schools receive, including minor renovation or remodeling needed to meet health and safety codes. And, the Senate bill now explicitly allows States to make cash flow loans to new charter schools for their initial operations. These loans would have to be paid back once regular operating funding from State and local sources begins flowing to the charter school.

In addition to these two changes, the Senate bill now gives more explicit direction to the Secretary of Education in using the Secretary's "bully pulpit" to provide national leadership to this aspect of State-based education reform.

To do this, this legislation authorizes the Secretary to engage in capacity building activities including developing and disseminating model State charter school laws and model contracts between schools and their sponsors; to collect and disseminate information on successful charter schools; and to use conferences, publications and telecommunications, and other means to share ideas and information about charter schools.

Overall, the Senate's version of the charter school grant program follows an important principle about the role of various levels of government in education reform: The national government should be providing overall leadership to education reform initiatives, but should defer to the States on how to authorize the elements of reform that are—in turn—best designed and carried out by each local community.

By following that principle, States and local communities will claim greater ownership of the elements of reform. And, those elements of reform are more likely to be implemented and more likely to result in improved student performance.

Senator LIEBERMAN has been a strong advocate of charter schools as one element of systemic reforms at the State and local level. How does the Senator respond to concerns that charter schools will attract only the brightest and most highly motivated students?

Isn't there a danger that charter schools will discriminate against some students and favor others?

Mr. LIEBERMAN. The legislation makes it clear that charter schools are public schools and must abide by the same fundamental requirements as all public schools. They are bound by Federal and State statutes that prohibit any discrimination on the basis of race, religion, disability, or any other factor. They must be open to all students interested in attending and if they are over-enrolled, must provide for admission by lottery. Finally, they must be nonsectarian in their programs and employment practices, and cannot be affiliated with a nonpublic sectarian school or religious institution. They simply cannot discriminate against any students.

Senator KENNEDY has also been a strong supporter of the administration's proposal for a new charter school grant program and the changes in its authorizing language proposed by Senator DURENBERGER in the Senate Labor Committee. What has been the experience so far with Massachusetts' charter school program? And, based on that experience, will the Senator work with Senator DURENBERGER and me and others to support the Senate's charter school provisions in conference?

Mr. KENNEDY. Since the Massachusetts Legislature passed charter school legislation in 1993, there has been a great deal of interest in starting new charter schools among parents, teachers, and others throughout the State. This past February, the Massachusetts Secretary of Education received a total of 64 applications to start charter schools. Fifteen applications have been approved in this year's application cycle and applicants are now preparing for a 1995 school opening. An additional 10 charters will be granted under a competitive process to be conducted early next year for start-ups in the fall of 1996.

The 15 charters approved so far in Massachusetts include a number of schools designed to serve at-risk students, students who have dropped out of traditional public schools, and students with special needs.

For example, the Neighborhood House Charter School in Boston will integrate school-based services into its program—joining classroom education, social services, and parental enrollment. Each family with children enrolled in the school will be required to participate in the family cooperative—creating a social infrastructure among families and offering GED and ESL classes, as well as other support services. This school will have an enrollment of 135 at-risk students with histories of academic, emotional, and behavioral problems. It will operate for 227 school days a year.

Overall, Massachusetts first 15 charter schools will have initial enrollments ranging from 35 to 700 students. Most will initially serve a limited number of grade levels, but have plans to expand by adding more grades and students in subsequent years.

I'm pleased that several of the Massachusetts charter schools will be employing teaching and learning methods supported by earlier Clinton administration initiatives already passed by this Congress.

For example, the City on a Hill Charter School in Boston will emphasize a commitment to community service and internships—the kind of service learning opportunities encouraged by President Clinton's National and Community Service Act that we adopted last year.

Several of Massachusetts charter schools will also use internships and youth apprenticeship opportunities encouraged by a second Clinton initiative we approved earlier this year—the School to Work Opportunities Act.

And, a number of charter schools in Massachusetts will make extensive use of computer and telecommunications technologies supported by provisions in President's Goals 2000 legislation as well as other titles of this ESEA reauthorization.

As Senator DURENBERGER pointed out, none of these charter schools in Massachusetts would be eligible for grants under the House version of ESEA. The same is true for charter schools in a number of other States where some public agency other than local school districts is authorized to grant charters. As long as all the other protections that Senator LIEBERMAN discussed are guaranteed, I don't believe we should be second guessing the determination States make on what public agencies should be authorizing charter schools. Therefore, I intend to support the Senate's version of the charter school grant program during the conference committee's deliberations on ESEA.

Mr. DURENBERGER. I look forward to working with Senator LIEBERMAN and others to attain adequate funding for this new grant program in the next year's Labor, Education, HHS appropriations bill. It's my understanding that the administration proposed that the new program be funded at its authorized level—$15 million. The House cut that amount to $6 million. And, while the full Senate has yet to act on the administration's recommendations, the subcommittee decided on a funding level consistent with the House.

A total of 10 states have now authorized charter schools and the strong interest on the part of parents, teachers, and others in this opportunity in those and other States suggests strong demand for this program, once authorized. I believe it is only prudent and fair that this new opportunity to support State- and local-based reform be fully funded at the Federal level.

Mr. LIEBERMAN. I agree. On behalf of Senator DURENBERGER and others, I commend Senator KENNEDY's leadership on this and so many other aspects of education reform. We look forward to working closely with him as this legislation is finalized in conference committee.

TITLE II: COMPREHENSIVE TECHNICAL ASSISTANCE CENTERS

Mr. KENNEDY. This Elementary and Secondary Education Act reauthorization bill creates a new training and technical assistance system to support States' and schools' efforts to improve teaching and learning. This is a positive measure in that it will simplify and enhance access to help that is needed in the field. Further, it has the potential for cost savings and a streamlined array of services.

There are also risks in this new system, and in the process of effecting a smooth transition from the old system to the New. First, it is critical that the Congress ensure that States and schools will have the high-quality, hands-on assistance they need while they work to make the shift into a new, more results-oriented education environment. Second, it is critical that the expertise among existing technical assistance providers, built over 7 years with Federal dollars, is effectively transferred into the new system. Third, we must guarantee that our attacks on the problems of crime, violence and drugs remain strong while the new systems are shaped. We must not reduce the level of vital technical assistance support for this national priority objective.

I know that there is great concern in my own State about the potential loss of a valuable resource, specifically the services of the Northeast Regional Center for Drug-Free Schools and Communities. That center's training and technical assistance is helping schools to make significant reduction in student's involvement with these destructive behaviors.

I want to ask the Senator from Rhode Island if the provisions of this bill will respond to my concerns. Will this bill assure that the services of the regional centers for drug free schools and communities center remain available, and will this effective service continue to be available to States and schools during the critical transition period?

Mr. PELL. I want to assure the Senator that this bill includes provisions for the continuation of that service and through centers like the Northeast Regional Center. In my State as well, there is strong evidence that the centers, for drug-free schools and communities are effective. This is an entity which has a record of demonstrated effectiveness. We do not want lose the skill that has been developed and successfully applied over the past 7 years.

In section 2307 of the bill, we have included language which provides for the

continuation of the services of these centers through fiscal year 1996, where appropriate and feasible in order to ensure that services will not be interrupted, curtailed or substantially diminished. During that time of transition, these centers will be able to continue to serve the States, and help local schools, to address their problems with drugs and violence. We are happy to include this language. It reaffirms the commitment of the Senate to programs which promote safe and drug-free schools and communities for the youth of this Nation.

Mr. WELLSTONE. As one of the members of the committee who worked to see that the new technical training and assistance was phased-in in an orderly and effective manner, I am pleased to express my support for the language included in section 2307. The work of regional centers for drug free schools and communities should be retained and extended to violence prevention as the Federal technical assistance system undergoes a period of restructuring.

This bill provides for the continuation of this assistance, indicating the concern of the committee about maintaining a strong national capacity to assist the prevention efforts of local schools. It is the intent of the committee to ensure that the Secretary of education draw upon the demonstrated effectiveness of the current technical assistance providers in establishing the new technical assistance system, rather than reinventing the capacity to carry out these new responsibilities.

EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP

Mr. JOHNSTON. Mr. President, I would like to ask my distinguished colleague from Rhode Island some questions regarding the amendment that would add the Albert Einstein Distinguished Educator Fellowship Act of 1994 to S. 1513, the Improving America's Schools Act. This amendment would establish a fellowship program for elementary and secondary school mathematics and science teachers within the Department of Energy. The amendment is very similar to a bill introduced by Senator HATFIELD earlier this year—S. 2104, the Albert Einstein Distinguished Educator Fellowship Act of 1994. S. 2104 was referred to the Senate Energy and Natural Resources Committee, which I chair. I would like to ask the Senator from Rhode Island, who chairs the Subcommittee on Education, Arts and Humanities, which has jurisdiction over the Improving America's Schools Act, whether he was aware that this amendment deals with a matter currently pending before the Energy and Natural Resources Committee?

Mr. PELL. I appreciate the question of the Senator from Louisiana. As a committee chairman, I am sensitive to other committees dealing with matters currently pending before my committee. To answer his question—yes, I am aware that the amendment authorizes a program very similar to one that would be created by S. 2104, which is currently pending before the Energy and Natural Resources Committee. I have been assured, however, by Senator HATFIELD, the primary sponsor of this legislation, that he has worked with you and the other members of the Energy and Natural Resources Committee in crafting the amendment. Am I correct in my understanding?

Mr. JOHNSTON. The Senator from Rhode Island is correct. I, and other members of the Energy and Natural Resources Committee, have worked closely with Senator HATFIELD to craft this amendment, which reflects the input of witnesses who testified before the committee and from the administration. The amendment, as currently crafted, is one I support adding to the Improving America's Schools Act. I would like, however, the assurance from the distinguished Senator from Rhode Island, who has been so instrumental in the work of his subcommittee in crafting the Improving America's Schools Act, that oversight of and any future amendments to the Albert Einstein Distinguished Educator Fellowship Act will remain within the jurisdiction of the Energy and Natural Resources Committee.

Mr. PELL. Both the amendment and S. 2104 would create an elementary and secondary mathematics and science teacher fellowship program within the Department of Energy. S. 2104 was, I believe, appropriately referred to the Energy and Natural Resources Committee. As this amendment is very similar to S. 2104, I believe it too is within the jurisdiction of the Energy and Natural Resources Committee. Thus, oversight of and future amendments to the Albert Einstein Distinguished Educator Fellowship Act would be within the jurisdiction of the Energy and Natural Resources Committee.

GENDER EQUITY TRAINING

Mrs. HUTCHISON. Mr. President, I understand that part G of title VIII of this bill provides funding for gender equity training for educators, counselors and other school personnel. I am certainly not insensitive to the need for fair treatment for all students in the classroom, but I have a particularly strong view about the importance of encouraging young women to pursue the broadest range of subject matter in their studies, including mathematics and the sciences. I have discussed this concern previously with the distinguished Senator from Maryland who was one of the original sponsors of the amendment, and I would appreciate it if she would clarify her intent about the implementation of this provision.

Ms. MIKULSKI. The Senator from Texas is correct in her understanding of the provision in question. I would say to her that she and I are in agreement about the importance of encouraging all young people, girls and boys, to consider the widest possible range of alternatives in their studies and preparations for careers and adult lives.

Gender equity training has been an authorized purpose since 1974. It is intended to promote the letter and spirit of title IX which prohibits discrimination in education. I appreciate the Senator's concerns and when this provision is implemented, I would welcome working with the Senator from Texas to encourage the Secretary of Education to place an increased emphasis on encouraging young women to excel in math and science.

Mrs. HUTCHISON. I appreciate the Senator's courtesy and her very helpful comments. I welcome her suggestion and look forward to working with her further on this important issue.

MULTIETHNIC PLACEMENT ACT

Mr. METZENBAUM. Mr. President, I introduced the Multiethnic Placement Act, S. 1224 with one goal in mind—encouraging transracial adoption when an appropriate same race placement is not available. I strongly believe that it is better for children to be adopted by parents of another race than not to be adopted at all. Policies that virtually prohibit multiethnic foster care and adoption are unconstitutional, harmful and must be stopped.

There has been an explosion in the number of children in the foster care system, from 276,000 in 1986 to 450,000 in 1992. The goal for these children is a loving and stable home. This goal can be achieved by placement in either an appropriate same race or interracial home. Although interracial foster and adoptive families may face a variety of problems that same race families do not, the evidence indicates that transracial adoption is often a positive experience for all involved.

Despite this evidence, formal and informal policies against multiethnic placements still persist. S. 1224 would prohibit any agency which receives Federal funds from denying a foster care or adoption placement solely on the basis of race, color, or national origin. For example, it would prohibit child welfare agencies from categorically denying anyone the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin.

The bill would provide for injunctive and equitable relief and require HHS to withhold adoption assistance funds from any agency that violated the law. S. 1224 has the support of Senators CAROL MOSELEY-BRAUN, DANIEL INOUYE, DAN COATS, NANCY KASSEBAUM, PAUL SIMON, DIANNE FEINSTEIN, and DAVE DURENBERGER. It also enjoys the support of Marian Wright Edelman of the Children's Defense Fund, The Reverend Jesse Jackson of the National

Rainbow Coalition, and the National Council for Adoption.

Although an appropriate transracial placement is often a positive experience, it is also true that a same race, language, or ethnic group placement can go a long way in helping children make the psychological, social, and cultural adjustment to their new family. Given the obvious benefits of same race placement, the Multiethnic Placement Act also makes it clear that race, color, or national origin can be a factor in making foster care and adoptive placement, if and only if: First, the consideration of these factors are in the child's best interest, and second, race, color, or national origin is considered along with other factors, such as age, sex, member of a sibling group, religion, disability, language, and whether the child has already bonded with the prospective parents.

This commonsense approach to the consideration of race in making foster care and adoption placements is in keeping with long standing Federal adoption legislation that encourages the recruitment of prospective parents of all races. Federal and State case law and HHS guidelines also specifically allow race to be one factor in making foster care and adoptive placements. In addition, every single major child welfare and adoption organization advocates the consideration of race as one of many factors in making out of home placements if such a consideration is in the child's best interests.

Many child welfare and adoption advocates also believe that the permanent placement of a child may be postponed, but not for an undue period of time, in order to affect a same race or ethnic group adoptive placement. They recognize that recruiting prospective parents of all races of children in need of homes requires time and effort.

I would prefer that no child be required to spend any extra time in foster care limbo in order to effectuate a same race placement. Ideally, appropriate prospective parents of all races should be waiting to care for a child the moment he or she needs an out of home placement. But given the difficulties in finding appropriate same race placements, S. 1224 was amended at an executive session of the U.S. Senate Committee on Labor and Human Resources, to state that agencies receiving Federal funds may not unduly delay in making foster care and adoptive placements on the basis of race, color, or national origin.

The amended version of the Multiethnic Placement Act also contains additional findings that stress the importance of eliminating racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures. Child welfare agencies are encouraged to use active, creative, and diligent efforts to recruit parents from every race and culture for chilren needing out of home placements. The amended bill was adopted by voice vote by the U.S. Senate Committee on Labor and Human Resources on October 6, 1993.

The lack of definition for the term "unduly delay" in S. 1224 has caused some concern among the foster care and adoption community. Some who otherwise support S. 1224, fear that the term "unduly" will not or cannot be defined in a manner consistent with the goals of the bill. In order to make it clear that appropriate out of home placements should be made as soon as possible, the latest version of S. 1224 has eliminated the term "unduly."

The passage and enactment of the Multiethnic Placement Act is my highest legislative priority of my remaining time in the Senate. I realize that this bill will not solve all the problems of the child welfare system. But S. 1224 can make a difference in the lives of thousands of children who languish in foster care and temporary placements because of policies against transracial placements. I thank my Senate colleagues for their support of this legislation and will work hard for its passage in the House.

Mr. COATS. I would like to ask the chairman a question regarding opportunity-to-learn standards. As the chairman will remember, the following language was added in the Labor Committee markup of S. 1513:

Page 476, lines 6–11; section 1111(b)(1)(A)(iii):

"Each State plan shall describe the steps the State will take to help each local educational agency and school affected by the State plan develop the capacity to comply with each of the requirements of sections 1112(c)(3), 1114(b), and 1115(c) that is applicable to such agency or school."

While I understand that the chairman is not opposed to opportunity-to-learn standards, I wonder if he might respond to a question I have about this language.

Does this language require States to develop opportunity-to-learn standards, either mandatory or voluntary, or impose unfunded mandates on States to develop these standards under this bill?

Mr. KENNEDY. As the Senator has noted, I do not oppose opportunity-to-learn standards. I agree, however, that the language cited does not mandate these standards under this bill.

Mr. COATS. I thank the chairman for his courtesy and his response to my question.

Mr. HARKIN. Mr. President, I would like to enter into a colloquy with Senator KENNEDY, the distinguished chair of the Labor and Human Resources Committee regarding clarifications of some terms used in S. 1513.

Mr. KENNEDY. I would be pleased to enter into a colloquy with the distinguished Senator from Iowa and chair of the Subcommittee on Disability Policy.

Mr. HARKIN. I thank the distinguished Senator from Massachusetts for allowing this inquiry. As the Senator is well aware the passage of the Americans with Disabilities Act and the Individuals with Disabilities Education Act has set forth a national disability policy for the full inclusion and integration of individuals with disabilities in the educational, social, economic, political, and cultural mainstream of society. Furthermore in the passage of Goals 2000 legislation we worked toward building a unified education system and away from distinct systems of regular and special education which we find too often existing in our Nation's schools.

It is in this spirit of pursuing a more comprehensive and unified system of education that I have the following inquiries.

In titles II and III of the act the term "other public early childhood programs" is used frequently. Is it understood that the term is meant to include early childhood special education programs funded under section 619 of part B of IDEA and early intervention programs funded under part H of Part B?

Mr. KENNEDY. Yes, that is correct the term "other public early childhood programs" does encompass early childhood special education programs and early intervention programs funded under section 619 of part B of IDEA and part H of IDEA respectively.

Mr. HARKIN. The term "teachers" is also used frequently throughout the bill. Am I correct in understanding that the term includes special education teachers. Assuring their inclusion would remove any doubt of Congress's intent to have all educators fully participate in functions described in the act, such as school support teams, distinguished educator awards, and professional development activities.

Mr. KENNEDY. That is correct, the intent is to have all instructional staff encompassed in the term "teachers" and therefore includes special education teachers.

Mr. HARKIN. I would like to thank the distinguished Senator from Massachusetts for these clarifications and I would like to commend him and my colleagues on the Labor and Human Resources Committee for their efforts in developing this act and for making sure that students with disabilities are fully included and that their rights as established in ADA and IDEA are fully recognized.

MIGRANT EDUCATION

Mrs. FEINSTEIN. Mr. President, I rise today to emphasize the importance of migrant education and to clarify the committee amendment to the Improving America's Schools Act that pertains to this program.

Over one-third of the children served under the Migrant Education Program reside in my State of California. These

migrant pupils have very unique educational needs that result from their migratory lifestyle. For example, Mr. President, many migrant students most often do not attend school during the regular school year and require special summer school or intersession programs.

I understand that included in Senator KENNEDY's committee amendment is a provision that maintains the quality of the migrant education program, and I thank him for including this language. It is my understanding that, even if a school participates in the schoolwide program, the program that allows schools to commingle Federal education funding, Migrant Education Program funds must be used to continue to meet the unique identified needs of migrant children which result from their migratory lifestyle or are needed to permit migratory children to participate effectively in school.

Mr. KENNEDY. That is correct. I know that the Migrant Education Program is important to Senator FEINSTEIN and the State of California. Migrant education is also important to my State of Massachusetts.

Madam President, the committee amendment to the Improving America's Schools Act requires schools which receive Federal migrant education funding—even those who have chosen to participate in the schoolwide program—to first attend to the very special needs of this population that are a direct result their migratory lifestyle and that will help them participate effectively in school.

Those needs, and how they will be met, are to be determined by the school, the State educational agency, and the local operating agency and may include: First, instructional services outside of the regular school day and school year; second, heath and support services; third, services to preschoolers, 18- to 21-year-olds, and dropouts; and fourth, secondary credit accrual for interstate migrant students.

The committee amendment assures that these and other services which are necessary to address the specific needs of migrant pupils—services that help them overcome the barriers associated with their mobile lifestyle and become effective learners in the classroom—shall be provided by the States and schools that receive Federal migrant education funding.

Mrs. FEINSTEIN. Does this pertain to all migrant children who are being served under the Migrant Education Program?

Mr. KENNEDY. Yes, under the Improving America's Schools Act, eligible migrant children shall be served for up to 4 years.

Mrs. FEINSTEIN. I thank the Senator for his clarification.

INDIAN DEMONSTRATION SCHOOLS

Mr. DORGAN. Mr. President, I rise on behalf of myself and Senator CONRAD to offer an amendment to S. 1513, the Improving America's Schools Act of 1994. Our amendment authorizes the Secretary of the Interior, acting through the Bureau of Indian Affairs [BIA], to establish therapeutic model demonstration schools at two off-reservation Indian boarding facilities. The purpose of these therapeutic models is to bring healing and positive change to the lives of Indian students with very special needs.

Recent hearings I have held in North Dakota have given me a vivid and disturbing picture of the problems of high-risk Indian students. One facet of this picture is that off-reservation boarding schools, such as the Wahpeton Indian School, have become last-resort facilities for troubled Indian kids. Youth from broken homes, youth with learning disabilities, and youth with discipline and chemical dependency problems.

Regrettably, these schools have been operating for too many years as traditional boarding schools, even though it is clear to all that a more therapeutic, healing approach to the students' needs is required. Hearings of the Indian Affairs Committee here in Washington, DC, also have shown this in grim detail.

By contrast, the therapeutic model proposed in our amendment would provide a safe, alternative residential environment. In this secure setting, troubled youth could get special help while building a strong identity as Indian youth. The staff would no longer include only educators and dorm monitors but also health and social service professionals—including child psychologists and substance abuse counselors.

While our amendment establishes two demonstration schools which would receive priority in 1994–96, it would assist any off-reservation boarding schools in eventually making the transition to a therapeutic model. It initially targets one BIA-run and one tribally controlled grant school and provides the additional resources these schools need to implement the model. But the overall purpose of the amendment and the demonstration schools is to develop a model that could be replicated at the other five off-reservation boarding schools.

Mr. President, I would advise my colleagues that this amendment requires no new appropriations. It authorizes the Secretary to provide resources to meet this critical need in Indian country. The amendment also grants the Secretary the authority to limit the student enrollment at the demonstration projects to ensure that each institution accepts only as many students as it can effectively serve.

In closing, I want to commend Chairman INOUYE and Vice Chairman MCCAIN of the Indian Affairs Committee for their support of the amendment. I also thank Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS for accepting this amendment on behalf of the Labor and Human Resources Committee. I further express my indebtedness to Senators CONRAD, HATFIELD, and SIMON for their support of this amendment.

In addition, I appreciate the support of Assistant Secretary of Indian Affairs Ada Deer and her staff in developing this legislation. Finally, I appreciate the assistance of the professional staff—particularly Bob Arnold of the Indian Affairs Committee—in drafting this amendment.

I believe that acceptance of this amendment not only improves the bill but also meets a special need in Indian education. I urge my colleagues to retain this provision in the conference.

COMPROMISE IMMIGRANT EDUCATION AMENDMENT

Mr. GRAHAM. This is an amendment offered on behalf of Senator FEINSTEIN and myself.

Our amendment would assert the Federal responsibility for assisting States and local school districts with the cost of educating immigrant students and increase the authorization for the Emergency Immigrant Education Act [EIEA] program from $75 to $150 million.

I would also like to thank the chairman and ranking member for their assistance on this issue.

Immigrant education is yet another example of the failed Federal-State partnership. In the case of Plyler versus Doe, the Supreme Court held that States have a responsibility to educate all children, regardless of immigration status. Since that ruling more than a decade ago, however, the Federal Government has not provided adequate funds to reimburse States for these mandated services.

Individual States have no capacity, either under law or in resources, to control access of illegal entrants to our Nation. Unfortunately, when the Federal Government does not adequately address its responsibility for illegal immigration, State and local governments are left with the burden of that failure.

In April 1994, Florida Governor, Lawton Chiles and the Dade County School Board sued the Federal Government for the unreimbursed costs of serving the State's immigrants, primarily the 345,000 which are living there illegally. Education is the largest of those costs.

In 1993 alone, the Florida Department of Education and local school districts spent an estimated $517 million to provide education to legal and illegal immigrants. However, Florida received only $1.6 million in EIEA funding.

An estimated $180 million was spent to provide educational services to undocumented students alone.

The current EIEA authorization level of $75 million results in less than $100

per eligible student and would do little to assist either the students and the school districts involved. It costs Dade County alone an estimated $68.2 million per year to educate the district's 16,395 undocumented students.

I had originally intended to offer an amendment which would authorize the Secretary of Education to provide full reimbursement to States and local school districts for the costs of educating undocumented students. I ask that a copy of the original amendment be included for the RECORD.

However, there is currently no agreed-upon method for calculating either the number or the costs of undocumented aliens in the country. Each State uses its own methodology, and the figures are often in dispute.

That is why the Office of Management and Budget hired the Urban Institute to determine a standard methodology for calculating the costs of illegal immigration. That report is due within the next few weeks, and I intend to revisit this issue after we have a more accurate estimate of the costs of illegal immigration.

This is not simply an "immigration State" issue. Although the majority of illegal immigrants reside in just seven States, every State is providing education services to some number of immigrant students.

The Federal Government has complete constitutional responsibility for both the protection of our national borders and the immigration laws. When there is an egregious failure of the Federal Government to carry out those responsibilities, then the community in which that failure is projected should not have to pay the cost.

I thank the chairman, and urge my colleagues to support this amendment.

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

At the end of the bill, insert the following new title:

TITLE VI—UNDOCUMENTED STUDENTS

SEC. 601. SHORT TITLE.

This title may be cited as the "Undocumented Student Federal Responsibility Act of 1994".

SEC. 602. FINDINGS.

The Congress finds that—

(1) the education of our Nation's children and youth is one of the most sacred of government responsibilities;

(2) local educational agencies have struggled to fund adequately education services in the face of prolonged economic stagnation and increased public safety needs;

(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility to educate all children, regardless of immigration status;

(4) since the Plyler v. Doe ruling more than a decade ago, the Federal Government has not provided adequate funds to reimburse States for such mandated services;

(5) such services represent short-term costs to the affected communities;

(6) to fund education, local school districts often rely primarily on local property taxes, and immigrants are likely to contribute less for local property taxes than for Federal taxes, such as social security taxes;

(7) immigration policy is solely a responsibility of the Federal Government; and

(8) there is a Federal responsibility for reimbursing States and local school districts for costs associated with educating undocumented students.

SEC. 603. PURPOSE.

It is the purpose of this title to authorize the Federal Government to reimburse State educational agencies and local educational agencies for providing education services to undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of such agencies.

SEC. 604. DEFINITIONS.

As used in this Act:

(1) AVERAGE PER-PUPIL EXPENDITURE.—The term "average per-pupil expenditure" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965.

(2) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965.

(3) SECRETARY.—The term "Secretary" means the Secretary of Education.

(4) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965.

(5) UNDOCUMENTED ALIEN.—The term "undocumented alien" means an individual who is present in the United States in violation of the immigration laws.

(6) UNDOCUMENTED STUDENT.—The term "undocumented student" means an individual who—

(A) is an undocumented alien; and

(B) is attending a public elementary or secondary school.

SEC. 605. STATE ALLOCATIONS.

(a) ALLOCATION.—Except as provided in subsection (f) the Secretary shall allocate to each State educational agency for each fiscal year an amount equal to the product of—

(1) the estimated number of undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of each local educational agency within that State determined in accordance with subsection (c); and

(2) the net average per-pupil expenditure in the State for such students determined in accordance with subsection (d).

(b) USE OF ALLOCATION.—Each State educational agency receiving an allocation under paragraph (1) only shall use such allocation to reimburse such State educational agency and local educational agencies in the State for the estimated cost of educating undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of each such agency within that State in amounts based on—

(1) the respective contributions of each such agency toward the education of such students; and

(2) determinations in accordance with the methodologies described in subsections (c) and (d).

(c) DETERMINATIONS OF NUMBER OF UNDOCUMENTED STUDENTS.—

(1) IN GENERAL.—The Secretary shall issue regulations which prescribe the methodology by which a State educational agency will estimate the number of undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of each local educational agency within such State.

(2) CONSIDERATION.—In prescribing the methodology, the Secretary shall consider—

(A) estimates from the Immigration and Naturalization Service regarding the undocumented alien population;

(B) the percentage of undocumented students who are of school age;

(C) public school enrollment rates among undocumented aliens of school age;

(D) in consultation with the Director of the Bureau of the Census, the geographic distribution of foreign-born students among school districts; and

(E) such other factors as the Secretary deems appropriate to provide for equitable distribution of assistance under this title.

(3) PROHIBITION AGAINST SPECIFIC COUNTS.—For the purposes of this Act, State educational agencies and local educational agencies shall be prohibited from gathering immigration status information from student populations in order to determine the number of undocumented students in States or local school districts.

(d) DETERMINATIONS OF NET AVERAGE PER-PUPIL EXPENDITURE.—

(1) IN GENERAL.—The Secretary shall issue regulations which prescribe the methodology by which a State educational agency will calculate the net average per-pupil expenditure for students who are enrolled in public elementary and secondary schools under the jurisdiction of each local educational agency within such State.

(2) CONSIDERATION.—In prescribing such methodology, the Secretary shall consider—

(A) the Federal contributions to the State average per-pupil expenditure; and

(B) such other factors as the Secretary deems appropriate.

(e) DATA SOURCES.—All calculations under this section shall be based on official statistics of the Federal Government, such as those reported or estimated by the Bureau of the Census, the Immigration and Naturalization Service, and the National Center for Education Statistics.

(f) RATABLE REDUCTIONS.—

(1) INSUFFICIENT APPROPRIATIONS.—If the sums appropriated for any fiscal year prior to fiscal year 1999 are not sufficient to pay in full the total amount of all State educational agency's allocations under this section, such allocations shall be ratably reduced.

(2) ADDITIONAL APPROPRIATIONS.—If additional funds become available for making payments under this section for any fiscal year after allocations have been made under paragraph (2) for such year, the amounts reduced under such paragraph shall be increased on the same basis as such amounts were reduced.

SEC. 606. STATE APPLICATIONS.

(a) SUBMISSION.—No State educational agency shall receive an allocation under this title for any fiscal year unless such agency, in consultation with the Governor, submits 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) provide an estimate of the State's and LEA's proportion of the average per-pupil expenditure in the State;

(2) contain an estimate of the average per-pupil expenditure for all local educational agencies in the State;

(3) provide assurances that such allocation will be distributed among local educational agencies within that State on the basis of

the number of undocumented students determined in accordance with the methodology described in section 605(b); and

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any local educational agency application under section 607 for funds received under this title without first affording the local educational agency submitting such application reasonable notice and opportunity for a hearing.

(b) APPLICATION REVIEW.—

(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section.

(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, except that the Secretary shall not finally disapprove an application under this section unless such agency has been provided reasonable notice, technical assistance, and an opportunity for a hearing.

SEC. 607. LOCAL APPLICATIONS

Each local educational agency desiring assistance from a State educational agency under section 605(b) 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.

SEC. 608. STATE ADMINISTRATIVE COSTS.

The Secretary is authorized to pay to each State educational agency for a fiscal year an amount equal to the amount expended by such agency for the proper and efficient administration of such agency's functions under this title for such year, except that the total of such payment for any fiscal year shall not exceed 1.5 percent of the allocation to such agency for such year.

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1999 to carry out this title.

IMMIGRANT EDUCATION AMENDMENT TO S. 1513

Mrs. FEINSTEIN. Mr. President, as you know, California has a large number of undocumented immigrants, both adults and children, who pose a financial burden on the State because of the mandated services provided to them. The education of illegal immigrant children is costing California some $1.4 billion dollars this year.

The amendment to the Emergency Immigrant Education Aid program, that I am pleased to cosponsor with Senator GRAHAM, asserts the Federal Government's financial responsibility to assist States with the costs associated with educating illegal immigrant children, and raises the authorization level of this immigrant education assistance program in order to meet this responsibility.

The Emergency Immigrant Education Assistance program was enacted in 1984 to address the 1982 Supreme Court decision, Plyler versus Doe, that stated that illegal immigrant children are entitled to an education. The Emergency Immigrant Education Aid program address the financial impact of educating newly arrived immigrants, both legal and illegal.

When the immigrant education program was first enacted, lawmakers intended to provide $500 per eligible pupil. However, this goal has never been met. In fact, when the program was first funded in 1984, $30 million was appropriated for 350,000 eligible students, amounting to $86 per student. This year, the appropriation was raised to $39 million, but now over 800,000 students are eligible for this program. This amounts to less than $50 per student, about the cost of one textbook.

The Senate appropriations committee mark increases funding for this program to $50 million for fiscal year 1995—for which I would like to thank Chairman HARKIN and Chairman BYRD—but $50 million still only means $61 per student. This is a mere drop in the bucket when it costs approximately $5,000 annually to educate a child.

For the past year, I have been working to address the problem of illegal immigration. First and foremost, I have consistently asserted the need to prevent illegal immigration by improving the enforcement of our borders. The immigration bill, which I introduced on June 15, addresses the need to improve the border patrol through increased personnel and vastly improved infrastructure and equipment. It stiffens penalties for producing or using false work documents or for knowingly hiring undocumented workers.

The fact is, there are illegal immigrants in this country, and until our border is fully enforced, and until there is immigration reform, illegal immigration will continue to be a problem for States and localities that bear the financial burden of providing federally mandated services to undocumented aliens.

Those States who have a large number of illegal immigrant children have fulfilled the responsibility of providing them with an education, but at a cost. A recent Urban Institute report stated:

> The single largest components of immigrant-related public sector costs is the cost of providing public primary and secondary education, which is approximately $11 billion annually for immigrants.

Using Department of Education data and the Urban Institute's methodology for calculating the number of illegal immigrant children attending school, the estimated total cost of educating illegal immigrant children is $3 billion nationally. For California, the estimated cost of educating illegal immigrant children this year is $1.4 billion, and according to Governor Wilson's estimates, could rise to as much as $1.7 billion in the next year.

During a recent visit to a California school, teachers told me that funding was so low and that class sizes were much too large that they were not able to properly serve their students. The rising number of undocumented students is stretching already scarce resources.

California, of course, is not alone in dealing with this problem. Let me share with you the estimated costs to a few other States. New York educates 89,000 illegal immigrant children at a cost of $466 million. Texas educates some 76,000 illegal immigrant children at a cost of $395 million and Florida educates some 69,000 illegal immigrant children at a cost of $358 million.

It is not the States' responsibility to control our borders. That is the responsibility of the Federal Government. And yet, the States must pay the costs associated with providing an education to illegal immigrant children.

Just over a week ago, the Senate faced its financial responsibility for failed Federal immigration policy by voting to assist States with the cost of incarcerating criminal illegal aliens. Today, the Senate again has the opportunity to act on the financial responsibility of providing services to illegal immigrants, by amending the existing immigrant education assistance program.

Finally, I would like to thank Chairman KENNEDY and the distinguished chairman of the Appropriation Committee, Senator BYRD, for supporting the need to address the costs of educating immigrant children. This amendment is the first step toward reimbursing States and local school districts for the costs of providing education to illegal immigrants. The second step, of course, will be to obtain the necessary funding.

Mr. President, I ask that supporting material be printed in the RECORD.

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

ESTIMATED COSTS OF EDUCATING ILLEGAL IMMIGRANT CHILDREN

NATIONAL ESTIMATES

The total number of illegal immigrant student is approximately 690,000

The total cost of their education is approximately $3.6 billion.

The total cost to states and localities is approximately $3.4 billion.

CALIFORNIA ESTIMATES

The total number of illegal immigrant students is approximately 297,000

The total cost of their education is approximately $1.5 billion.

The total cost to state and localities is approximately $1.4 billion.

TABLES PROVIDED

Cost estimates for 7 states using April 1994 INS data.

Cost estimates for 20 states using October 1992 INS data.

METHODOLOGY

Use INS data, Department of Education per pupil expenditure, and Urban Institute methodology for calculations (background material provided).

ESTIMATED STATE AND LOCAL COSTS OF EDUCATING UNDOCUMENTED ALIENS

[Using October 1992 INS estimates]

State	Number of undocumented aliens	Number of undocumented students	Total cost of education	State and local contribution
United States	3,379,000	614,359	$3,189,750,003	$2,998,365,003
California	1,440,700	261,943	1,360,009,716	1,278,409,133
New York	449,300	81,690	424,135,743	398,687,599
Texas	357,000	64,909	337,005,253	316,784,938
Florida	322,000	58,545	303,965,523	285,727,591
Illinois	176,400	32,072	166,520,243	156,529,028
New Jersey	115,700	21,036	109,219,910	102,666,715
Arizona	57,000	10,364	53,807,561	50,579,108
Massachusetts	44,900	8,164	42,385,255	39,842,139
Virginia	35,400	6,436	33,417,328	31,412,288
Washington	30,400	5,527	28,697,366	26,975,524
Georgia	28,100	5,109	26,526,184	24,934,613
Maryland	27,400	4,982	25,865,389	24,313,466
Colorado	21,500	3,909	20,295,835	19,078,085
Oregon	20,400	3,709	19,257,443	18,101,996
New Mexico	18,700	3,400	17,652,656	16,593,497
Pennsylvania	17,800	3,236	16,803,063	15,794,879
Nevada	17,700	3,218	16,708,664	15,706,144
North Carolina	16,800	3,055	15,859,071	14,907,527
Connecticut	15,300	2,782	14,443,082	13,576,497
District of Columbia	14,100	2,564	13,310,292	12,511,674

Methodology: Using October 1992 INS data and Urban Institute methodology, the above table outlines the estimated costs that states and localities must incur for providing K–12 education to undocumented aliens.

The number of undocumented students is calculated by multiplying the INS estimated number of undocumented aliens by the percentage of that population who are of school age (21.65%—Urban Institute). This number is then multiplied by the percentage of the school age undocumented alien population who are attending school (83.98%—Urban Institute).

The costs are calculated by using the nationwide average annual per pupil expenditure of $5,192 (National Center for Educational Statistics, 1992–93 data, not yet released). The state and local contribution is calculated by subtracting the nationwide average federal contribution to the per-pupil expenditure (6%—Congressional Research Service).

ESTIMATED STATE AND LOCAL COSTS OF EDUCATING UNDOCUMENTED ALIENS

[Using April 1992 INS estimates]

State	Number of undocumented aliens	Number of undocumented students	Total cost of education	State and local contribution
United States	3,800,000	690,903	$3,587,170,764	$3,371,940,518
California	1,634,000	297,088	1,542,483,429	1,449,934,423
New York	494,000	89,817	466,332,199	438,352,267
Texas	418,000	75,999	394,588,784	370,913,457
Florida	380,000	69,090	358,717,076	337,194,052
Illinois	190,000	34,545	179,358,538	168,597,026
New Jersey	114,000	20,727	107,615,123	101,158,216
Arizona	64,600	11,745	60,981,903	57,322,989

Methodology: Using April 1994 INS data and Urban Institute methodology, the above table outlines the estimated costs that states and localities must incur for providing K–12 education to undocumented aliens.

The number of undocumented students is calculated by multiplying the INS estimated number of undocumented aliens by the percentage of that population who are of school age (21.65%—Urban Institute). This number is then multiplied by the percentage of the school age undocumented alien population who are attending school (83.98%—Urban Institute).

The costs are calculated by using the nationwide average annual per pupil expenditure of $5,192 (National Center for Educational Statistics, 1992–93 data, not yet released). The state and local contribution is calculated by subtracting the nationwide average federal contribution to the per-pupil expenditure (6%—Congressional Research Service).

Mrs. KASSEBAUM. I thank the Senator from Massachusetts and the Senator from Vermont for their floor leadership on this bill. I would also like to thank all the staff members that worked on this bill. They worked very hard to draft a bipartisan bill in record time—about 1½ months. It then received an almost unanimous vote in committee and I hope that we can duplicate such a vote here today on final passage of S. 1513.

I would particularly like to thank some of the staff: Lisa Ross, Wendy Cramer, and David Goldfarb of my own staff;

Pam Devitt and Katie Henry with Senator JEFFORDS;

Ellen Guiney, Matt Alexander, Stephanie Goodman, and Clayton Spencer with Senator KENNEDY;

David Evans, Margaret Smith, Michael Dannenberg, and Barbara Bennison with Senator PELL; and,

All the other committee staff that participated in drafting this bill.

As we pass this bill and move on to conference, I hope that we can continue to work in a bipartisan manner to preserve the provisions of this bill that are the most essential to ensuring swift and final passage of the conference bill later this year.

Mr. JEFFORDS. Mr. President, I should be following the senior Senator from Rhode Island for whom I have the utmost praise and admiration. He worked for so many years with my predecessor, Senator Stafford. Their bipartisanship, to which Senator KENNEDY referred, began and hopefully is continuing. He is a role model for all of us, and has made a great difference in my life as well as that of Senator Stafford.

Mr. President, I also want to commend the staff and the Members that I have worked with. This has been an incredible time for me. It has been 2½ days we have been on this floor continuously. It has been a great amount of effort. As always, we have some of the most controversial and sensitive issues to deal with than we ever get in the Congress. And so we have had a difficult time with those. But I have to say that we had an "Olympic moment" when Senator HELMS and Senator KENNEDY agreed on one of the amendments in a sensitive area. We had also progressed in making concessions and agreements on many of these issues.

I also thank Senator KENNEDY for his incredible work and leadership in these areas of education, as well as the other ones I have dealt with. The Senator, on behalf of the people of Massachusetts, and I for Vermonters, have worked together with families, and I deeply appreciated his guidance.

Also, as has been spoken of, we oftentimes fail to give our staffs the full recognition they should have, and we have tremendous staffs. Without them, we could not go anywhere or do anything like we do. I want to say that Ellen Guiney, Matt Alexander, Clayton Spencer, and Stephanie Robinson on Senator KENNEDY'S staff have been very helpful to us. We have been able to get through the bill much quickly because of that. Lisa Ross, Wendy Cramer, and David Goldfarb of Senator KASSEBAUM's staff have been very helpful. Senator KASSEBAUM, my ranking member, has allowed me to have the responsibility of these bills and has offered her leadership. Her ability to get very difficult amendments through and approved is amazing and a pleasure to follow.

Senator PELL and his staff, who I have worked with for 6 years now—David Evans, Michael Dannenberg, Margaret Smith, and Barbara Bennison—were a tremendous help. I am amazed at my own staff and how well they are able to keep me informed. Pam Devitt, in particular, works constantly to be well ahead of where we need to be on these issues. Catherine Henry is a specialist on formulas, and formulas are incredibly difficult to deal with. Kelly Kivler and

Reg Jones of my staff have also worked very hard on this.

Madam President, I do not know if people are anxious to leave, and some are anxious to speak, but I have tried to retain my brevity in the custom of New England throughout this bill.

I would like to spend a few minutes to focus attention not just on the bill we passed but why it is important to handle education in this difficult time in our history.

We have come a long way in this reauthorization. We have thrown out many of the old notions of teaching—which often have had the effect of dumbing down curricula for disadvantaged students—and embraced new concepts, such as demanding high standards for all students, regardless of their backgrounds. S. 1513 incorporates new programs to encourage greater teacher training and the purchase of new technology, funds for infrastructure repair, and renovation and programs to address migrant and bilingual children. It sets out a framework for the future of our education system which will direct the future of our next generations.

Passage of S. 1513 comes on the heels of the Goals 2000 bill which outlines the national education goals for this country to reach by the year 2000. Those goals outline what we as a country expect of our present and future generations and what they can demand in return. The goals underline how essential education is to the well-being of every child in this Nation. Those goals—which have been embraced by educators, parents and policymakers—detail basic expectations of our country. They state that by the end of the decade:

All children will start school ready to learn. That sounds easy, but if you realize that 70 percent of the eligible children for Head Start go unserved, and that less than half of all of the 3- to 5-year-olds from families with incomes less than $30,000 are enrolled in a preschool, you see how far we have to go on that very important goal, as I will talk about later.

The high school graduation rate will increase to at least 90 percent. In 1992, 86 percent of black and 59 percent of Hispanic youth had received a diploma by age 24, as compared to 92 percent of white youth. That may not seem too bad until you compare it with goal three.

Goal three is that an American student will leave grades 4, 8, and 12, having demonstrated competency in challenging subject matter. But right now, fewer than one-in-four fourth and eighth grade students are able to meet those standards of performance in math or reading on the National Assessment of Education progress. In addition to that, 50 percent of these young people that graduate from our high schools now are essentially functionally illiterate. If you say you have a 90 percent graduation rate, but 50 percent of those are functionally illiterate, it is hardly something to be proud of.

U.S. students will be first in the world in science and mathematics. In a 1991 comparison, U.S. students were outperformed by students in seven other industrialized nations in international math and science assessments. Even worse, in 1993, a study was done of 12-year-olds across the world in 13 countries. We came out 12th in science and 13th in math. We have a long way to go.

Every adult will be literate and will possess the knowledge and skills necessary to compete in a global economy. The census indicates that 20 to 30 million adults in this country cannot read, write, or calculate. In other words, they are totally illiterate. Another 45 million cannot effectively handle an entry-level job. That is, 75 million Americans are either functionally illiterate or totally illiterate. We have a long, long way to go.

Every school will be free of drugs and violence. Approximately 3 million thefts and violent crimes occur in or near our Nation's schools every year, the equivalent of more than 16,000 incidents per school day.

The Nation's teaching force will have access to programs for the continued improvement of their profession.

The last goal is that every school will promote partnerships that will increase their parental involvement and participation.

These are elemental provisions of a sound education. I think all of us would certainly expect and believe that our children are, and should be, taught these things. Sadly, for the majority of our young people, this is not the case.

The 1993 National Education Goals Report described our progress in improving our educational achievement as wholly inadequate.

Elementary and secondary students still do poorly in math and reading when compared to the National Education Goals standards. There has been little improvement in the high school graduation rate of 19- and 20-year-olds over the past decade. Nearly one-half of all infants born in the United States begin life with one or more risk factors to their long-term educational development.

These problems and concerns affect not only the present needs of our young people, but also the future economic competitiveness of this Nation.

Hedrick Smith in a recent commentary said:

> One stunning act about America's efforts to compete in the global economy is that U.S. businesses spend $200 billion a year on remedial education for young people hired out of high school.

That is the estimate of the Business Roundtable, and on top of that, another $225 billion that business economists estimate it costs American business in lost productivity caused by less than adequate training and education of American workers.

We have a serious challenge on our hands, and it is time for America to wake up to the challenge because the cost of not doing anything will be far greater than the cost of implementing these programs.

Let me give you a quick sketch of what I mean. Health and Human Services, Housing and Urban Affairs, Department of Education, and the Department of Labor, spent over $208 billion while the States spent another $82 billion on means-tested entitlement programs—collectively referred to as welfare programs. The programs consist of medical benefits, cash aid, food benefits, housing benefits, education benefits, job training, and other benefits.

However, according to the Department of Education, improved education of these needy individuals would have a significant effect on reducing the need for these programs.

In the book, "Winning the Brain Race," a study of low-income disadvantaged children in Michigan indicated that early intervention with the Head Start Program could have a major impact on improving the prospects of these children. Compared to a control group, children who were given comprehensive preschool support were twice as likely to hold a job, be in college, or in a vocational program after high school. Their high school graduation rate was one-third higher, their pregnancy rate was 50 percent lower, and their arrest rate was 40 percent lower.

We need to help these individuals all through the education process. Right now, approximately 20 percent of our students drop out of high school.

Of those that have dropped out of high school, less than half are employed. A total of 52 percent of high school dropouts are unemployed or receiving welfare assistance. A recent study put the cost of providing benefits to this group of recipients at $75 billion per year.

The Institute for Health Policy at Brandeis University in its 1993 report entitled "Substance Abuse: the Nation's Number One Health Problem," estimated the cost of illegal drug activity at $238 billion per year. This represents the cost of lost productivity, premature death, inability to perform usual activities, cost of criminal justice system, destruction of property, and other causes.

Another sad example of the failure of our ability to nurture our young people is the fact that over 65,000 children are in correctional facilities around the country. It costs about $300,000 per year, one-third more than an adult, to pay for detention of a child.

An estimated 15 percent of the population is not covered by health insurance. These individuals are primarily working poor and would be helped by increased educational opportunities.

With improved educational attainment, one can assume that there will be two positive effects on the costs of health care. First, a better educated populace that is earning higher wages can be expected to have a healthier existence. This would result from better wellness habits and from improved living conditions. The second effect would come from the fact that many of these individuals would move from minimum wage jobs with no benefits to jobs with health coverage. We could expect our improved education system to make a significant reduction in the pool of uninsured individuals.

Mr. President, imagine what a different problem health care reform would be, if we found a way to cover the 37 million Americans who do not have health insurance.

Education is the way. By investing in the education of the at-risk population, we can give these people the skills to get the kinds of jobs that will provide health coverage.

Approximately $400 billion of Federal spending is for programs—welfare, unemployment, crime, health care, housing, and training—that were created to assist low-income individuals. These programs would be highly sensitive to increased literacy and higher educational attainment. If we could reach the goals set out in Goals 2000, we could expect major savings in these programs. If one assumes that savings amount to 30 percent, that would translate to a reduction in annual Federal spending of $120 billion.

The largest impact clearly comes in the form of increased economic activity and the resultant growth in corporate and personal income. With full attainment of Goals 2000, I think we could expect to see increased economic activity of at least $250 billion.

It is for these reasons and the fate of our future generation that passage of this bill is so critical. I urge my colleagues to join me as they did in supporting it.

Mr. President, I thank you for listening and I thank my colleagues for listening, and I yield the floor.

FUNDING FOR EDUCATION AT MIGRANT STOPOVER CENTERS

Mr. PRYOR. Mr. President, I rise today to thank the Senator from Massachusetts for including a provision in the manager's amendment to the Elementary and Secondary Education Act which will aid the education component of migrant stopover centers.

I am pleased that the committee recognizes the special function these centers perform for the migrant community. Stopover centers provide basic services to migrant families that are only going to be in the area a short time. The migrants are not there to work; they are just traveling through on their way to another State.

This provision directs the Department of Education to develop a budgetary formula to ensure reliable funding for educational services provided at stopover centers. It recognizes that stopover centers do not provide the same type of services as an ordinary classroom. Typically, the children being served at stopover centers are only at these sites a few days.

Currently, there is no provision to fund educational services provided at stopover centers. In fact, the term stopover center is not even mentioned. This provision will address the unique nature of educational services at stopover centers. It provides for the educational needs of migratory children as they travel through an area.

Migrant families traveling through my home State of Arkansas can go to a stopover site in the city of Hope for a few days to rest and refuel. Hope, AR, is about 1 day's travel between south Texas and northern States where these families look for work harvesting crops. Often, these children are out of school for weeks at a time as they move with their families to a new State. It takes time to get settled in a new home and registered in a new school. There are similar stopover centers in Ohio and Illinois.

At the site in Arkansas there is a coordinated effort to provide services to migrant families. There is a health clinic, temporary housing, and laundry services. Emergency assistance is given if the family needs food, or their car repaired so they can find work. There are also educational and recreational services available to migratory children at the site.

Mr. President, over 10,000 students each year are served by the educational service center in Hope. Since 1978, the center has been in operation providing books and educational materials to eligible students. It also provides school supplies so when a child gets to a new school, he or she has the materials needed—scissors and crayons for younger students, pens and notebooks for the older students. You can't imagine how much it means to these kids when they get a new school—they don't know anybody—that they have the supplies the other students do.

In addition, the Hope center provides tutoring services so the students don't fall further behind in school. They are given career counseling and information on both education programs and other migrant services throughout the country. Mr. President, I can not emphasize how beneficial the education service center is for these children. It encourages them to continue with their education and register for school in their new location. This is important, so let me repeat it, it encourages them to finish school. Migrant farming is a hard life, and these kids will have few opportunities without an education.

In my view, the recreation provided for these children at the Hope center is also important. Kids cannot learn, or just be kids, when they have been cooped up in a car or truck all day. The supervised recreation available at the center gives them a productive outlet for their energy, something both the host community and the parents of migratory children want.

The center also records the students in the Migrant Student Record Transfer System and provides advance notification to the States where these families are headed. With advance notification, the school systems in other States know that the students are coming and can prepare to register them in classes. In some States the students can even preregister, so they can start school as soon as they arrive. This is one of the unique benefits of stopover centers.

Mr. President, I would like to place in the RECORD a letter to The Honorable JOSE SERRANO, chairman of the Congressional Hispanic Caucus, from a young woman in Hope, AR, who wanted to express her support for the migrant center. Jessica Covas grew up in a family of migrant workers and dropped out of school when she was 16 years old. The staff at the Hope center encouraged her to finish high school. She is living proof of the valuable services these stopover centers provide. I am happy to report that Jessica now has a nursing degree and is working with other migrant families at the stopover site.

At this point Mr. President, I want to specifically applaud the men and women who staff and support the Hope stop-over center.

The educational services provided to migrant children at stopover centers is invaluable. This provision will, for the first time, recognize that fact and develop a method to fund these services. It charges the Department of Education with working out a funding formula that is fair and equitable. I am proud to say that this provision has the support of the president of the National Association of State Directors of Migrant Education, and I thank my colleagues on the committee for working with me to include it in the manager's amendment.

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

Hon. JOSÉ E. SERRANO,
Congressional Hispanic Caucus,
Washington, DC.

DEAR CHAIRMAN SERRANO: My name is Jessica Covas, maiden last name is Capetillo. My present job title is Case Manager at The Hope Migrant Center in Hope, Arkansas. I am very thankful to the Lord above for this job. Not a day goes by that I don't say "Thank you Lord. Thank you for giving me the strength, the power, and this wonderful opportunity."

I think back to my migrant days when my parents, my brothers, and sisters and I used to get up early in the morning and go to bed late at night to earn a living out in the fields. I am the youngest, the baby, in a family of six. I was very excited at first, going out in the fields with my family. I remember thinking, this is fun, I am outside with my siblings, having a good time. When I got old enough to really work, and not being able to take a break every time I got tired or bored, it was no longer as fun. It wasn't "fun" at all. I knew then why my brothers, sisters, and parents would be so tired at night when they got home. Why they didn't feel like playing with me or reading to me, or why they would complain of aching all over. Boy, did I ever know why!

Years went by, traveling from state to state seeking for work. I remember my father asking other "companeros," partners, "Do you know where we can find some work?" It was very difficult for all of us. It wasn't so much the finding work part, but the school part. I do not ever remember starting school and finishing a school year in one school, or should I say, in one state. It was very hard for all my brothers and sisters, but especially for me. It was hard for me to make friends. I guess it was because I was shy, not to mention, because I was different. I was "Mexican." As time went by in the new schools, the other students would realize, (I guess) that I was only human. I was just like them. I tried getting into sports and different school activities, just to be liked and like anyone else, anything but different. But that was another difficult task, because most of the school activities and sports were held after school, and I had to hurry home after school in order to go out in the fields and help my family. It seemed that when I finally would make friends and feel comfortable in a school, it was time for us to pick up and move. There was no more work for us there. Leaving friends behind was one thing, or should I say nothing. Trying to catch up with schoolwork, keep up with schoolwork, and find out what the heck they were talking about, was the problem, the major problem, the reason why I finally dropped out of school just as soon as I turned sixteen. When we would move to a different setting, a different state, we'd wait 'til we got settled down before my parents would go and register us in school. Weeks would go by sometimes. As a child, I enjoyed that "vacation" time, but as I got older, I was getting more and more behind with my studies. Every school was different, so I would barely pass my classes. There were times when I thought the teachers passed me just because they felt sorry for me, they would see how hard I had to struggle. Until one day I decided to stop struggling. "Who needs school anyway" I would tell myself. "Working in the fields is the way to make a living anyway." Needless to say, my two oldest sisters and oldest brother had already dropped out of school. When I told my parents that I wanted to drop out of school, they just said, "O.K., you know what that means." Yes, I knew exactly what that meant.

Close to a year went by, and I was still working out in the fields. I tried seeking for work elsewhere, but no one wanted to hire me. I tried groceries stores, but they didn't want a drop out. During the summer they would hire students to sack groceries, but not me. I did not have a high school diploma. So I continued to work out in the fields, I would see them studying, clean and comfortable, and there I was tired, sweaty, and dirty. I envied them, I missed studying and I missed school. Not only that, but I had realized that I did not want to work out in the fields the rest of my life. I wanted a different life for myself, I wanted to be able to get a job where I can work indoors, with decent hours. So I enrolled back in school. It was not easy because I was almost a whole year of studying backed up. But with some hard work, dedication, will power, summer school and help from above, I caught up and graduated from high school.

Throughout our traveling from state to state seeking for work, we would hear other migrant families talk about how they would stop in Hope, Arkansas at the Migrant Center to rest and shower and about all the services they offered there. How they would give books to school age children, toiletries and assistance with food or gas as needed, or as able. But we never did stop here because we were always in a hurry to get where we were going, and because my father would say that it was too out of the way. I remember thinking how a good shower and even a good book would be wonderful since we were on the road two to three days at a time, straight. When my father got tired of driving we would stop at a rest area so that my father would get him enough sleep to continue our journey. While my father slept, my brothers and sisters and I would stay awake to make sure that nothing happened to us while we were there. Until one year, it was the summer of '87, that we finally did stop at the Migrant Center. We were on our way up north to work, we didn't really know where we were going, just somewhere where there was work for us. The lady who registered us at the Migrant Center was very nice. She talked to all of us as if she had known us for years, not as the strangers that we really were. After registering there, we showered and got cleaned up. Then my little niece, who lived with us, and I went across the street to register at the Migrant Education Dept. I was going to be a senior that year, and my niece had passed to the third grade. The people there were extremely nice also. We received books and other school items. My niece and I looked at one another, with that excited look on our faces, as if we had received a new toy. After registering there, my mother accompanied us and we went to the Migrant Mission Center, where we there received other goodies and toiletries. I could not believe all their courteousness and kindness.

After resting a while in the trailers with bunk beds provided at the Migrant Center, my parents had talked to the lady who registered us there. My parents asked her if she knew of anyone who was needing some help, some workers. And it just so happened that there was someone who was needing a helping hand here in Hope, Arkansas. My father looked in to it and thought it was a wonderful opportunity. It was then that we settled down here and I am proud to say, that we are still living here.

That school year, I enrolled at the high school. A new school, my senior year. "What a bummer," I thought to myself. Your senior year is supposed to be the best year of your entire life, and here I was at a new school and knew absolutely no one! But I am glad to say that it did not take me long to make friends there and feel comfortable. Even though it was a whole different atmosphere and the people here seemed somewhat different, but I was used to that. The very next year, I graduated from high school! I was so very proud! My family was very proud of me also. I was the only girl in our family that had graduated from high school. Three out of six of my brothers and sisters had graduated. Though one of my sisters and my oldest brother had gone back to school and received their GED. We were all very proud of them too.

During my senior year, I had met someone very special, who shortly after graduation, we exchanged vows. We were both very happy. But we had realized that we both needed to work in order to make a decent living. Yet even after having my diploma, it was still difficult finding a job. My husband was working at a body shop and I finally got a job. I took a job at The Migrant Center cleaning the trailers after occupancy. Even though it was not a job that I had hoped to get after graduating from high school, but it was a job. Not only that, but I was very tickled to have gotten a job where I was working and relating with migrants. People I'd take my hat off to, people I respected and looked up to. I knew that after getting married I would no longer work in the fields. It was something that I had talked to my husband about and he respected my wishes and desires. My migrant days and working out in the fields were over. I wanted a better life for myself, and I set that goal out for myself, with my husbands help. Yet, that part of my life will always be a part of me! The work was not easy, especially during the busy season, but being able to talk to the migrants and sharing different stories was all worth it. There were even times when I would see people I knew from The Valley, people from my home town, Edinburg, and people I know from going up north. It was a great job, but I realized that I still wanted a better life for myself. I decided to go back to school and make something out of myself. My husband was very supportive of my wishes. I wanted to go back to school and become a NURSE! Something I had always dreamed about.

Just like everything else, it was not a very easy task. Going to college was going to take money, something we did not have. I went and talked to the recruiters at the Migrant Education Dept. and they told me about the different grants and loans that were available. I received all the information needed and some applications that were available. That was not too bad, I thought. I filled out the applications and sent them off. Then I had to look for a college that I wanted to attend that offered nursing classes. Luckily enough there was one here in Hope. I went to The Red River Vocational School and talked to counselors there. There was a nursing class available, but I was not the only one that was wanting to become a nurse. I was told that there was a long list of students but that a class could only hold so many. So I was told to fill out some papers and that I has to take some tests to see if I qualified to take the nursing program. And that if I did pass the instructors. "WOW" I thought to myself, all that? Where do I start, I asked.

After all was said and done, there was a waiting period, where all I could do was wait. My friends at the Migrant Center and Migrant Ed. Center and my family kept telling me not to give up hope, when they could see that I was. And sure enough, that day had was accepted into their nursing program. Then shortly after I had grant and that most of my tuition would be paid. I was so happy! "Thank You Lord!"

Shortly into the nursing program, I realized that getting there was the easy part, getting through the program was going to be the challenge. But with some very hard work and my families encouragement, I made it through the year. During my hard times and studying, I think what really kept me going

was the thought of having had worked out in the fields. How very hard that was and how someday when we had a family of our own, how I did not want to put them through all the suffering that I had gone through. I graduated in May of 1989 with my LPN license. I think I was the proudest one there on that stage.

Shortly after graduation I started working at Medical Park Hospital in Hope. I worked there for approximately 4 years. During that time I did a lot of interpreting for migrants and Hispanic families. They would be so thankful to me for helping them. And I would just tell them "El placer fue mio," it was my pleasure and it was!!

A job opportunity came up this year, 1994, where a case manager was needed for the Migrant Health Center. It was like a prayer answered from up above. After reading the qualifications required, I realized that I did not quite meet them, but I was willing to give it a try. I wanted to be able to work with migrant families and help them in every which way I could. Even though my migrants years were not very pleasant ones, they are still a part of my life that I am now thankful that I experienced. After my interview with my now director, I had a fairly good feeling about the job. And sure enough, I received a call from here soon after that telling me that I had gotten the job. I was so very grateful I was now going to have the opportunity to do something that could not give me more satisfaction. I was going to be able to help the migrants, like being a migrant helped me to get where I am now, I had an indoor job, with decent hours.

Since I started working here, March of this year, I have seen how the Migrant Center and the Migrant Education Center has helped many other families and not just mine. Not a day goes by that I don't hear a migrant say "Thank you all very much." I have talked to some parents and they tell me how grateful they are of all the programs and services that are offered here. How much the kids enjoy the books and other school supplies and how that keeps them entertained during their long journeys. They tell me how much they appreciate the fact that they do register the school age children here and how that helps them get registered where they are going. I think back to the times when we were migrating from state to state, and how it may not have taken as long to register at our destination and how maybe not so much time would have gone by in between and we would not have gotten so far behind in school like I did. If we would have only stopped here sooner, before we did, things may have been different, not as difficult for us, for ME!

Coming from a migrant family and knowing what all these families are going through, I am very honored and grateful to be part of the Migrant Health Center to where I can help them in their time of need. I am very proud to be a part of the team that helps the migrant families. Seeing the children's grateful faces and cheerful smiles, and seeing how grateful the parents are is enough to tell me that I am doing my job, that we are all doing our jobs out here. A smile is worth a thousand words, even a thousand dollars.

During the time that I have worked out here, I have heard people talk about how the Migrant Education Department is in danger of losing their funding. That concerns me because I know how helpful the services that are offered here help every single migrant family that passes through here. The books that are offered, the PFP program that is offered for the preschool children to help them get prepared for school, student counseling, continuing education that also provides information for those who have dropped out of school that would like to get their GED, and lots of other information and brochures on difficult topics. Some of the families that come through here tell me that when they first arrive at the Migrant Center that all the children and sometimes even the parents want to cross the street first, over to the Migrant Education Center, before they even take a shower to get registered for school and receive more books. I had one mother tell me that her children keep and take care of every single book that they have received and that they have been passing through here for 6 years now. There is even a supervised recreation building where the children can play and entertain themselves while the parents rest. And the parents have told me that they really like that because they know that they can rest peacefully without having to worry if they are running around in the streets where they could hurt themselves. The Migrant Center without the Migrant Ed. Center would just not be the same. Every family has a different opinion on why they like the Migrant Ed. Center, but the majority of them say that yes, they do stop to rest and shower but one of the main reasons to go is the Education Center to register the kids for school. And I can sure see when they do!

I am also concerned about there being no more national registry of migrant students should MRSTS close. That was one of our main problems as migrants, enrolling in school where ever our destination may have been. With MRSTS the state, or even the location of each families destination, is notified that the particular family is heading their way. That way the children can be enrolled in school as soon as possible without losing valuable time. I think that is wonderful! Again, I wish we would have had these services when we were migrating, that is if we would have stopped here before we did.

I believe these issues should all be addressed and considered on behalf of all migrants and migrant students. There are so many things that we would all like to do to help mankind, I am just very glad that I am in the position to help those in need just like yourself. Let's all please unite to help the migrants and their needs.

Sincerely,

JESSICA COVAS.

Mr. PELL. Mr. President, as we achieve final passage of S. 1513, I believe it important that we step back and take a look at the comprehensive nature of this reauthorization bill. It is, without question, landmark legislation.

Building on the Goals 2000: Educate America Act, it stresses that all children in America should be taught to high academic and performance standards. In particular, it contains a new focus on helping those students most in need learn to the same high standards as all other students. It targets Federal funds in a more precise fashion than ever before, and sends money to those communities where poverty today robs children of the educational opportunities that ought to be provided.

But that is only the beginning. We have a new focus on professional development to ensure that our children are taught by highly qualified personnel. We have a new emphasis on making sure that the classroom is a safe place in which to learn, and that our children are safe not only from drugs and violence but also from the dangers of inferior facilities. We have a new priority on educational technology, and on making sure that our children have access to the latest, state of the art methods of instruction.

The legislation is also a blend of established, proven programs and new, innovative approaches to education of our children. We continue, for example, the Dropout Prevention Program that has been so successful, and we have new initiatives in areas such as arts education, which seeks to bring the rich benefits of the arts, humanities, and museums into the education of more of our children.

Mr. President, I want to acknowledge the leadership of President Clinton, Secretary Riley, and Assistant Secretary Payzant in formulating this legislation and submitting it for our consideration. I also want to thank the majority leader for his steadfastness in setting and keeping us on course. And I especially want to recognize Senator KENNEDY and Senator JEFFORDS for the magnificent job they have done in guiding this legislation through floor debate and consideration.

There are many other people who deserve a special word of thanks: the Education Subcommittee Senators and their staff members; Wayne Riddle and the Congressional Research Service; mark Sigurski and the Legislative Counsel staff; Russell Jackson and the Senate Service Department. From a personal point, I want to thank the members of my staff on the Education Subcommittee: David Evans, Barbara Bennison, Michael Dannenberg, Daniel Ritter, Jason Rothenberg, Margaret Smith, Rachel Reinhardt Kristin Olivera and our other interns. In particular, David Evans, Michael Dannenberg, and Margaret Smith spent many, many hours putting the legislation together and helping shepherd it through subcommittee, committee and the floor. We owe then a great debt of gratitude.

Mr. President, from the outset, this bill has enjoyed strong bipartisan support. Throughout the development and consideration of this bill, partisan interests have time and again given way to an overarching concern for the education of our children. To my mind, that is the way it should be, and I am sure the bill is better and stronger because we have worked together.

Mr. DURENBERGER. Mr. President, I rise to support final passage of S. 1513, as amended.

This bill represents the last major piece of education legislation we will consider in a Congress that has already completed a great deal of work, including the Head Start reauthorization, Direct Lending, National and Community

Service, Goals 2000, and the School to Work Opportunities Act.

I am proud to have been deeply involved in all these major initiatives, Mr. President. And, I'm pleased to support the ESEA reauthorization now before us.

I also want to take a moment to thank the Chairs and ranking members of the Labor Committee and its Subcommittee on Education, Arts and Humanities. This has been a truly bipartisan initiative. All of us on both sides of the aisle are indebted to our colleagues from Massachusetts, Kansas, Rhode Island, and Vermont for their leadership and for their commitment to improving the quality of education for every child in America.

Mr. President, I want to begin by commenting briefly on several of the major themes in this legislation and by pointing out several specific initiatives that I believe help make this proposal deserving of our support.

FOCUS ON LOW-INCOME KIDS, LINKS TO OTHER REFORM INITIATIVES

Historically, the Federal Government's role in education reform has been to expand access to educational opportunities for low-income students and students with disabilities. I am concerned that in trying to expand access, we have made the mistake of creating more narrow categorical programs and funding streams that in fact have the very opposite effect.

This legislation envisions significant increases in funding for some Federal education programs. It recognizes the reality that the large majority of financing for this country's elementary and secondary schools will continue to come from State and local sources. Finally, it supports the notion that Federal education programs and funding must support school reform initiatives that are designed and carried out at the State and local level.

Those realities, Mr. President, are reflected in a number of provisions scattered all through this legislation. They include:

Better targeting and greater flexibility of title I and other funding for schools and districts that have high concentrations of low-income children.

Direct links between title I and other Federal education programs and the move toward meeting high content and performance standards—but, appropriately, not opportunity to learn standards—stimulated by the Goals 2000 legislation.

More flexibility for districts to seek and use waivers of Federal rules and regulations when they stand in the way of State and local school reform initiatives.

An increased emphasis on teacher training and other forms of professional development in all subject areas—and increased flexibility to use Federal funds from several different programs for professional development activities.

An effort to consolidate and better coordinate a variety of technical assistance programs—both to achieve greater efficiencies and to encourage stronger links between various programs that may be serving many of the same children.

An increased emphasis on parent involvement and on positive links between schools and the larger community that surrounds them. This includes several important additions to the bill—proposed by Senator WOFFORD and myself—that forge links between Federal education programs and community service and service learning.

CHARTER SCHOOL PROGRAM SUPPORTS STATE REFORM INITIATIVES

One provision in this legislation that deserves special mention, Mr. President, is a new $15.0 million Charter Schools Grant Program authorized under title VIII, part C. Charter schools are public schools that are frequently exempt from input-oriented mandates, but accountable to a public agency through a contract that commits the schools to achieving specified academic or other results. Although State laws across the country all vary, charter schools must be public, nonsectarian, may not charge tuition, and may not discriminate in admitting students.

Charter schools enjoy growing, bipartisan support. Advocates include both President Clinton and Education Secretary William Riley; as well as a number of leading Governors including Roy Romer of Colorado, William Weld of Massachusetts, John Engler of Michigan, Pete Wilson of California, and Tommy Thompson of Wisconsin.

Charter schools have now been authorized in 10 States—Minnesota, California, Colorado, Massachusetts, Georgia, New Mexico, Wisconsin, Michigan, Kansas, and Arizona. In addition, Governors and legislators in a dozen or more other States are actively considering legislation to authorize charter schools.

I'm particularly pleased that the Labor Committee agreed to accept my proposed changes in this program which will ensure that all charter schools throughout the country will be eligible for grants. And, it is my hope that we maintain these provisions as this bill moves to conference with the House.

The new grant program authorized under title VII is based in part on S. 429 and H.R. 1113, the Public School Redefinition Act, a charter school grant proposal that I introduced in February 1993 along with a bi-partisan group of Senators and Representatives that included Senators JOSEPH LIEBERMAN, BOB KERREY, and SLADE GORTON, and Representatives DAVE MCCURDY, TOM PETRI, TIM PENNY, and TOM RIDGE. It also enjoyed bi-partisan support on the Labor Committee, including support from Senator BINGAMAN who made several suggestions for improvement in this new program that I am pleased were also accepted.

The Federal Government should not be dictating to States how charter schools should emerge as a part of systemic reform. With that in mind, the Senate bill now allows schools receiving grants to be chartered by "a state education agency, local education agency, or other public agency that has the authority pursuant to state law to authorize or approve a charter school."

Overall, Senate's version of the Charter School Grant Program follows an important principle about the role of various levels of Government in education reform: The National Government should be providing overall leadership to education reform initiatives, but should defer to the States on how to authorize the elements of reform that are—in turn—best designed and carried out by each local community.

By following that principle, States and local communities will claim greater ownership of the elements of reform. And, those elements of reform are more likely to be implemented and more likely to result in improved student performance.

COMMUNITY SCHOOLS PARTNERSHIPS (FORMERLY DOLLARS FOR SCHOLARS)

I am also pleased that the Community Schools Partnerships Act has been accepted as part of this legislation. Senator KENNEDY and I previously introduced this legislation which involves support for grassroots, community-based organizations that promote academic excellence through scholarships for graduating high school seniors.

The Community School Partnership Act will establish and support area program centers to foster the development of local affiliated chapters in high poverty areas that promote education goals for students from low-income families. These students will receive academic support and post secondary scholarship assistance.

The act calls for a one time authorization of $10,000,000 to set up an endowment fund. Local chapters will use the interest from that endowment to leverage private and public funds which in turn will support academic achievement for low income students.

I continue to be a strong supporter of the Pell Grant and Guaranteed Student Loan programs. I also believe it's a wise investment to support private sector activity that promotes and rewards solid academic achievement. I hope that we can maintain the Community School Partnership Act as we move to conference with the House.

Let me repeat what I said earlier, Mr. President, about how proud I am of what's already been accomplished in this Congress to enhance the role that education can play in positioning this Nation for the 21st century.

From pre-school to graduate school and beyond, Americans to again become a Nation of learners—rewarded when they do well and assisted when they fall short. The legislation now before us is an important part of achieving that important and essential goal.

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

NATIONAL ENVIRONMENTAL EDUCATION CENTER

Mr. MOYNIHAN. Mr. President, I rise today to speak on a topic of importance to education. In a 1991 nationwide survey, the Carnegie Commission on Science, Technology and Government determined that 67 percent of all elementary science teachers have inadequate course preparation in science, and 69 percent of science teachers and 71 percent of biology teachers have substandard preparation in their subjects. Looking at these statistics, there would seem to be a connection with the finding of the Educational Testing Service's International Assessment of Educational Progress, which has ranked our students near the bottom in a 15-country assessment of science achievement.

This year, we have stated goals we want the Nation to achieve by the year 2000, and one of those goals reads "By the year 2000, United States students will be first in the world in mathematics and science achievement." Today, I am happy to describe a project which once completed will help our students attain the science achievement goal.

That project is called the National Environmental Education Center, and will represent an expansion of the Wildlife Conservation Society's education facilities at the Bronx Zoo. This center will contain state-of-the-art technology and will be used to train 8,000 teachers from around the United States annually. These teachers will bring the finest environmental education curricula home to more than 500,000 students, and many more will be served from a computer linkage with schools and science institutions across the country. The National Environmental Education Center will provide the opportunity for families to study ecology together, and will utilize unparalleled wildlife collections and award-winning natural habitat exhibits to teach basic biology and conservation ecology.

If we are to make progress toward our National Education Goals, we must be willing to invest in innovative projects which build our educational infrastructure and help our students reach our National Education Goals. This is such a project, and I would hope that the members of the Labor Committee will keep it in mind when they take the Elementary and Secondary Education Act to conference as well as in future legislative opportunities.

Mr. President, I yield the floor.

EDUCATIONAL ADMINISTRATIVE SPENDING

Mr. D'AMATO. I want to commend the managers to the bill for adopting in the manager's amendment package language I proposed that will ensure that the Secretary of Education takes action to better understand how funding provided under this act is used, and to ensure that it is better targeted to classroom instruction as opposed to administrative spending.

As I pointed out when I addressed the Senate on this subject last year during consideration of the fiscal year 1993 supplemental appropriations bill, there is alarming evidence that growing educational bureaucracies across the country are siphoning scarce education dollars from classrooms where they are needed most.

One of the most startling examples of this came from the New York City school system, where one recent study of spending in the high schools during the 1988–1989 school year showed that less than one of every three education dollars actually reached the classroom. The rest was used to pay for administration at the district's central office and high school division, as well as at the individual school level.

And New York City is not alone. A recent audit of spending in the Indianapolis public schools, for example, found that less than 36 percent of education funding actually reached the classroom. A similar study of spending in the Milwaukee public elementary schools found that only one quarter of every education dollar was spent on actual classroom instruction.

Clearly the time has come to examine the extent to which Federal education dollars are being spent to fuel the growth of State and local education bureaucracies.

Last year, the Senate unanimously adopted my amendment to the fiscal year 1993 supplemental appropriations bill, which, for the first time, would have capped the amount of chapter 1 funds received by local school districts that could be used for administrative activities.

While this amendment was narrowly defeated in conference, it remains more vital than ever that we understand where our scarce education dollars are going and then make sure that they are targeted on students in need—and not wasted on unnecessary layers of administrative bureaucracy.

My amendment to the Improving America's Schools Act will achieve this objective by strengthening a provision that was already included in the committee bill. Specifically, this amendment will require the Secretary of Education to conduct and complete the administrative funds study called for under section 10204 of this bill within 1 year of the bill's enactment. This study will examine how funds provided to State and local education agencies under this act are used by these agencies for the administration of programs such as title 1, the Eisenhower Professional Development Program; and the Drug Free Schools and Communities Program. This study will also determine what percentage of grant funds made available to State and local education agencies under these programs is used for administrative purposes.

The amendment will require the Secretary of Education to complete the study within 1 year of the date of enactment of this bill. More important, it will set a deadline of 1 year from the time the study is completed for the Secretary to implement final regulations establishing limitations on the amount of funds that may be used for administration under title 1 and other programs covered under this act.

Again, I commend the distinguished managers of the bill for including this provision in the manager's amendment package. By mandating a comprehensive review of administrative spending in our Federal elementary and secondary education programs, to be followed within 1 year by final regulations establishing clear limits on such spending, this amendment will help assure that hard-fought education dollars are spent not on bureaucratic excess—but children in need.

THE HELMS-SMITH AMENDMENTS

Mr. CHAFEE. I want to take a moment to discuss the substance of the Smith amendment adopted today, and the Helms amendment adopted yesterday. They are virtually identical.

The amendments say that any local educational agency that carries out a program that has the effect of supporting or encouraging homosexuality shall lose its Federal funding.

This sounds simple enough. But in practice, I think the vagueness of the amendments' wording could prove troublesome for schools. It is hard to define what "support" or "encourage" means.

Indeed, it would be possible that the following situations could cause a school to risk losing its funds for supporting or encouraging homosexuality:

A guidance counselor counseling and comforting a young teen who is confused and distressed about his or her sexuality, and who may be considering suicide;

A teacher assigning works of Shakespeare as a reading assignment, and in whose class arises a discussion of Shakespeare's life and times;

A class discussion about "Brideshead Revisited," and some of the characters in which are homosexual;

A school production of the play "The Importance of Being Ernest" by Oscar Wilde, whose homosexuality was well-known.

I doubt that we want to prevent our schools from the above activities. We absolutely must make sure our teachers and guidance counselors are able to help any confused teens—a group already highly susceptible to suicidal

tendencies—when they need it, before they do themselves some harm. We need to make sure that important works of art and literature are not kept from the classroom just because of the sexual orientation of the author, or of the characters involved in the work.

It may be that the Helms-Smith amendments are not meant to encompass the above situations. But it is by no means clear. And if there is any debate about what the Helms-Smith amendments mean, then the matter will probably end up in court. And every dime our schools spend in court is one less dime that goes for textbooks, band equipment, sports activities.

I feel very, very strongly that we must be careful to keep from causing needless litigation problems for the schools. Let's let administrators and teachers get on with the task at hand: educating our children. Let's not approve vague amendments that create a risk for our schools of losing of all Federal funds.

GUNS IN SCHOOLS

Mr. CHAFEE. Mr. President, I would like to take a moment to talk about a possible solution to a critical challenge that—regrettably—is faced by our Nation's educators today: the widespread presence of guns in the schools.

When I was the Governor of my State some years ago, school children never had to worry that another student might have a gun in his or her bookbag or locker. Certainly, students always had their share of arguments and fistfights, but at worst, these disputes usually resulted in nothing more than a black eye.

Now, however, although the number of annual incidents remains fairly small, guns—especially handguns—are showing up more and more frequently in our State's school systems. Indeed, some schools have begun to install walk-through metal detectors, or to use metal-detecting wands to check students as they enter the building, or hire security guards to patrol the corridors.

In an attempt to address this challenge, Senators FEINSTEIN and DORGAN introduced a proposal last month that would require every school system that receives Federal funds to adopt a gun-free-school policy. Such a policy must provide for the 1-year expulsion of any student that brings a gun onto school grounds. While this idea may merit consideration, I want to bring my colleagues' attention to the work we have done in our State that relates to this matter.

I am pleased to say that the State of Rhode Island is ahead of the game on this issue. Under the leadership of Rhode Island Attorney General Jeffrey Pine, and the Task Force to Prevent Violence in the Schools that he created, police and school officials in two-thirds of Rhode Island's cities and towns have adopted a memorandum of understanding that implements a zero tolerance policy toward guns and violence. To the best of my knowledge, no other State has made such progress, and so I congratulate Attorney General Pine and the task force on their fine efforts.

Moreover, these memoranda of understanding strive to push this strategy to rid schools of guns and violence one step further by firming up the lines of communication between the schools and local police departments. Under the agreement, all school staff members are required to report to principal any possession or use of a weapon or any assault that occurs on school grounds. The principal, in turn, will notify the police department. For its part, the police department is obligated to notify school officials of any arrests made of juveniles outside school hours, if those students attend the same school.

Now, our task force raised a concern about the potential long-term consequences of mandatory year-long expulsion, an approach set forth in the Feinstein-Dorgan amendment. Specifically, the task force members wondered whether putting a student who has been expelled from school for gun possession on the street without supervision would do either the child or the local community much good. Accordingly, the task force recommended that each school system work with State government officials to establish alternative educational programs for expelled students that will help them become productive members of society.

It seems to me, Mr. President, that this is a thoughtful, well-reasoned approach to a very difficult problem, and I hope my colleagues who have crafted this education bill, and will go to conference with the House Members on it, will take a look at the Rhode Island approach as they work on the issue of weapons in schools. For the information of Senators, therefore, I ask unanimous consent that a copy of the memorandum of understanding crafted by the task force be placed in the RECORD.

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

MEMORANDUM OF UNDERSTANDING

Between (Name of Police Department) and (Name of School Department) meant to be distributed to all superintendents, principals and teachers.

This document represents an agreement between the (name of police department) and (name of school) to engage in cooperative efforts aimed at the reduction and eventual elimination of violence in schools. It is only through this cooperation that we may restore safety in our schools and promote a secure learning environment. This effort has been supported and will be monitored by the Attorney General's Task Force Against Violence in Schools.

In order to ensure success, the parties to this memorandum include superintendents, principals, teachers, school personnel, school bus drivers, local police, said parties agree that:

1. All school staff members are under obligation to report any and all incidents of the possession or use of weapons by any juvenile on school grounds to the principal. Police will be notified by the principal immediately. (see definitions sheet)

2. All school staff members are under obligation to report any and all incidents of aggravated assaults on other juveniles or school staff to the principal. Principals will determine whether an assault is aggravated so as to constitute police involvement. Police will be notified by the principal accordingly.

3. The principal or his designee will coordinate all procedures in these matters with police and will report said incidents to the superintendent or designee.

4. Upon a report of said incidents, the police department will conduct an investigation with school officials to determine what course of action will be taken. The parents of juveniles subject to an investigation will be notified by the school officials immediately.

5. Where appropriate, and in accordance with the recommendations of the Attorney General's Law Enforcement subcommittee's policy, police will pursue criminal action against said juvenile.

6. School staff members will cooperate with prosecuting authorities as juveniles are charged with such offenses. This includes revealing information to police and testifying at proceedings when necessary.

7. The Juvenile Department of the police will record all such occurrences in a log entitled "Violence in Schools." Such record will include the nature of the incident, school official and law enforcement efforts and the disposition of the case, if any.

8. The school will keep a running log of all such incidents.

9. The police department will be obligated to notify school officials of arrests of juveniles made over the weekend if it appears the person arrested and victim attended the same school. Police will notify school officials the first school day following the weekend.

10. Any suspicions of weapons or assault incidents must be reported to the principal immediately. The principal will share this information with the local police when such suspicion presents a dangerous situation.

11. School administration and Law Enforcement will share such important information in prevention of future violence.

12. The procedures contained in this Memorandum should be consistent with a zero tolerance for violence in schools.

(Signed)
Chief of Police.
Superintendent.
Principal.
Juvenile Chief.

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

The amendment was agreed to.

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

The PRESIDING OFFICER. Under the previous order, the Labor and Human Resources Committee is discharged from further consideration of

H.R. 6, and the Senate will proceed to its immediate consideration.

The clerk will report.

The bill clerk read as follows:

A bill (H.R. 6) to extend for 5 years, authorization appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 6 is stricken and the text of S. 1513, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

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

The bill was read a third time.

The PRESIDING OFFICER. The question is—the Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the passage of H.R. 6, as amended.

The majority leader, Senator MITCHELL.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, this will be the last rollcall vote today. The Senate will, immediately following this vote, proceed to consideration of the VA/HUD appropriations bill on which I anticipate there will be extensive debate this evening and then a vote early tomorrow.

We will not be able to announce the time of the vote at this time. We will do so as soon as possible later this evening.

I thank my colleagues for their cooperation. I especially thank the Senator from Massachusetts and the Senator from Vermont for their diligence in pursuing and aiding enactment of this very important measure.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas, Senator BUMPERS.

Mr. BUMPERS. Mr. President, if I could have the majority leader's attention for just a moment?

I understand this is the last rollcall vote?

Mr. MITCHELL. That is correct.

Mr. BUMPERS. We are getting ready to go to the space station amendment? We are going to stand here and debate by ourselves and then vote on it tomorrow?

Mr. MITCHELL. Perhaps we could discuss that in private here as the vote is occurring.

Mr. BUMPERS. Mr. President, I am not trying to cause the leader any difficulty. I do not mind starting this amendment, but there should be some time tomorrow, because you know what is going to happen the minute this vote is over. I do not know it would change any votes. It might not, but it might. But there ought to be some time in the morning to debate this before a vote is set.

Has the majority leader set a vote?

Mr. MITCHELL. No, I have not. Precisely for the reason I wanted to consult with the Senator from Arkansas before making an announcement in this regard.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The question occurs on final passage of H.R. 6, as amended.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—94

Akaka	Feingold	McCain
Baucus	Feinstein	McConnell
Bennett	Ford	Metzenbaum
Biden	Glenn	Mikulski
Bingaman	Gorton	Mitchell
Bond	Graham	Moseley-Braun
Boren	Gramm	Moynihan
Boxer	Grassley	Murkowski
Bradley	Gregg	Murray
Breaux	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Hatfield	Pell
Burns	Heflin	Pressler
Byrd	Hollings	Pryor
Campbell	Hutchison	Reid
Chafee	Inouye	Riegle
Coats	Jeffords	Robb
Cochran	Johnston	Rockefeller
Cohen	Kassebaum	Roth
Conrad	Kempthorne	Sarbanes
Coverdell	Kennedy	Sasser
Craig	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Warner
Domenici	Lott	Wellstone
Dorgan	Lugar	Wofford
Durenberger	Mack	
Exon	Mathews	

NAYS—6

Brown	Helms	Smith
Faircloth	Nickles	Wallop

So the bill (H.R. 6), as amended, was passed, as follows:

(The bill was not available for printing. It will appear in a future issue of the RECORD.)

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. This legislation represents another main part of our efforts in this Congress to improve American education. Already, this year, we have enacted the Head Start reauthorization bill, to help prepare children more effectively for school. We have enacted the School-to-Work Opportunities Act to provide more effective job training and career counseling for the 75 percent of American students who go directly into the work force without a college degree. And we have enacted Goals 2000, to help schools set and meet high standards for teaching and learning.

The pending bill is designed to overhaul the major Federal aid to education programs to help all students—especially those students who are disadvantaged—to reach high academic standards.

A key reform in this bill is that States must use the same academic standards and assessments for all students. No longer will schools receiving Federal aid be permitted to ask less of low-income students than of other students. Disadvantaged students will be held to the same academic expectations as every other student in a school.

In addition, rather than pulling individual students out of their classrooms for remedial help that often leads to a watered-down curriculum, schools will be encouraged to take a schoolwide approach to reform.

A second key reform in this bill is to direct funds where they are needed most. Current Federal education funds are spread too thin to make a difference in the poorest schools. The new formula for distributing title I money will send a significantly greater percentage of the funds to high-poverty schools, so that these schools will have a realistic chance to improve.

Third, the bill cuts red tape and gives schools the flexibility to implement their own locally developed reforms. The burdensome and often conflicting requirements of different Federal programs will be eased, by permitting schools to consolidate their funds, implement local reforms, and meet the needs of their pupils more effectively.

Fourth, the bill provides significant help for teachers, who are the most important part of education, and who must be a central part of any effort to improve schools. One of the principal provisions of the bill expands the Eisenhower Math and Science program to include teachers in all academic subjects.

Finally, the bill invests in educational technology. Advanced technology is commonplace in many parts of society. But too often, schools are unequipped to train students for the modern world. Under this bill, assistance will be available to enable poor schools to pay for computers, links to networks, and teacher training.

We are on the threshold of a new era in Federal education policy and support for local schools. This reauthorization, which builds on the framework established in the Goals 2000 legislation, provides Federal aid while giving local teachers and administrators greater freedom and flexibility to determine how to improve their schools and provide greater opportunities for the neediest students. I urge the Senate to approve this important step toward school reform.

I commend my colleagues on the Labor Committee for their constructive and bipartisan work on this bill. We reported it out of committee by a strong bipartisan vote of 16–1. Throughout the process, we have worked closely with Senators from both sides of the aisle. In particular, I commend the distinguished chair of the Education Subcommittee, Senator PELL, who has demonstrated once again why he is Mr. Education in the Senate. I also commend Senator KASSEBAUM and Senator JEFFORDS for their tireless efforts on this bill. In addition, the Senate leadership—in particular Senator MITCHELL—deserves a great deal of credit for moving this legislation effectively through the Senate.

I also commend the staff members who have worked so hard on this legislation: on my staff, Ellen Guiney, Clayton Spencer, Stephanie Goodman, Matt Alexander, Bonnie Leitch, Jerry Hauser, and Susan Shin; on Senator PELL'S staff, David Evans, Margaret Smith, and Michael Dannenberg; on Senator KASSEBAUM's staff, Lisa Ross, Wendy Cramer, and David Goldfarb; and on Senator JEFFORDS' staff, Pam Devitt and Katie Henry. Thank you all for your help.

Madam President, I want to take 2 minutes of the Senate's time to first of all thank my friend and colleague, Senator JEFFORDS, for all of his very constructive and helpful work in our committee, and also on the floor. I want to pay a special tribute to my colleague, the chairman of our education committee, CLAIBORNE PELL, who has been "Mr. Education" in this body for years and years, and is really the architect of the bipartisan approach on education which has marked this body over a period of the 30-odd years that I have been in the United States going back to the early 1960's. He has been at his post from the earliest morning to the latest of evening, and his counsel and his insight into all of these matters that we have been considering and other education matters has been absolutely invaluable to all of us.

To Senator KASSEBAUM, who is one of our very really important leaders in education and education policy, and who was instrumental in helping us reach the point where we are today, has differed with us in some areas, but her interventions have always been constructive and have always given the Senate the opportunity to make a better informed judgment on these matters.

I will extend these remarks in identifying the best I can a little later this evening, and not to interfere with the forthcoming debate, some of the various contributions of all Members, Republican and Democrat. This vote could not have taken place unless we had their strong bipartisan support.

But I want to at this time again acknowledge the work of some of the finest staff that we have in the U.S. Senate, and they are on our committee. I want to take the time to acknowledge their extraordinary work. They are Democrats and Republicans. But I must say they have been really enormously helpful and valuable to all of us in helping, assisting, and finding common ground to keep our focus on what is really important; that is, to try to strengthen the education of our young people.

I want to mention on my staff Ellen Guiney and Clayton Spencer, Stephanie Goodman and Matt Alexander, Bonnie Leitch, Jerry Hauser, and Susan Shin; on Senator PELL's staff, David Evans, Margaret Smith, Barbara Bennison, and Michael Dannenberg.

I know that our Republican colleagues will mention their staff. But in many respects I would like to thank Senator KASSEBAUM's staff with Lisa Ross, Wendy Cramer, David Goldfarb; and on Senator JEFFORDS' staff, Catherine Henry, Kelly Kivier, and Pamela Devitt, have really worked for us individually. But more importantly, they have really worked very closely together.

There are a number of other Members and staff I would like to thank.

I would also like to recognize the important contributions to this bill of my colleagues on the Labor Committee. In the difficult work of arriving at a formula, Senator SIMON, aided by his able staff Charles Barone and Bob Shireman, was instrumental in helping us reach a much better, more targeted in-state formula. Senator BINGAMAN was the original author of S. 1040, which was ultimately incorporated as the technology title, title III, and he and his staff Marjorie Steinberg and Brett Scholl deserve great credit. Senator DODD, as always, worked with us on early childhood issues, along with his staff Suzanne Day and Sarah Flanagan, specifically the transition program that will make a great difference to young children. Senator WELLSTONE and his staff person Sherry Ettleson helped us to strengthen parent involvement provisions, and Senator HARKIN and his staff Bobby Silverstein and Bev Shroeder helped work out several difficult amendments, as did Senator METZENBAUM and his staffperson Cheryl Birdsall, and Senator WOFFORD and Julia Frifield. Senator MIKULSKI and her staffer Anita Harewood reviewed many provisions to ensure that girls and women were treated fairly in this bill.

Of the committee, I want to thank Patricia Zell, Bob Arnold, Noelle Kahanu of Indians Affairs, Kim Wallace and Jill Ward of Senator MITCHELL's office, Sue Hildick of Senator HATFIELD's office, Carol Mitchell and Leslie Staples of Senator BYRD's office, David Medina of Senator MOSELEY-BRAUN's office, Amy Abraham of the Budget Committee, Ed Long, Bettilou Taylor and Bill Cordes of the Appropriations Committee, Alexander Russo and Lanie Horowitz of Senator FEINSTEIN's office, David McMillen of Senator LIEBERMAN's office, Chris Wasulla of Senator GRAHAM's office, Kay Davies of Senator DOMENICI's office and Steve Kroll of Senator DORGAN's office.

I see Senator JEFFORDS on his feet. I see Senator PELL on his feet and others that want to address the Senate briefly on these measures. I want to thank all of them for their cooperation and all of the Members for helping us reach what I think will be an important piece of legislation that will make an important difference to many of the economically disadvantaged children in this country.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses on H.R. 6, and the Chair is authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER (Mrs. FEINSTEIN) appointed Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mr. WOFFORD, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. THURMOND, Mr. HATCH, and Mr. DURENBERGER conferees on the part of the Senate.

The PRESIDING OFFICER. S. 1513 is indefinitely postponed.

The Senator from Maryland.

VA–HUD APPROPRIATIONS ACT

Ms. MIKULSKI. Madam President, I ask unanimous consent that the Senate now turn to Calendar No. 520, H.R. 4624, the VA–HUD appropriations bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4624) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and or sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 4624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the

Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $17,626,892,000, to remain available until expended: *Provided*, That not to exceed $25,750,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, and in the Veterans' Benefits Act of 1992, Public Law 102–568, the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That $6,000,000 of the amount appropriated shall be transferred to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992, Public Law 102–568: *Provided further, That of the $15,622,452,000 made available under this heading for fiscal year 1994 in Public Law 103–124, the $9,863,265,000 restricted by section 509 of Public Law 103–124 for personnel compensation and benefits expenditures is reduced to $9,813,256,000.*

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $1,286,600,000, to remain available until expended: *Provided*, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $24,760,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $65,226,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $59,371,000, which may be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during 1995, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $1,020,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,061, as authorized by 38 U.S.C. 3698, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,034.

In addition, for administrative expenses necessary to carry out the direct loan program, $195,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $54,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,964,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $767,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by section 38, U.S.C. chapter 37, subchapter V, as amended, $218,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $16,232,756,000, plus reimbursements: *Provided*, That of the funds made available under this heading, $771,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1995, and shall remain available for obligation until September 30, 1996.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1996, $252,000,000, plus reimbursements.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of health professional scholarship program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,386,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activites not charged to project cost; and research and development in building construction technology; $69,808,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 1732), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1996.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102-54, section 8, which shall be transferred from the "General post fund": *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000. In addition, for administrative expenses to carry out the direct loan program, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102-54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; **[$887,909,000]** *$893,285,000*, of which $25,500,000, for the acquisition of automated data processing equipment and services to support the modernization program in the Veterans Benefits Administration, shall not become available for obligation until September 1, 1995, and shall remain available for obligation until September 30, 1996.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $72,663,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, **[$32,219,000]** *$31,819,000*.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, **[$101,965,000]** *$208,000,000*, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 1995, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1995, and (2) by the awarding of a construction contract by September 30, 1996: *Provided further*, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $153,540,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by law (38 U.S.C. 8109), $1,400,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131-8137), **[$37,397,000]** *$47,397,000*, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), $5,378,000, to remain available until September 30, 1997.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1995 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1995 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1995 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1994.

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1995 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

Of the budgetary resources available to the Department of Veterans Affairs during fiscal year 1995, $20,742,000 are permanently canceled. The Secretary of Veterans Affairs shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the homeownership and opportunity for people everywhere (HOPE grants) program as authorized under title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) and subtitles A, B, and C of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), **[$100,000,000]** *$50,000,000*, to remain available until expended, of which up to one and one-half percent may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this head as authorized under subtitle E of title I of the Housing and Community Development Act of 1992.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the

Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), as amended, [$1,275,000,000] *$1,500,000,000*, to remain available until expended.

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

For the National Homeownership Trust Demonstration program, as authorized by title III of the National Affordable Housing Act, as amended by section 182 of the Housing and Community Development Act of 1992, $50,000,000, to remain available until expended.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFERS OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, [$11,473,019,000] *$10,600,000,000*, to remain available until expended: *Provided*, That *to be added to and merged with the foregoing amounts there shall be up to $200,000,000 of amounts of budget authority (and contract authority) reserved or obligated in prior years for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and, except as herein provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1995; and up to $100,000,000 of transfers of unobligated balances from the Urban Development Action program: Provided further, That* of the total amount provided under this head, [$263,000,000] *$300,000,000* shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); and $598,000,000 shall be for the development or acquisition cost of public housing, of which up to .67 per centum shall be available for technical assistance and inspection of public housing agencies by the Secretary: *Provided further*, That of the total amount provided under this head, [$3,600,000,000] *$3,800,000,000* shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including up to [.54 per centum] *$15,000,000* for the inspection of modernization units and provision of technical assistance by the Secretary and contract expertise to assist in the oversight and management of the public and Indian housing modernization program, including an annual resident survey: [*Provided further*, That of the amounts provided under this head for modernization of existing public housing projects, $85,000,000 may be used for the Tenant Opportunity Program:] *Provided further*, That of the total amount provided under this head, [$2,643,000,000] *$2,144,582,000* shall be for rental assistance under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)): *Provided further, That of the amount provided for rental assistance, up to $350,000,000 shall be available for the Pension Fund Partnership program, as authorized by section 6 of the HUD Demonstration Act of 1993 (Public Law 103-120); $20,000,000 shall be for the Community Viability Fund; $50,000,000 shall be for the Colonias program; and $500,000,000 shall be for the Neighborhood Leveraged Investment Program (LIFT):* [*Provided further*, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b), 8(o), and 8(e)(2) shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act:] *Provided further*, That of the total amount provided under this head, $17,300,000 shall be available for fees for coordinators under section 23(h)(1) for the family self-sufficiency program (42 U.S.C. 1437u): *Provided further*, That of the total amount provided under this head, [$1,202,100,000] *$765,000,000* shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, and $555,000,000 shall be for section 8 assistance for property [deposition] *disposition*, and [$100,000,000] *$250,000,000* shall be for assistance for State or local units of government, tenant and nonprofit organizations to purchase projects where owners have indicated an intention to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in the Emergency Low-Income Housing Preservation Act of 1987, as amended: *Provided further*, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: *Provided further*, That of the total amount provided under this head, $156,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act; [$150,000,000] *$75,000,000* shall be for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992; and $30,000,000 shall for service coordinators in public housing pursuant to section 9(a)(1)(B)(ii) of the United States Housing Act of 1937; and $30,000,000 shall be for service coordinators in project-based section 8 housing, pursuant to section 8(d)(2)(F)(1) of the Act, tenant-based section 8 housing, pursuant to section 8(q) of the Act and, for service coordinators in multifamily housing assisted under the National Housing Act, pursuant to section 676 of the Housing and Community Development Act of 1992[: *Provided further*, That of the total amount provided under this head, $149,100,000 shall be for moving to opportunity]: *Provided further, That notwithstanding the language preceding the first proviso of this paragraph, $135,000,000 shall be used for special purpose grants in accordance with the terms and conditions specified for such grants in Senate Report 103-311.*

Of the total amount provided under this head, [$1,158,000,000] *$1,300,000,000* shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959: *Provided*, That $22,000,000 shall be for service coordinators pursuant to section 202(q) of the Housing Act of 1959 and subtitle E of title VI of the Housing and Community Development Act of 1992, other than section 676 of such Act and section 8(d)(2)(F)(i) of the Act.

Of the total amount provided under this head, $387,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(INCLUDING TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, [$3,705,000,000] *$3,062,000,000*, to remain available until expended: *Provided*, That to the extent the amount in this appropriation is insufficient to fund all expiring section 8 contracts, the Secretary may transfer to and merge with this appropriation such amounts from the "Annual contributions for assisted housing" appropriation as the Secretary shall determine, and amounts earmarked in the foregoing account may be reduced accordingly, at the Secretary's discretion: *Provided further*, That the Secretary may maintain consolidated accounting data for funds disbursed at the public housing agency or Indian housing authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

[Further, for the foregoing purposes, $800,000,000, to become available for obligation on October 1, 1995, and to remain available for obligation until expended.]

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1995 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: *Provided*, That up to $66,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall be rescinded in fiscal year 1995.

HOMEOWNERSHIP ASSISTANCE

(INCLUDING RESCISSION OF FUNDS)

For payments under section 235(r) of the National Housing Act, as amended (12 U.S.C. 1715z) for incentives to mortgagors to refinance mortgages that are insured under such section 235 and for closing and other costs in connection with such refinancing, $6,875,000, to remain available until expended: *Provided*, That up to $50,000,000 of recaptured section 235 budget authority resulting from reducing the interest rate on such refinanced mortgages shall be reused for payments under this heading: *Provided further*, That up to $184,000,000 of additional recaptured section 235 budget authority from refinancing section 235 mortgages shall be rescinded in fiscal year 1995.

CONGREGATE SERVICES

[For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs,

$6,267,000, to remain available until September 30, 1996, in accordance with the provisions of the Congregate Services Act of 1978, as amended.]

For contracts with payments to public housing agencies and nonprofit corporations for congregate services programs, $25,000,000, to remain available until September 30, 1995, of which up to $6,267,000 shall be for entities operating such programs in accordance with the provisions of the Congregate Services Act of 1978, as amended, and the balance shall be for programs under section 802 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625).

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,900,000,000.

SEVERELY DISTRESSED PUBLIC HOUSING

[For the revitalization of severely distressed public housing program, as authorized by section 24 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), $500,000,000, to remain available until expended, of which up to one-half of one percent may be used for technical assistance under this program, to be made available directly, or indirectly under contracts or grants, as appropriate.]

For the HOPE VI/urban revitalization demonstration program under the third paragraph under the head "Homeownership and Opportunity for People Everywhere grants (HOPE grants)" in the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public Law 102-389, 106 Stat. 1571, 1579, $500,000,000, to remain available until expended: Provided, That notwithstanding the first proviso of such third paragraph, the Secretary shall have discretion to approve funding for more than fifteen applicants: Provided further, That notwithstanding the third proviso of such third paragraph, the Secretary may provide funds for more than 500 units for each participating city: Provided further, That in selecting HOPE VI implementation grants recipients in fiscal year 1995, the Secretary must first award such grants to those cities or jurisdictions which have received HOPE VI planning grants in fiscal year 1993 or fiscal year 1994: Provided further, That the requirement of the immediately proceeding proviso shall not limit the Secretary's discretion to limit funding to amounts he deems appropriate, nor shall it prevent the Secretary from guaranteeing that all implementation grant recipients conform with the requirements of the HOPE VI/urban revitalization demonstration program: Provided further, That of the foregoing $500,000,000, the Secretary may use up to $2,500,000 for technical assistance under such urban revitalization demonstration, to be made available directly, or indirectly, under contracts or grants, as appropriate: Provided further, That nothing in this paragraph shall prohibit the Secretary from conforming the program standards and criteria set forth herein, with subsequent authorization legislation that may be enacted into law.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901-11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921-11925, [$265,000,000] *$315,000,000*, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training) [and of which $1,500,000 shall be for grants for an after school demonstration program in public housing projects, run by the 4H Clubs of America and co-sponsored by private sector firms]: *Provided, That not more than $236,250,000 shall be available for grants to housing authorities with greater than 1,250 public housing units: Provided further, That not more than $63,000,000 shall be available for grants to housing authorities with less than 1,250 public housing units: Provided further, That not more than $15,750,000 shall be available for grants for federally-assisted, low-income housing: Provided further, That the Secretary may utilize all funds made available under this heading for a community partnership against crime program if authorized by law prior to November 1, 1994: Provided further, That the Secretary may use the authority provided in the immediately preceding proviso only if the apportionment of funds ensures that public housing authorities with greater than 1,250 units receive three-quarters of all such COMPAC funds.*

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, $3,000,000, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739): *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $22,388,000.

YOUTHBUILD PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For youthbuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, $50,000,000, to remain available until expended. In addition, the unexpended balances from the $28,000,000 made available for subtitle D of title IV of such Act under the head "Homeownership and opportunity for people everywhere grants (HOPE Grants)" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 shall be transferred to and merged with this appropriation: *Provided, That none of the funds made available under this heading may be obligated until the Secretary proposes and implements a consolidation plan for all youth-related programs now in operation within the Department: Provided further, That the aforementioned consolidation plan, to meet the requirements of the immediately preceding proviso, must establish a continuum of youth activities that includes apprenticeship activities.*

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, other than loans, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, $50,000,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, and under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z-1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, $50,000,000, and all uncommitted balances of excess rental charges as of September 30, 1994, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1995, to remain available until expended: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1995, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $100,000,000,000.

During fiscal year 1995, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $180,000,000: *Provided*, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under section 203 of such Act.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $308,846,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $302,056,000 shall be transferred to the appropriation for salaries and expenses; and of which not to exceed $6,790,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), [$152,000,000] *$188,395,000*, to remain available until September 30, 1996, of which up to $132,903,000 is to be derived from the FHA—general and special risk, negative subsidies receipt account: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed $20,885,072,000: *Provided further, That of the foregoing amount provided to subsidize program costs, not more than $47,098,750 may be obligated by January 1, 1995, not more than $94,197,500 may be obligated by April 1, 1995, not more than $160,135,750 may be obligated by July 1, 1995.*

Gross obligations for the principal amount of direct loans, as authorized by sections

204(g), 207(l), 238(a), and 519(d) of the National Housing Act, shall not exceed $220,000,000; of which not to exceed $200,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $197,470,000, of which $193,299,000 shall be transferred to the appropriation for salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1995, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $142,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $8,824,000, to be derived from the GNMA—guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $8,824,000 shall be transferred to the appropriation for salaries and expenses.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; the shelter plus care program (as authorized under subtitle F of title IV of such Act); and the innovative homeless initiatives demonstration program (as authorized under section 2 of the HUD Demonstration Act of 1993 (Public Law 103–120)), $1,120,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $4,600,000,000, to remain available until September 30, 1997: *Provided*, That $46,000,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), and [$61,500,000] *$44,000,000* shall be available for "special purpose grants" pursuant to section 107 of such Act: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following provisos) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development[: *Provided further*, That $35,000,000 shall be made available from the total amount provided to carry out an early childhood development program under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z–6 note), including services for families that are homeless or at risk of becoming homeless: *Provided further*, That $10,000,000 shall be made available from the total amount provided to carry out a neighborhood development program under section 123 of said Act (42 U.S.C. 5318 note)].

During fiscal year 1995, new commitments to issue guarantees to carry out the purposes of section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $2,054,000,000.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, [$40,000,000] *$44,000,000*, to remain available until September 30, 1996.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $33,375,000, to remain available until September 30, 1996: *Provided*, That $26,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS *OF* FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, [$962,173,000] *$953,973,000*, of which $495,355,000 shall be provided from the various funds of the Federal Housing Administration, and $8,824,000 shall be provided from funds of the Government National Mortgage Association.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $47,388,000, of which $10,961,000 shall be transferred from the various funds of the Federal Housing Administration.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER [OR] *OF* FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $15,451,000, to remain available until expended, from the Federal Housing Enterprise Oversight Fund: *Provided*, That such amounts shall be collected by the Director as authorized by section 1316 (a) and (b) of such Act, and deposited in the Fund under section 1316(f).

ADMINISTRATIVE PROVISIONS

None of the funds provided under this title to the Department of Housing and Urban Development, which are obligated to State or local governments or to housing finance agencies or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

Of the budgetary resources available to the Department of Housing and Urban Development during fiscal year 1995, $3,538,000 are permanently canceled. The Secretary of Housing and Urban Development shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purpose of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout as specified in 41 U.S.C. 403 (2).

[Of the $150,000,000 earmarked in Public Law 102–139 for special purpose grants (105 Stat. 736, 745), $1,000,000 made available to the Pennsylvania Housing Finance Agency to complete renovation and revitalization of the Saquoit Silk Mills in Scranton into low-income elderly apartments shall instead be made available for such low-income elderly apartments on the site of the existing Lackawanna Junior College in Lackawanna County, Pennsylvania.

[Notwithstanding any provision of law or regulation thereunder, the requirement that an amendment to an urban development action grant agreement must be integrally related to the approved project is hereby waived for project numbers B87AA360540 and B87AA360521.]

None of the funds made available in this Act may be used in violation of section 214 of the Housing and Community Development Act of 1980 or of any applicable Federal law or regulation of the United States.

[Subparagraph (A) of the first sentence of section 203(b) (2) of the National Housing Act is amended by striking clause (ii) and all that follows through "1992;" and inserting in lieu thereof the following—

["(ii) 85 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the greater of—

["(I) the dollar amount limitation in effect under this section for the area on the date of enactment of the Housing Choice and Community Investment Act of 1994; or

["(II) the applicable average area purchase price determined under section 143(e)(2) of the Internal Revenue Code of 1986, adjusted by the Secretary to reflect a single amount using purchase prices for residences that have been previously occupied, and for residences that have not been so occupied, which amount shall be adjusted by the Secretary annually on the basis of the Constant Quality Housing Price Index;".]

Subparagraph (A) of the first sentence of section 203(b)(2) of the National Housing Act (12

U.S.C. 1709(b)(2)) is amended by striking clause (ii) and all that follows through "May 12, 1992;" and inserting the following:

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on the date of enactment of the Housing Choice and Community Investment Act of 1994 or 38 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size;".

Notwithstanding subsection 306(g) (3) of the National Housing Act, as amended, fees charged for the guaranty of, or commitment to guaranty, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Government National Mortgage Association prior to February 1, 1993, and other related fees, shall be charged in an amount the Association deems appropriate.

Beginning fiscal year 1995, the Government National Mortgage Association shall permit Ginnie Mae II mortgage-backed securities to be eligible as collateral for multiclass securities that such Association guarantees, in accordance with the Notice published at 59 Fed. Reg. 27290 (May 26, 1994) and successor Notices.

Section 8(c)(2)(A) of the United States Housing Act of 1937 is amended by inserting at the end the following: "However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995.".

The immediately foregoing amendment shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of such Act by applying an annual adjustment factor.

Section 8(c)(2)(A) of the United States Housing Act of 1937, as amended by the immediately foregoing amendment to such section, is further amended by inserting at the end the following: "For any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. The immediately foregoing sentence shall be effective only during fiscal year 1995.".

The immediately foregoing shall hereafter apply to all contracts that are subject to section 8(c)(2)(A) of such Act and that provide for rent adjustments using an annual adjustment factor.

The Secretary shall, by regulation, specify that the criteria used to determine existing housing fair market rents under section 8 of the United States Housing Act of 1937 shall include use of the 40th, in lieu of the 45th, percentile rent of standard quality rental housing. Such subsection shall be effective only during fiscal year 1995.

The United States Housing Act of 1937 is amended in each of sections 6(c)(4)(A)(ii) and 8(d)(1)(A)(ii), by striking "and (V)" and inserting in lieu thereof the following: "(V) assisting families that include one or more adult members who are employed; and (VI)"; in sections 6(c)(4)(A)(ii) and 8(d)(1)(A)(ii), by inserting after the final semicolon in each the following: "subclause (V) shall be effective only during fiscal year 1995;"; and in the penultimate sentence of section 16(c), by striking "under the system" and all that follows up to the period.

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $20,265,000, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal travel regulations.

[CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

[SALARIES AND EXPENSES

[(RESCISSION)

[Of the funds made available under this heading in Public Law 103-124, $1,730,000 are rescinded.]

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development lenders, and administrative expenses of the Fund, $25,000,000, to remain available until September 30, 1996, of which up to $10,000,000 may be used for the cost of direct loans, and up to $1,000,000 may be used for administrative expenses to carry out the direct loan program: Provided, That the costs of direct loans, including the cost of modifying such loans, shall be defined as in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $75,815,000: Provided further, That none of the funds made available under this heading may be used for programs and activities of the Bank Enterprise Act.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, [$43,486,000] *$40,509,000.*

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service in carrying out the programs, activities, and initiatives under the National and Community Service Act of 1990, as amended (Public Law 103-82) (hereinafter referred to as "the Act"), [$490,388,000 to remain available until September 30, 1996, except as provided hereafter] *$610,000,000, of which $411,212,000 is available for obligation for the period September 1, 1995 through August 31, 1996: Provided*, That not more than [$27,400,000] *$29,400,000* is available for administrative expenses authorized under section 501(a)(4) of the Act, of which not more than [$13,700,000] *$14,700,000* shall be for administrative expenses for State commissions pursuant to section 126(a) of subtitle C of title I of the Act: *Provided further*, That not more than $2,500 shall be for official reception and representation expenses: *Provided further*, That not more than [$125,900,000] *$155,900,000*, to remain available without fiscal year limitation, shall be transferred to the National Service Trust Fund for educational awards as authorized under subtitle D of title I of the Act: *Provided further, That not more than $9,450,000 of the $155,590,000 for the National Service Trust shall be for educational awards authorized under section 129(b) of the subtitle C of title I of the Act: Provided further, That $6,500,000 shall be made available for the Points of Light Foundation for purposes authorized under title III of the Act: Provided further, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the National Civilian Community Corps, or any portion of any of the Corporation's field offices or staff working on National and Community Service or National Civilian Community Corps programs.*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$1,000,000] *$2,000,000.*

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251-7292,

[$9,289,000] *$9,429,000*, to be available without regard to section 509 of this Act, of which not to exceed [$650,000] *$790,000*, to remain available until September 30, 1996, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this head in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $12,017,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

[RESEARCH, PREVENTION AND PROGRAM ACTIVITIES

[For research and development, prevention, abatement, compliance and enforcement activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $9,000 for official reception and representation expenses; $1,600,300,000, to remain available until September 30, 1996: *Provided*, That not more than $250,000,000 of these funds shall be available for operating expenses, including not more than $55,000,000 for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development: *Provided further*, That none of the funds appropriated under this heading shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs.]

RESEARCH AND DEVELOPMENT

For research and development activities, including procurement of laboratory equipment and supplies; other operating expenses in support of research and development; and construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project; $350,000,000, to remain available until September 30, 1996: Provided, That not more than $50,567,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,427,000,000, to remain available until September 30, 1996: Provided, That not more than $296,772,500 of these funds shall be available for operating expenses: Provided further, That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: Provided further, That none of these funds may be expended for purposes of resource conservation and recovery panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949): Provided further, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs.

PROGRAM AND RESEARCH OPERATIONS

For necessary expenses, not otherwise provided for, for personnel and related costs and for travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; and for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; [$935,000,000] *$922,000,000*.

OFFICE OF INSPECTOR GENERAL

[(INCLUDING TRANSFERS OF FUNDS)]

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, [$44,595,000, of which $15,384,000 shall be derived from the Hazardous Substance Superfund trust fund and $669,000 shall be derived from the Leaking Underground Storage Tank trust fund: *Provided*, That not more than $41,150,000 of these funds shall be available for administrative expenses] *$28,542,000*.

[FACILITIES AND NATIONWIDE SUPPORT

[For construction, repair, improvement, extension, alteration and purchase of fixed equipment or facilities of or for use by the Environmental Protection Agency, and for nationwide support of facilities-related activities, $174,700,000, to remain available until expended.]

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $43,870,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; [$1,435,000,000] *$1,200,000,000* to remain available until expended, consisting of [$1,185,000,000] *$950,000,000* as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $229,391,000 during fiscal year 1995: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further, That $15,384,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1995: Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $69,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1995: *Provided further*, That no more than $308,000,000 of these funds shall be available for administrative expenses of the Environmental Protection Agency: *Provided further*, That none of the funds appropriated in this Act may be made available for program management of Alternative Remedial Contracting Strategy (ARCS) contracts exceeding 11 percent of the total cost of such contract.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $70,000,000, to remain available until expended: *Provided*, That no more than $8,150,000 shall be available for administrative expenses: *Provided further, That $669,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1995.*

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $20,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: *Provided*, That not more than $8,420,000 of these funds shall be available for administrative expenses.

[WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

[For necessary expenses for capitalization grants for State revolving funds to support water infrastructure financing, and to carry out the purposes of the Federal Water Pollution Control Act, as amended, the Water Quality Act of 1987, and the Public Health Service Act, $2,732,000,000, to remain available until expended, of which $1,787,000,000 shall not become available until authorized by law: *Provided*, That of the amount which becomes available on October 1, 1994, $22,500,000 shall be for making grants under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $100,000,000 shall be for making grants under section 319 of the Federal Water Pollution Control Act, as amended, and shall not become available until authorized by law; $52,500,000 shall be for section 510 of the Water Quality Act of 1987; and $70,000,000 shall be for making grants under section 1443(a) of the Public Health Service Act: *Provided further*, That

the grant awarded from funds appropriated under the paragraph with the heading "Construction grants" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (103 Stat. 858) for construction of a connector sewer line, consisting of a main trunk line and 4 pump stations for the town of Honea Path, South Carolina, to the wastewater treatment facility in the town of Ware Shoals, South Carolina, shall include demolition of Chiquola Mill Lagoon, Clatworthy Lagoon, Corner Creek Lagoon, and Still Branch Lagoon.]

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

For necessary expenses for capitalization grants for State revolving funds to support water infrastructure financing, and to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $3,400,000,000, to remain available until expended, of which $22,500,000 shall be for making grants under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $100,000,000 shall be for making grants under section 319 of the Federal Water Pollution Control Act, as amended; $52,500,000 shall be for section 510 of the Water Quality Act of 1987; $47,500,000 shall be made available in consultation with the appropriate border commission for architectural, engineering, and design, and related activities in connection with wastewater facilities in the vicinity of Nogales, Arizona, and Mexicali, Mexico, and planning and design of other high priority wastewater facilities in the area of the Mexican border, the purpose of which facilities is to control municipal wastewater from Mexico; $50,000,000 shall be for grants to the State of Texas, which shall be matched by an equal amount of State funds from State sources, for the purpose of improving wastewater treatment in colonias in that State; $10,000,000 shall be for a grant to the State of New Mexico, which is to be matched by an equal amount of State funds from State sources, for the purpose of improving wastewater treatment in colonias in that State; $70,000,000 shall be for making grants under section 1443(a) of the Public Health Service Act; and, notwithstanding any other provision of law, $369,700,000 shall be for making grants with a 55 percent Federal share for the construction of wastewater treatment facilities in accordance with the terms and conditions specified for such grants in Senate Report 103-311: Provided, That notwithstanding any other provision of law, $500,000,000 made available under this heading in Public Law 103-124, and earmarked to not become available until May 31, 1994, which date was extended to September 30, 1994, in Public Law 103-211, shall be available immediately and without further authorization for making grants with a 55 percent Federal share for the construction of wastewater treatment facilities in accordance with the terms and conditions specified for such grants in Senate Report 103-311: Provided further, That the grant awarded from funds appropriated under the paragraph with the heading "Construction grants" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (103 Stat. 858) for construction of a connector sewer line, consisting of a main trunk line and 4 pump stations for the town of Honea Path, South Carolina, to the wastewater treatment facility in the town of Ware Shoals, South Carolina, shall include demolition of Chiquola Mill Lagoon, Clatworthy Lagoon, Corner Creek Lagoon, and Still Branch Lagoon: Provided further, That none of the funds provided under this heading for State revolving funds shall be allocated based on the 1992 Needs Survey Report to Congress.

[ADMINISTRATIVE PROVISION]

ADMINISTRATIVE PROVISIONS

Of the budgetary resources available to the Environmental Protection Agency during fiscal year 1995, $7,525,000 are permanently canceled. The Administrator of the Environmental Protection Agency shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

None of the funds provided in this Act may be used within the Environmental Protection Agency for any final action by the Administrator or her delegate for signing and publishing for promulgation a rule concerning any new standard for radon in drinking water.

None of the funds provided in this Act may be used during fiscal year 1995 to sign, promulgate, implement or enforce the requirement proposed as "Regulation of Fuels and Fuel Additives: Individual Foreign Refinery Baseline Requirements for Reformulated Gasoline" at volume 59 of the Federal Register at pages 22800 through 22814.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,981,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $997,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[DISASTER RELIEF

[For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $320,000,000, to remain available until expended.]

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $2,418,000, as authorized by section 319[, and $1,980,000, as authorized by section 417] of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $175,000,000 under section 319 [and not to exceed $3,000,000 under section 417] of the Stafford Act: *Provided further*, That any unused portion of the direct loan limitation and subsidy shall be available until expended.

In addition, for administrative expenses to carry out the direct loan program, [$145,000] *$95,000*.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; [$165,000,000] *$162,000,000*.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,400,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404-405), and Reorganization Plan No. 3 of 1978, [$220,345,000] *$212,960,000*.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $130,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $14,913,000 shall be transferred as needed to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $49,229,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1996. In fiscal year 1995, no funds in excess of (1) $32,000,000 for operating expenses, (2) $253,641,000 for agents' commissions and

taxes, and (3) $12,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

ADMINISTRATIVE PROVISIONS

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected in fiscal year 1995 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1995 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1995.

Of the budgetary resources available to the Federal Emergency Management Agency during fiscal year 1995, $1,441,000 are permanently canceled. The Director of the Federal Emergency Management Agency shall allocate the amount of budgetary resources canceled among the Agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,008,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1995 shall not exceed $2,454,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1995 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $2,166,000: *Provided*, That notwithstanding any other provision of law, that Office may solicit, accept and deposit to this account, during fiscal year 1995, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials; may expend up to $1,100,000 of those gifts for those purposes, in addition to amounts otherwise appropriated; and the balance shall remain available for expenditure for such purposes to the extent authorized in subsequent appropriations Acts: *Provided further*, That none of the funds provided under this heading may be made available for any other activities within the Department of Health and Human Services.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; [$5,592,900,000] *$5,573,900,000*, to remain available until September 30, 1996.

SCIENCE, AERONAUTICS AND TECHNOLOGY

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses, not otherwise provided for, for the conduct and support of science, aeronautics, and technology research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,901,200,000, to remain available until September 30, 1996.

Of the amounts provided under the heading, "CONSTRUCTION OF FACILITIES", for the Consortium for International Earth Science Information Network in Public Law 102–389, $10,000,000 are rescinded.

NATIONAL AERONAUTICAL FACILITIES

For construction of new national wind tunnel facilities, including final design, modification of existing facilities, necessary equipment, and for acquisition or condemnation of real property as authorized by law, for the National Aeronautics and Space Administration, $400,000,000, to remain available until March 31, 1997.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; [$2,549,587,000] *$2,559,587,000*.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$16,000,000] *$16,800,000*.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

[Of the budgetary resources available to the National Aeronautics and Space Administration during fiscal year 1995, $59,003,000 are permanently canceled. The Administrator of the National Aeronautics and Space Administration shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).]

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, the amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 1997.

No amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act. The Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

The unexpired balances of prior appropriations to NASA for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides funds for such activity under this Act. Balances so transferred may be merged with funds in the

newly established account and thereafter may be accounted for as one fund to be available for the same purposes and under the same terms and conditions.

The fourth proviso in the paragraph under the heading "Science, space, and technology education trust fund" in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 101–404, 102 Stat. 1014, 1028) is amended by striking out "for a ten-year period" and inserting in lieu thereof "hereafter".

Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration shall convey, without reimbursement, to the City of Slidell, Louisiana, all rights, title, and interest of the United States in the property, including all improvements thereon, known as the Slidell Computer Complex, and consisting of approximately 14 acres in the City of Slidell, St. Tammany Parish, Louisiana: Provided, That appropriated funds may be used to effect this conveyance: Provided further, in consideration of this conveyance, the National Aeronautics and Space Administration may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States.

Of amounts made available within this Act to the National Aeronautics and Space Administration, not more than $108,900,000 shall be obligated to satisfy the requirements set forth in section 9(e)–(r) of the Small Business Act, as amended (15 U.S.C. 638(e)–(r)), and any related requirements, including such requirements enacted in Public Law 102–564.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1995, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1995 shall not exceed $901,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; [$2,216,923,000] *$2,300,000,000*, of which not to exceed $225,430,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1996: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That amounts appropriated in prior fiscal years for the United States Polar Research Programs, the United States Antarctic Logistical Support Activities, and the Critical Technologies Institute shall be transferred to and merged with this appropriation and remain available until expended.

Of the amounts made available under this heading in Public Law 103–124, $35,000,000 are rescinded.

MAJOR RESEARCH EQUIPMENT

For necessary expenses in carrying out major construction and procurement projects pursuant to the purposes of the National Science Foundation Act of 1950, as amended, [$105,000,000] *$150,000,000*, to remain available until expended.

ACADEMIC RESEARCH INFRASTRUCTURE

For necessary expenses in carrying out an academic research infrastructure program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, [$100,000,000] *$300,000,000*, to remain available until September 30, 1996: [*Provided*, That these funds shall not become available for obligation until March 31, 1995] *Provided, That $190,000,000 of the funds under this heading are available for obligation for the period September 1, 1995 through August 31, 1996.*

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, [$585,974,000] *$605,974,000*, to remain available until September 30, 1996: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $123,966,000: *Provided*, That contracts may be entered into under salaries and expenses in fiscal year 1995 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$4,000,000] *$4,380,000*.

NATIONAL SCIENCE FOUNDATION HEADQUARTERS RELOCATION

For necessary support of the relocation of the National Science Foundation, $5,200,000: *Provided*, That these funds shall be used to reimburse the General Services Administration for services and related acquisitions in support of relocating the National Science Foundation.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $38,667,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $22,930,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1995 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101–73 are insufficient, $827,000,000, to remain available until expended.

[FDIC AFFORDABLE HOUSING PROGRAM

[For the affordable housing program of the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q), $15,000,000 to pay for any losses resulting from the sale of properties under the program, and for all administrative and holding costs associated with operating the program.

[Notwithstanding any provisions of section 40 of the Federal Deposit Insurance Act or any other provision of law, the Federal Deposit Insurance Corporation shall be deemed in compliance with such section if, in its sole discretion, the Corporation at any time modifies, amends or waives any provisions of such section in order to maximize the efficient use of the available appropriated funds.

The Corporation shall not be subject to suit for its failure to comply with the requirements of this provision or section 40 of the Federal Deposit Insurance Act.]

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $32,000,000.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for Level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 515. Such sums as may be necessary for fiscal year 1995 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 516. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

[SEC. 517. (a) The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized.

[(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

[(1) the Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

[(2)(A) at the time of certification, in the opinion of the Corporation and based upon the information available to it, there is insufficient evidence or other indication of fraud, mis-representation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

[(B) at the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government of restructure, modify or renegotiate the assistance agreement; and

[(3) the Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement

where savings would be realized by such action.

[SEC. 518. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

[(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.]

SEC. 517. None of the funds in this Act may be used to reimburse grantees for indirect costs at an amount that differs from procedures in use by Federal agencies on June 1, 1994 or from OMB Circular A-21, as published in the Federal Register on July 26, 1993 on pages 39996 through 39999.

This Act may be cited as the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

PRIVILEGE OF THE FLOOR

Ms. MIKULSKI. Madam President, I ask unanimous consent that two individuals on detail to the VA-HUD subcommittee, Dr. Chris Gabriel, and Ms. Ann Watt, be given unlimited floor privileges during the consideration of H.R. 4624.

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

Ms. MIKULSKI. Madam President, you saw me leap to my feet and overlook the reading of the bill because I am quite anxious to bring to the U.S. Senate the VA-HUD and independent agencies appropriations bill for 1995.

This has been a strong bipartisan effort trying to achieve investments in America's future, promises made, promises kept to our veterans, and at the same time fiscal affordability.

Ordinarily, I would be joined by my ranking minority member, Senator PHIL GRAMM of Texas. He is now involved in the Whitewater hearings and will not be on the floor during this debate. He will submit his statement as appropriate and will speak to the Senate tomorrow morning. So, we understand why he cannot be here.

In the bill before us today, the Committee on Appropriations is recommending just over $70.4 billion in new discretionary budget authority for the programs within the jurisdiction of the VA, HUD, and independent agencies subcommittee.

That means VA, HUD, FEMA, space, the National Science Foundation, and several other independent agencies.

FUNDING SHORTFALL

As my colleagues know, this year we have faced a daunting, if not nearly impossible, task. The Senate VA, HUD, and Independent Agencies Subcommittee has a 602(b) allocation that is $729 million in outlays below the President's budget request.

In addition, the chairman of the House VA-HUD subcommittee and I have jointly identified four areas of need where the President's budget request is inadequate: VA medical care, VA medical research, VA pension claim processing, and public housing operating subsidies. To fix these four areas costs an additional $354 million in outlays.

Combining this shortfall of $729 million and these liens of $354 million, we faced an outlay gap of almost $1.1 billion.

We also received nearly 1,100 requests from Members for individual projects, all with merit, with a dollar total requested of more than $96 billion, about $26 billion more than the subcommittee's 602(b) allocation.

As a result of these demands, the committee has derived savings in this bill, as did our counterparts in the House, by including certain legislative provisions, largely in the housing area, which will generate significant outlay savings.

That means where the money came from. It meant that, with the concurrence of the authorizing, certain legislative provisions in housing will give us these outlays that we need.

However, because the Senate VA-HUD subcommittee had a 602(b) allocation which was $316 million less in outlays than the House, we have been forced to include certain additional housing provisions to make up, in part, for a smaller outlay allocation.

With the use of these provisions, the bill before the Senate represents a balanced package that accomplishes the tasks we set out to do at the beginning of this year: Meet our commitments to veterans; fund a balanced U.S. space program; address the highest priority housing areas; continue our investments in science and technology; preserve the environment; and keep our commitment to national service.

I would like to highlight our efforts in some key areas:

Veterans: We are recommending a total VA appropriation of more than $37.4 billion, $136 million higher than the House and $314 million above the President's budget.

Medical care: We are adding $111 million to the budget request for veterans medical care, for a total medical care budget of more than $16.2 billion—an increase of more than $610 million above the 1994 level.

Prosthetic research: We have added $41 million to the budget for veterans medical and prosthetic research, providing a total of $252 million.

Pension claim processing: Because we were deeply concerned about the backlog for veterans pensions and insurance claims processing, we have added $50 million to the budget request. This will mean a total general operating expenses budget of $893 million, almost $67 million above the 1994 appropriations.

State nursing homes: For State veterans nursing homes we have added $10 million to the budget request, a total of $47.4 million.

In the area of housing, for HUD, we are recommending $25.6 billion in new budget authority. However, using unused and unneeded funds from prior years, we will be able to provide a program level for housing of close to $26 billion.

CDBG: For CDBG, we are retaining the House increase of $200 million above the budget, for a total CDBG program of $4.6 billion.

Elderly housing: We have provided a total of $1.3 billion for elderly housing, restoring the proposed budget cut, and adding about $150 million above the House.

Public housing: We have also restored proposed cuts in public housing, provided $500 million for Hope VI, and retained the House level for operating subsidies.

Home: We have added $225 million for the home program, for a total of $1.5 billion.

Homeless: For the homeless, we have provided the full budget request of $1.25 billion, but agreed to leave FEMA's food and shelter program in FEMA.

Space: For NASA, the bill proposes more than $14.4 billion, more than $200 million above the budget request and $440 million above the House.

Space station: Included in this recommendation is $2.1 billion for the space station, maintaining its core science capability and our partnership with Russia, the European Community, Canada, and Japan.

Space science: The bill recommends full funding for all major NASA space science initiatives, including the Cassini planetary mission to Saturn, the advanced x ray astrophysics facility, and the Mars global surveyor mission.

Mission to Planet Earth: For the Earth observing system, we have added an additional $50 million in order to get spacecraft after the first EOS satellite back to their original schedule.

We are also making a major investment to make our aeronautics industry remain competitive. It has been deeply disturbing to this Senator, and I know to the Presiding Officer, and to other Senators on the floor. It has been our aeronautics industry that has always led the way, both in this Nation and around the world. It was our aeronautics superiority that enabled us to win World War II and continue to be a superpower.

But, at the same time those extraordinary objectives that we achieved—often because of the military objective, because of the kind of Nation we are—we moved into the civilian economy. Now we face new challenges.

Our American aeronautics industry is competing not only with other companies, but with other countries.

Therefore, we wanted to make sure they have the research capability in a public-private partnership to work with them.

Wind tunnels: In addition to NASA's core program, we have added $400 million for a new wind tunnel initiative in aeronautics. This will help our aeronautics industry to be competitive and have the technology-tools to be able to jump-start the agency's work. And working in this public-private partnership, that will keep us not only a military superpower but an economic superpower with aeronautics leading the way.

Water infrastructure: For water infrastructure activities, we are providing nearly $3.4 billion. This includes $700 million for drinking water grants, $100 million for non-point source pollution, $2 billion for wastewater State revolving funds, and just over $500 million for needy city wastewater grants.

Environment: For EPA, we are providing a substantial increase. The committee recommended an appropriation of nearly $7.5 billion, more than $800 million over last year, $300 million above the budget request, and $466 million higher than the House.

Operating Programs: EPA's operating programs would grow by more than 7 percent over 1994, one of the largest increases in the bill. By providing this amount, I think we have answered critics who suggest that full funding of the space station would gobble up funds otherwise going to the environment.

Science: For NSF, we are recommending more than $3.4 billion. This is $436 million above last year, $256 million above the budget request, and $349 million above the House.

Over the past year, the National Science Foundation has willingly accepted the challenges in strategic research which the committee set out for it last year. We believe that Dr. Neal Lane's efforts, and those of his associate directors, should therefore be rewarded.

Research: We are recommending $2.3 billion for basic research, about $83 million more than the House.

Education: We propose $606 million for science education, $20 million above the House.

Facilities modernization: To improve facility modernization at our campuses so they can make sure that our young people are as fit for duty as we can, we are recommending a total of $300 million, including $190 million for a new merit-based inter-agency facilities program run by NSF.

National Service: Finally, for national service, we are providing $610 million, almost the entire budget request.

This is among the President's highest priorities in this legislation and I am happy we could accommodate this priority of his.

Along with this increase, we've added funds for the national service inspector general. We want to make sure that as funding for national service programs increase, our stewardship over these expenditures increases as well.

In summary this has been a tough bill to assemble. I am deeply appreciative of the cooperation I have received from our full committee chairman, Senator BYRD, and his staff.

I also want to thank Senator PHIL GRAMM, my ranking member, all the members of our subcommittee, and the members of the Banking Committee, for their cooperation in putting this bill together.

We have not provided for all the needs for which requests where made. And many will be unhappy that our wallet was not as large as the wish lists of those who sought funds from the subcommittee.

On balance, however, I believe it addresses the highest priority matters of the United States of America in a way that is fair and balanced, and I urge my colleagues to support its passage.

Madam President, I note that Senator KAY BAILEY HUTCHISON, a strong supporter of this bill, would like to make an opening statement. After her statement, we will move to the space station amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Madam President.

First, I want to thank the Senator from Maryland for her leadership in this effort. She has been a proponent of NASA and space because she went to NASA and she saw all the things that were done there that affect the everyday lives of Americans. She could see immediately that we had to be leaders and we had to look to the long term. Madam President, that is what we are talking about today.

Two weeks ago marked the 25th anniversary of the *Apollo 11* Moon landing, the culmination of one of the most significant undertakings this Nation has ever known. On the eve of this historic anniversary, the House voted overwhelmingly, 278-to-155, to support the space station. Yet, the Senate is here today, debating this bill once again. And we will have an amendment to once again eliminate the space station.

President Kennedy started it with his vision that we would be able to do things beyond our dreams when we went into space research. The years proved President Kennedy was right. We have been able to do things that we hardly could dream about when he started this project.

The race to the Moon required great advances in engineering and technology that still fuel our economy today. Some 30,000 spinoff technologies are employed regularly in computers and communications, health and medicine, the environment, home and recreation, and public safety. Less obtrusive hearing aids and better pacemakers. CAT scans and surgical lasers. Velcro closing devices.

The space station will be a test bed for the technologies of the future, and a laboratory for research. For example:

A better understanding of the combustion process in space can lead to energy conservation on Earth. A 2-percent increase in burner efficiency for heaters would save the United States $8 billion per year;

Research on large space vehicles will lead to improved computer software for developing new, lightweight structures such as antennas and solar collectors with precision pointing accuracy. Such developments will greatly benefit the communications, utility, and transportation industries; and

Research already scheduled for the space station will address several perplexing women's diseases, from osteoporosis to ovarian and breast cancer to immune system disorders.

And, like the Apollo program before it, the space station will enable us to develop new and more advanced spinoffs that will help to make life here on Earth better and safer.

Critics in this body have used the budget as an excuse to scuttle the space station. But the reality is that if the space station were terminated, these dollars would be spent on environmental and social programs that have either failed or that we know will never provide a return on our investment.

When we prioritize spending, we have a choice: Do we want the kind of spending that is one time only, that will provide jobs for 10 months or 18 months, or should we spend money where it is going to reap benefits twentyfold, or more, as space research has already shown it will do?

There are people today who are healthy because of space research and because our forefathers and mothers had the ingenuity and foresight to make those investments.

We get a thrill from the new horizons opened with space ventures—we can see the gains because we can see the liftoff and hear the astronauts as they orbit the Earth.

But, big science and research are more than a cheap thrill.

Big research projects give us new technologies, new products. Making these new products requires engineers and factory assemblers.

These new jobs keep our economy vibrant and growing—to absorb our new entrants into the job market.

The parents of every child want more than anything for their child to have a future. Space research will provide that future.

Terminating the space station is the equivalent of eating our seed corn. We must inspire our children to become engineers and scientists. We must then give those engineers and scientists the opportunity to develop new products

and processes that will make us more competitive in the world marketplace.

We have already sent the wrong message once. A year ago, the Congress voted to kill the super collider. That was a mistake. I think many people who voted to kill it a year ago realize that it was a mistake.

It was a mistake because in effect we took a back-seat in high energy physics to our technological competitors. We chose to follow when it was in our grasp to lead. We sent the wrong signal to our scientific community and to our students who we so desperately need to master the basic sciences.

Now the bright minds of today and tomorrow are turning to Europe and to projects like CERN. Their research and their discoveries will lead to new products and new industries and new jobs for our international competitors.

We cannot afford to make the same mistake with the space station.

There is another issue here as well. We cannot afford to walk out on our international partners. These partners—which include Japan, Russia, Britain, France, Germany, Italy, Spain, and eight other European countries—have acted in good faith and have invested millions of dollars. It is unthinkable that America would not be a good partner and would not live up to its commitment.

Those who seek to kill space station funding are looking to yesterday. Leaders must look to tomorrow.

We will hear once again that the hardships are too great, the costs are too high.

But, I would remind my colleagues to put the matter into perspective.

NASA's annual budget accounts for less than 1 percent of total Federal spending.

The space station accounts for one seven-hundredths of the entire Federal budget which breaks down to about $8 per person. So, for the cost of a hamburger, french fries and a Dr Pepper each American can keep the space station program on track.

In return for the investment, America receives 370,000 direct and indirect jobs which are dependent on the space station, and a return of $20 to the U.S. economy for every $1 spent on the space program.

While there will remain some who claim "We cannot afford the space station"—the truth is—we cannot afford not to keep our commitment to big science and the future of this country.

Madam President, I thank the Senator from Maryland and I look forward to debating those who would look back to yesterday rather than look to tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, first of all, I thank my colleague from Arkansas for allowing me to proceed at this time. I think he was prepared to offer his amendment early this evening so we might start consuming the time allotted for his amendment.

I assume he will discuss, at some length, the many reasons for terminating the space station immediately. I would like to take this opportunity to focus on the fact that the administration's promise that bringing Russia into the program will reduce its costs is, in fact, false, as demonstrated by a recent GAO report that I requested.

A year ago, the space station was on the verge of being terminated, but in a desperate effort to save it, the administration brought Russia into the program, asserting that this would reduce the cost to build the space station by $2 billion, from $19.4 billion down to $17.4 billion. This promise of $2 billion in savings was critical to gaining congressional support to save the station last year.

The GAO, however, has recently found this claimed $2 billion is about as empty as the space through which the station would fly. According to GAO, far from saving $2 billion, bringing the Russians into the program will increase the costs by nearly $2 billion. Russian participation does yield about $500 million worth of savings for certain items. But it also requires additional spending for the space station program of about $900 million for such things as a fourth solar array and the cost of integrating the Russian equipment. So within what NASA defines as the space station budget, Russian participation adds a net cost of $400 million.

But, in addition to this, there is another $1.4 billion in added spending that will be required by the Russian participation, but which NASA conveniently failed to include in its estimates of the station's costs.

NASA's failure to include this extra $1.4 billion required by Russian participation reminds me of Steve Martin's routine about how to be a millionaire and pay no taxes.

First, he said, get $1 million. Then, do not pay any taxes. And then when the tax man comes around to find out why, simply slap yourself on the forehead and declare, "I forgot."

Including the Russians in the space station will require two more shuttle flights to build the station. This will cost $746 million. Why did NASA not include this in the costs? NASA forgot.

Including the Russians in the space station program would require the space shuttle fleet to be enhanced so the station could be built in the Russian's higher inclination orbit. This will cost $185 million. Why did NASA not include this in the costs? NASA forgot.

Including the Russians in the space station will require a second space shuttle orbiter to be modified so it can dock with the Russian Mir. This will cost an additional $44 million. Why did NASA not include this in the costs? NASA forgot.

Including the Russians in the space station reduces NASA's launch window to only 5 minutes, and overcoming this limitation will require up to $20 million. Why did NASA not include this in the cost? NASA forgot.

Including the Russians in the space station led to a $400 million contract between NASA and the Russian space agency for the first two phases of this three-phased program, including the development of space station hardware. Why did NASA not include this cost? NASA simply forgot.

Madam President, NASA's creative accounting appears to be a deliberate effort to mislead Congress and the American people. We have had this on many other types of programs. I could go back and cite the B–1B program, whose original cost projections excluded billions associated with the program and which ultimately cost the American taxpayer much more beyond that or, indeed, the B–2 bomber, among others. But rather than joining NASA in forgetting the facts and in forgetting whose money it is we are talking about, I suggest we ought to forget about the space station program.

If these findings were not enough to persuade Senators, GAO also identified problems that could delay the station's schedule and increase the cost even more.

NASA, for example, is developing a new super lightweight fuel tank to help the shuttle reach the Russian orbit. GAO found that "in developing the super lightweight tank, NASA is experiencing significant development problems."

NASA claims that this will not delay the schedule at all, but GAO warned that the fixes that are needed to develop these programs and to correct these problems could "increase tank development costs, reduce the amount of lift gain provided by the new tank, or both." And reducing the shuttle's lift could necessitate more shuttle flights to assemble the station, resulting in schedule delays and large additional costs.

As it is, NASA says the new Russian *Alpha* station will cost about $71 billion to build and to operate. But I would submit that given that the average cost overrun of NASA programs is 77 percent, no one should be surprised when future cost estimates of the station rise above $100 billion. We will not be able to come back and say, "We forgot."

Even at $71 billion, we cannot afford the Russian *Alpha* station any more than we could afford the $120 billion space station *Freedom*, which the administration terminated last year, and neither can our children, from whom we, once again, will be borrowing the money.

NASA cannot afford it. As the GAO and CBO have warned in several dire reports, NASA's budget over the next 5 years falls at least $10 billion, and conceivably $20 billion, short of what it needs to pay for various programs that it plans to conduct.

So a failure to terminate this program will result in NASA stretching out the other programs to live within its budget, wasting billions in taxpayers' dollars, and causing the outright cancellation of other NASA programs that do support real science.

It also means that every year for the next decade there is going to be terrible pressure on all programs funded through the VA-HUD appropriations bill, which includes health care for veterans, programs for the homeless, environmental protection, and real science programs funded by the National Science Foundation.

Terminating the space station now would save $10 billion over the next 5 years, relieving the pressure on these other important programs and allow NASA to carry out some worthwhile research projects.

In this regard, it cannot be repeated too often that the efforts to justify the station on scientific grounds have been refuted by the most credible source possible: The very scientists who purportedly are going to benefit from the station.

Proponents argue that the space station is needed to advance research against cancer. Why, then, does the American Association for Cancer Research oppose the space station as being of "little scientific or technical merit?"

Proponents argue that the space station is needed for ground-breaking research on crystals. Why, then, is the station opposed by the association of American scientists who study crystals, the American Crystallographic Association?

It has been argued that the space station is needed for research on semiconductors. Why, then, is the space station opposed by the principal professional organization of semiconductor researchers, the Institute for Electrical and Electronics Engineers?

Proponents claim the space station is critical to the future of scientific research in this country in general. If that is so, why has Science magazine, the premier scientific journal of the American Association for the Advancement of Science, called it "90 percent public works, 9 percent public relations, and 1 percent science?"

Why have the leading professional associations of American physicists, chemists and biologists call it a "multibillion dollar project of little scientific or technical merit that threatens valuable space-related projects and drains the scientific validity of participating nations?"

The answer is that the scientific justification is the station is simply not there. Even station advocates have acknowledged as much in unguarded moments: 2 years ago, the White House science adviser was asked, "Is there any scientific value to the space station?" And his candid response was, "No. None whatsoever."

What the space station really is, Madam President, is a jobs program, and while we are all for jobs, Senators ought to be aware that this program is really directed to a few selected States. Nearly four-fifths of the money spent and the jobs paid for by the space station will be directed to only three States: California, Texas, and Alabama.

I understand the concerns of those 10,000 employees who are working in these States on the space station. But my concern is with the tens of millions of taxpayers who see half their Federal income taxes go for interest on the debt and too much of the rest squandered on unjustified programs.

My concern is for America's children, who may see two-thirds of their Federal income tax going for interest on the debt because we continue to pile up these astronomical deficits year after year.

My concern is for all those who benefit from and the scientists who do the research on cancer, crystals, semiconductors, chemistry and physics—scientists who almost uniformly say that proceeding with the space station will waste money that can be better spent on real research to fight cancer, advance science and improve our economy.

On behalf of our children and those who would conduct and benefit from such research, I urge my colleagues to vote for the Bumpers amendment when it is offered to terminate the space station now before we waste billions more that we simply cannot afford.

I yield the floor.

Mr. BUMPERS addressed the Chair.

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

AMENDMENT NO. 2444

(Purpose: To reduce the appropriation for the implementation of the space station program for the purpose of terminating the program)

Mr. BUMPERS. Mr. President, I ask unanimous consent that the pending committee amendment be temporarily laid aside.

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

Mr. BUMPERS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. WARNER, Mr. COHEN, Mr. BAUCUS, Mr. KERRY, Mr. SIMON, Mr. BRYAN, Mr. FEINGOLD, Mr. KOHL, Mr. LAUTENBERG, Mr. DECONCINI, Mr. CHAFEE, and Mr. WOFFORD, proposes an amendment numbered 2444.

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

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

The amendment is as follows:

Strike the figure on line 6 on page 70 and insert in lieu thereof the following: "$3,634,200,000, to remain available until September 30, 1996. Provided, that of the funds provided under this heading, no funds shall be expended on the space station program, except for termination costs."

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, this is, I guess, the fifth year in a row in which I have come to the floor on the space station and tried to separate the doers from the talkers on fiscal responsibility.

Let me just start by reviewing the bidding on how we got to this point.

To begin, let me refresh the memory of my colleagues. On the evening of January 25, 1984, at the State of the Union Address by Ronald Reagan, which I attended, President Reagan said as follows:

Tonight I am directing NASA to develop a permanently manned space station and to do it within a decade.

The cost was to be $8 billion. I asked myself then and I have been asking myself for the past 11 years now: Why a space station?

After we went to the Moon ahead of the Soviet Union, there was no point in them going to the Moon, so they decided to build a space station, and they did.

And since 1974, the Soviets and now the Russians have continued to keep a space station in orbit. I think the one up there now is the seventh space station that the Russians have built and launched.

Now, Mr. President, I will come back in a moment to just what benefits the Russians have received from their seven space stations. But I can tell you after I review what the Russians have received out of their seven space stations over the last 20 years, I would again pose the question: Why on Earth do we want to emulate them?

I feel comfortably certain that President Reagan's initial reason for building a space station was because the Soviets had one in orbit. That is a very poor reason. But I remember in the beginning when we started talking about space station *Freedom* what all we were going to do. We were going to put this space station up and we were going to use it for a staging base in case we wanted to go to Mars or the Moon. We were going to use it for a manufacturing facility, to manufacture all kinds of things in space. We were going to make it a space-based observatory, a transportation node, which is a fancy word for high-priced garage and filling

station. It was going to be a servicing facility, an assembly facility, a storage facility, and a research laboratory.

Those were the eight things for which we were designing the space station *Freedom*.

Now, Mr. President, here is another chart that shows you what has happened to those eight reasons for building space station *Freedom*. Staging base, deleted; manufacturing facility, gone; space-based observatory, gone; transportation node, gone; service facility, gone; assembly facility, gone; storage facility, gone. Only a research laboratory remains. The only remaining rationale of the original eight reasons for building the space station is a research laboratory. And we are going to squander and have already squandered over $13 billion and given up on seven of the eight original purposes.

We are in the 11th year, and we did not spend $8 billion as President Reagan said we would spend to build and deploy the space station. We are in the 11th year, and as of this moment, Mr. President, all we have is a design of a space station—nothing up there yet. After 11 years, we have a design called space station *Alpha*.

You are going to hear people pop up on this floor tonight and in the morning saying so far as this research laboratory is concerned, we are going to grow crystals, crystals for semiconductors. You will hear people talk about a cancer cure. You remember that old expression that the last refuge of a scoundrel is patriotism? Well, the last refuge of those who still favor the space station is that it is going to cure cancer. This is either the fifth or sixth year I have stood at this desk trying to kill the thing, and every year I get the same response: We are going to cure cancer. Is that not curious? Do you know who one of the leading opponents of this thing is? The American Cancer Society.

Now, you would think that if this thing had potential for that kind of medical research, the American Cancer Society would certainly favor it, but they do not.

Mr. President, this design called space station *Alpha* is going to be built by the United States, by Russia, by European nations, by Canada, and by Japan. If you look at the plan that NASA put out, it shows you what part of this station is going to be built by each of them. They always say an elephant is a donkey composed by a committee, and that is what we are going to build. The Senator from Maine just talked about the GAO report that came out yesterday that said Russia's participation, for which we were to pay $400 million, is going to actually cost the United States $1.8 billion.

NASA loves to throw around figures like, well, it is only $2.1 billion. That is right, for this year, 1994. And another $2.1 billion next year, 1995. They love to tell you that the $2.1 billion in 1995 translates into 2.2 cents per day for every man, woman, and child in America.

Who can squawk about 2.2 cents a day? Just peanuts. Count me in. I am willing to pay two cents a day except for one thing. It is not 2.2 cents a day. That is only for 1995. That does not count what we have already spent and what we are going to spend, which totes up to $70.8 billion.

If you count the $2.1 billion we are spending this year and what they are going to spend over the next 15 to 20 years—15 years, roughly—that is $70.8 billion.

And the $70.8 billion does not include $1.5 billion for civil service costs which NASA says they inadvertently forgot. Now, if they forget to count $1.5 billion for civil service costs, I do not want to ride on the space station. I do not want to ride on the shuttle to get there, and I do not want to be housed in the space station if they forgot and inadvertently left out $1.5 billion in civil service cost.

But when you add that $1.5 billion that they inadvertently left out, then the cost goes to $72.3 billion; but that is not all of it either. Here is the firecracker. It is not $72.3 billion. Over the next 35 years, if you compound the interest at 7 percent—because every dime we spend is going to be borrowed, and going right smack onto the deficit—Mr. President, that comes out to a tidy sum of $156 billion.

Two point two cents a day. The unmitigated gall of somebody to put out such a figure as that—$156 billion over a 35-year period counting the interest, and that is the real cost. And that is $2,500 for every family of four in America. I invite every Senator who intends to vote against my amendment to go home and tell all the people in his or her State, "I just voted to tax you $2,500 for a space station that will have a life expectancy of 10 years."

While you are at it, tell them that once we get it up there, which we will, it is just a mechanical problem, an engineering problem, to throw it in space. God knows, if the Russians can do it, we ought to be able to do it. There is no trick to that. But once you get it deployed, you have to operate it, which costs $21 million a day. All you big deficit hawks, all you big balanced budget constitutional amendment hawks, go home and tell them that you just got through voting for $156 billion for a space station. Tell them that comes to $2,500 for their family. Then see how rock solid they are about a space station.

Mr. President, while you are at it, tell them that every pound of water we send to the astronauts—make it water, food, supplies, everything—every pound of payload we send up on the shuttle to supply our astronauts is somewhere between $12,880 and $15,200 per pound. We will be happy to supply the astronauts with that good Arkansas Mountain Valley Water for that.

Mr. President, did you know that the space station is going to cost 14 times its weight in gold? I cannot believe these things myself, yet I am sure Members will march through that door in the morning and say, "I vote against Senator BUMPERS' amendment even though the space station costs 14 times more than its weight in gold."

But back to the Mountain Valley Water, which I certainly hope we get the contract for. It is estimated that each of the six astronauts on board will need 9.2 liters of water every day. As Everett Dirksen used to say, it soon runs into money, does it not? Over $15,000 a pound for water. What does that translate into? That is $319,200 a day just for water for each astronaut. I would choke to death on water that expensive, as should every Member of this body.

Do you know what else that translates into, Mr. President? That translates into $466 million a year for water for the astronauts; $.5 billion a year just for water to keep them alive.

Mr. President, for that $13,000 for every pound of water we send to the astronauts on the space station, you could feed a family of four for 2 or 3 months, and have $12,000 left to send to the National Institutes of Health to do real research right here on Earth—the kind that will cure cancer, not "pie in the sky," but honest-to-goodness research in the great medical schools and universities of America.

There is one other point I want to make before I take this particular chart down. A lot of people who are going to come in here tomorrow to vote against my amendment will do so because the space station will provide a few jobs in their State.

You should know that three States get 78 percent of all of the massive amount of money we are going to spend on this—three States.

Tomorrow, when Senators walk onto the Senate floor, I or somebody else will hand them a chart showing them what their States get back from the space station in jobs, and also what it is going to cost each of their States. I am not sure, but I believe the cost in 1995 for the people in my State will be $19.8 million. That is a lot of money for a relatively poor State like Arkansas. For Georgia, it is going to cost $55 million. If you went down and took a vote in Georgia, and said, "How many of you people want to pay a $55 million tax bill for the space station?" you might get three people to say "aye." As long as it is some kind of nebulous, arcane concept on the floor of the U.S. Senate, the people of Georgia are never going to be presented with that proposition.

Do you remember the Exon-Grassley amendment? Senator EXON from Nebraska and Senator GRASSLEY from

Iowa offered an amendment to cut an additional $26 billion from the deficit over the next 5 years. I voted for it because I felt that we could cut $26 billion more over the next 5 years. When they went to conference with the House, they cut that in half, and now we are only obligated to cut $13 billion over the next 5 years.

Look at this chart: it is the most powerful chart I have seen since I have been in the U.S. Senate. It shows that under Exon-Grassley, we have to cut $13 billion over 5 years. We cut $500 million of that for 1995. But next year, for 1996, when we go through the appropriations process, we have to cut $5.4 billion.

Mr. President, this year, as chairman of the Agriculture Appropriations Subcommittee, I had 1,100 requests from my colleagues to increase spending in that bill. "Dear Senator BUMPERS: Please give me $2 million to start this research project at the University of Such-and-Such."

"Dear Senator BUMPERS: We have this nice little laboratory down here and we want to expand it." There are 1,100 of those requests. Senator BYRD, chairman of the Appropriations Committee on Interior, normally gets between 3,000 and 4,000 requests a year from Members of the Senate. "Please help me expand this park; please help me with this, that, and the other."

This year, Agriculture appropriations had to cut $659 million below a freeze. I could not help some of my colleagues. But this year is a picnic compared to next year when we start looking for $5.4 billion. Here on this chart is the Exon-Grassley amendment—$13 billion we must cut over the next 5 years. And if you vote for the Bumpers amendment, you have found $10.4 billion of it. If you vote for my amendment, that is what you save.

When you tell your constituents that the request they sent to you cannot be honored, go home and tell them you would love to do it, but you could not see fit to vote against the $156 billion in spending for a space station.

Mr. President, I will tell you what the real mission of the space station is. It is because NASA wants to go to Mars. If we had a $4.5 trillion surplus and not a $4.5 trillion debt, I would want to go to Mars, too. Though, for the life of me, I cannot imagine what we are looking for there. When I first came to the Senate, I went on the Space Committee. Believe it or not, we used to have a Space Committee in the Senate. That is how important space was several years ago. But I am telling you, it was a spacey committee. I thought I would make the best out of it, but I resented being put on it. I had been Governor of my State, and all of a sudden I wind up on this lowest of all committees, the Space Committee. So I go down to Houston and I look at all these magnificent pictures of the Moon those very brave astronauts took, and I looked at all of the rock they drilled and brought back. It looked just like Arkansas prairie shale to me, or lava. I was not very impressed with it. I do not guess anybody else was either, because we have not been back to the Moon. Nobody has even suggested going back. We beat the Russians there, and that was the goal.

But if you look beyond the Moon to Mars, which is the real aim of NASA, and then you look at the underlying—what can only be described as—scam that they tell us is the real reason, they tell us they want to grow crystals for semiconductors. They say we are going to get all kinds of spinoffs. I suppose if you spend $70 billion, you are likely to get some spinoffs. It would be hard for something not to happen when you spend $70 billion. I have seen Boeing's advertisement, talking about the wonderful virtues of the space station, and one is to grow crystals.

Mr. President, let me read you, at the expense of possibly boring you, what people are saying about the space station. But I want to read, first of all, what T.J. Rodgers, founder of a semiconductor company said. Here is what he says about industrial crystals:

> I run a semiconductor company, and I am the director of Vitesse, a gallium arsenide semiconductor company, so I know about this stuff. All I can say is this program of growing gallium arsenide wafers in space is a colossal con job, and there is no one I know in my industry that wants those wafers. There is no economic benefit to increasing the purity of a crystal beyond the point that we can currently improve it. The cost is huge, and the economic benefit is almost nil for that last stop, going up into space.

Doctor Al Joseph, founder of the same company, said:

> The idea of making better gallium arsenide crystals in space is an absurd business proposition. Even if you can give me perfect and pure crystals made in space, it won't help me much commercially because 90 to 95 percent of my costs and 85 to 90 percent of the integrated circuit yield on a wafer is driven by what I put on the wafer, not by the purity of the wafer itself. The cost of one trip to the space station would finance just about everything the American electronics industry needs to ensure its technological superiority for years to come.

So much for those magnificent crystals.

Here is what the American Physical Society said about the space station. The American Physical Society, Mr. President, is 40,000 physicists. That is all the physicists in this country, 40,000 of them. Here is what they said about this whole thing:

> It is the view of the Council of the American Physical Society that scientific justification is lacking for a permanent manned space station. We are concerned that the potential contributions of a manned space station to the physical scientists have been greatly overstated, and that many of the scientific objectives currently planned for the space station could be accomplished more effectively and at a much lower cost on Earth, on unmanned robotic platforms, or on the space shuttle.

Perhaps you have heard of Dr. James Van Allen, who discovered the Van Allen radiation belt, one of the great all time astrophysicists? Bear in mind that I am quoting some of the greatest minds the world has ever known. Dr. James Van Allen is one of them, and he says:

> For almost all scientific and utilitarian purposes, a human crew in space is neither necessary nor significantly useful. Nearly all the great advances in space science have been achieved by unmanned, automated space craft. With the benefit of three decades of experience in space flight, it is now clear that the conduct of scientific and applicational missions in space by human crews is of very limited value.

Dr. Allen Bromley, Presidential science advisor to George Bush said:

> The human habitation of the space station is fundamentally incompatible with the requirement that the microgravity experiments be unperturbed.

That is, just astronauts walking around in the space station creates enough vibration to ruin research being done in what is called microgravity. Here is what Professor Nicolaas Bloembergen, who was President of the American Physical Society said, and he is a physics professor at Harvard:

> There is no evidence to suggest that a microgravity environment offers any advantage for processing materials or drugs. Indeed, there are sound reasons for doubting that it would.

So much for curing cancer. Nine scientific societies, with 41,000 members—the American Physiological Society; Society for Biochemistry and Molecular Biology; Pharmacology and Experimental Therapeutic; the Society for Investigating Pathology; the Institute for Nutrition; American Association of Immunologists; Society for Cell Biology; American Association of Anatomists—all say no. The American Physical Society went on to say on July 24, 1994, 1 week ago:

> The principal scientific mission of the station is to study the effects on humans of prolonged exposure to a space environment. Medical researchers scoff at claims that these studies might lead to cures for diseases on Earth.

And on and on. The top scientists in the country are saying: Please give us the money for research on Earth, where we can make it count.

Dr. Bromley said, "Microgravity is of micro importance."

Mr. President, the director of the Washington office of the American Physical Society is Dr. Robert Park. Well, I cannot find his quote at the moment.

The other night Walter Cronkite, whom everybody adores, did a 1-hour segment on the space station, and he treated me very fairly. I was quoted a number of times on the program.

But in that program, and I do not mean any disrespect to Mr. Cronkite,

he says, "Senator BUMPERS says he can find no evidence that anything has come out of the Russian space station MIR worthy of mention." And Mr. Cronkite went on to say, "We could not find any Russian scientist to confirm that." That is, he could not find a Russian scientist that would agree with me that they got nothing out of their space station, but neither he nor any Russian scientists suggested anything they had gotten.

I have read every piece of space station literature I could lay my hands on for 6 long years, and I have yet to find one single benefit the Russians have received out of their space station.

I used to say when I was a young man, having grown up relatively poor, I used to say if I were going to start a popcorn stand I would find someone who had been successful in the popcorn business. No matter what kind of business I went into, I would want to find someone successful in that business and I would take their advice.

Here the Russians have been a miserable failure with theirs, and we want to spend $156 billion to copy their failure.

If it is such a red hot idea why have we not joined the Russians in a joint research venture? I do not know that we have ever even broached the subject with them.

Mr. President, last year, I got 40 votes for my amendment and 59 against. When I look at all the literature and everything I am saying which I have carefully researched and documented, I ask myself, what does it take to kill a program around here? And the answer is, nobody knows because we have never killed one.

Mr. President, the economy is booming, people are working, and, more importantly, the deficit is going down dramatically.

I can remember when Ronald Reagan ran for office. Every newspaper in the country was covered from front page to back about how terrible the deficit was and how it was going to sink this great Nation. Everybody talked about it. And when Ronald Reagan became President it went up. It did not just go up. It soared. It was absolutely out of control. We went from $1 trillion to almost $4 trillion in indebtedness while he was President. All the time he was lamenting how terrible the deficit was.

In April 1993, last year, OMB projected we would have a $305 billion deficit on September 30 of this year. And in September 1993, 5 months later, OMB gave us the good news that it was going to be $260 billion, $40 billion less. Then, in January 1994, they said it is going to be even less than that: It is going to be $234 billion. And last week CBO said the deficit is going to be $200 billion. That is over $100 billion less than projected a year and 4 or 5 months ago.

I do not presume to tell the President very much, but I told him that if I were he, I would never make a speech anywhere, whether to the Boy Scouts or to the American Physical Society, that I did not remind them that I said I would reduce the deficit and we are reducing it.

When the deficit was soaring, it was all over the front page. Last week CBO came out with a dramatic announcement that the deficit was going to be $200 billion or less, $100 billion less than projected a year and half ago, and it was reported in two lines in the business section of the Washington Post.

Do you know what I hate about seeing that? As rhapsodic as I am about the deficit going down, I will tell you what I hate about it. I can hear the wheels around here turning. The deficit is going down, the economy is great, and so I will just vote for the space station. I can do it now because the deficit is going down. And that is exactly the mentality that got us into astronomical deficits.

Mr. President, I will give you an interesting figure: Last year, 59 people voted to fund this turkey, 59 voted to spend this monumental amount of money. Of those 59, 43 of them voted for the balanced budget amendment to the Constitution of the United States.

Can you imagine 43 people voting to amend the Constitution of the United States to provide for a balanced budget because it is very popular and they could go back home and make the chamber of commerce applaud and then march onto the floor of the Senate 3 months later and vote for 156 billion dollars worth in spending? To add insult to injury, they see no contradiction. Last year, there were 63 votes for the balanced budget amendment. But 43 of those who voted for a balanced budget amendment voted for this. Everybody hates deficits but everybody loves spending.

To vote for a balanced budget amendment is like saying "Stop me before I kill again. Please do something to make me quit voting for all this spending." That is what it translates into.

Now we come to the point with the space station where it is a foreign policy initiative. The President, and especially the Vice President, say we want the Russians on board. If we bring all these Russian scientists in, they will not be making missiles and selling them to Third World countries.

I say give each one of those Russian scientists $100,000 a year in salary and turn them loose. Make it a welfare program.

If you were to list 50 things that the Russians need desperately, the space station would not even be in sight. If you listed 100 things that Russia needed, the space station would not make the list.

Mr. President, I have said about all I know to say. Just remember that this thing has a 10-year life term. It is going to take about 20 or 30 shuttle missions to get it up there. It is going to take 20 or 30 more to keep them supplied, 5 a year for 10 years. That translates into 50 or so. With that many shuttle flights, the chances of having a disaster are not slim. And how many accidents will we have? I do not know.

Mr. President, I will close with this thought. As a country lawyer in a small town in Arkansas, and certainly no foreign policy expert, I never could relate to the Vietnam war, but I could never bring myself to oppose it.

I guess you could say I was a little naive, but I could not understand what we were doing there and why American boys were dying there, and I could not understand what our national security interest was there. But I did not openly oppose it. It seemed unpatriotic.

When my first son turned 17, graduated from high school and was getting ready to go off to college, and eligible for the draft, I began to look at that war more closely. I never discussed it with him, but I discussed it with my wife, who did oppose it. And I suppose, if push came to shove, I would have let him register and go to Vietnam and maybe have lost him.

But I thought, if I cannot explain the rationale for that war to my 17-year-old son, why am I not opposing it? More importantly, why is Congress not opposing it? Why is Congress continuing to allow that war to go on, and fine, young, innocent men, the flower of our youth in this country, being slaughtered? Why did they not have the courage to stop it?

So when I ran for Governor, I took a strong stand against the Vietnam war, and I thought it might cause me to lose that race because Arkansas is a conservative State.

But here we have this space station that just goes on and on. It has taken a life of its own just by inertia. There are probably few people across the country—not like the Vietnam war—but there are few people across the country that say, "Why doesn't Congress have the courage to kill that program, save that money for valid research that we need desperately? And if you do not want to do that, put it on the deficit, so our children will have some kind of future."

I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to strongly support the amendment offered by my good friend and colleague from Arkansas.

I have not taken as much time to learn this issue as has my good friend from Arkansas, but I think the closing statement of the Senator from Arkansas basically hits the nail on the head; namely, it is at a gut level when we stop to think about this—how expensive the space station is, given all our country's other needs, and the large budget deficits that we are presented

with—it is at a very basic gut level of why in the world are we continuing to do this?

I think that Senator BUMPERS' analogy is an apt one. It is an interesting story by itself, and also an apt analogy; that is, if it does not make sense, why are we continuing to do this?

I do not have a quarrel with the space station's mission. I think we all would like to have some kind of a program that would accomplish the same mission. But I do have many questions about its technical merit. And I have serious doubts about the priority given this experiment at this time.

Space exploration may be inspiring. Of course, it is. But that is not enough to justify spending all of this money, particularly at this time. In these days, every dollar we spend on a big project like the space station is a dollar borrowed.

I want to underline that. Every dollar spent on a big project like this, like the space station, is a dollar borrowed. And with the price tag of $1.2 billion this year—not much less than the entire Montana economy—and up to $60 billion in the next 18 years, I do not believe that this is the time for the American taxpayers to foot this bill.

Eleven billion dollars have already trickled away, and we have precious little to show for it. We should not spend tens of billions of dollars more on this one program, while shortchanging other important programs.

Mr. President, the chairman of the committee, Senator MIKULSKI, has done an admirable job constructing this appropriations bill. It is difficult, extremely difficult, to give in to budget caps that we appropriately placed upon ourselves. And she was faced with very tight budget constraints, which were made much worse by the administration's $1.2 billion request for the space station.

The Environmental Protection Agency, Housing and Urban Development, the Department of Veterans Affairs, and even NASA itself must struggle to do their jobs because they do not have enough money.

EPA has yet to completely implement the health and ecological safeguards ensured by Federal laws. Homelessness and housing shortages are more than realities—they are scandals.

Veterans' medical programs operate with massive staff shortages and are often unable to provide the best possible care. NASA's other programs are faltering. Even the National Science Foundation, also funded by this bill, could use some of the money spent on the space station.

The space station is a luxury. It is a giant program whose technical merit and economic payoffs are big question marks. Going ahead with it at this point is simply a bad choice of priorities.

It is like borrowing to buy a Rolls Royce when you have trouble meeting the mortgage payment.

If we fund the space station, we will take on a large long-term spending commitment. At the very same time, we will restrict basic program needs for environmental protection, housing, veterans, and scientific research—all of which are funded by the VA, HUD, and independent agencies appropriations bill.

SPACE STATION IS TECHNICALLY QUESTIONABLE

While there may be noble intent behind the space station, it is of questionable value and a largely speculative venture. Much of its goals are based on untested theory. It is unclear that the station will even survive damaging space debris.

NASA estimates that there is a one in five chance that floating objects in space would seriously harm the station.

NASA seems to have a habit of biting off more than it can chew, and for the time being it should concentrate on getting existing programs right rather than starting big new ones.

CONCLUSION

Mr. President, the Senator from Arkansas is absolutely right. The bottom line on our budget this year is a big deficit. It is minus $225 billion.

It has come down a lot in the past 2 years, but it is still way too big. And with that kind of figure staring us in the face, we have to choose our priorities carefully. We simply cannot afford a space station.

Voting for the Bumpers amendment is a vote to save $60 billion. It is also a vote for environmental protection, a vote for veterans, a vote against homelessness, and a vote for NASA core research programs, all of which will be starved of money if the space station goes ahead.

A vote in favor of this amendment is the right vote, particularly at this time. It is important to stand up and exercise the courage to stop a program that is not needed, particularly when, in the long term, it is going to be so expensive.

I strongly urge our colleagues to do what is right and that is to support the amendment offered by the Senator from Arkansas.

I yield the floor

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I yield to the distinguished Senator from Ohio such time as he may consume.

I would like to bring to the Senate's attention that if anyone knows the space program, it is our astronaut, Senator JOHN GLENN.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I thank my distinguished colleague from Maryland.

Mr. President, it is always difficult to judge to look into the unknown. Yet in whatever endeavor—whether in microresearch in the laboratory, microscopic research, chemical research, or whether it is looking into macroresearch of expanding our horizons, our geographical horizons; looking into the unknown wonders of space, there are always those who will doubt the value of the risk, risk of the unknown.

The story is told of Disraeli, the British Prime Minister, going into the laboratory with Faraday, where they had developed the capability to store electricity in charged bottles and make a spark jump from one bottle to another. And, after seeing this demonstration, Disraeli asked, "What good is it, though?"

And Faraday's reply, I thought, was very good. And if it is reported correctly he said, "What good is a baby?" In other words, we had made some advance. We had learned something. We did not quite know what it was all about at that point but it was a start.

The same thing has gone on, throughout history, whether it is Columbus' discovery of America, a journey that experienced a lot of anxiety in its time, or whether it was Henry Ford, and the people standing alongside the road who said, "Get a horse, get a horse." And it turned out that the invention that people ridiculed at that time has come to be our basis of transportation today.

If we all had the lack of foresight even of some of our most learned colleagues who have preceded us in this body, we probably would never have moved off the east coast of this country. Of course if one studies the time period of western expansion, one sees that we had not solved all of our problems at that time. There were still poor people. There were still lots of things that needed to be done. Yet, there was the foresight that went beyond the Appalachians, that went to the Ohio River, the Mississippi, and beyond. There was a need to explore the unknown territory of the West, a need to expand our horizons.

We have in this Chamber, over on the other side of the aisle, the desk that was used by Daniel Webster. Daniel Webster rose in the Senate and commented on plans for westward expansion, plans about moving beyond the Mississippi. I hope all of my colleagues who come from States west of the Mississippi will pay attention to this.

Daniel Webster waved his arms, and I am sure pounded on the desk. As my colleagues may have noticed, his desk over there on the other side of the aisle does not have a top on it that can be raised, because supposedly, during his orations, he was so animated that he hit the top of his desk so hard that he kept breaking it. Even today if you go over there to the other side of the aisle, to the desk of the senior Senator from New Hampshire you will notice that it has a solid top on it.

I can just see him standing in the Senate Chamber and uttering the following. He said:

What do we want with this vast, worthless area, this region of savages and wild beasts, of deserts of shifting sands and whirlwinds of dust, of cactus and prairie dogs? To what use could we ever hope to put these great deserts or those endless mountain ranges, impenetrable and covered to their very base with eternal snow? What can we ever hope to do with the western coast, a coast of 3,000 miles, rockbound, cheerless, uninviting, and not a harbor on it? What use have we for this country?

Mr. President, I will never vote 1 cent from the public Treasury to place the Pacific coast 1 inch nearer to Boston than it is now.

That was the view of even such a learned person as Daniel Webster, back in the days when we were thinking about moving a little further to the west. I think it indicates that there is always doubt about moving out into the unknown, about learning new things.

Where do we find ourselves in our time? We find ourselves presented with a new capability, a new frontier. People have looked up to the sky for tens upon tens of thousands of years. They have looked up and wondered what was up there, wondered what it would be like to go up there, wondered what we could learn if we were up there. I consider this generation fortunate enough to be present when we developed the capability to fly in space and to use space, to develop new capabilities in space.

What if we had taken this same attitude as Daniel Webster, I ask my distinguished colleagues what if we had said no more, no more exploration, no more science. Where would that find us now?

Luckily, Mr. President, we have invested billions and billions of dollars through the years, many tens of billions of dollars on research. Let me use agriculture as an example. We have invested much time and money in agricultural research and what has happened? Even though there were doubters as to whether we could grow more corn or wheat, we went ahead and experimented. We set up experiment stations across this country. When I was a boy back in New Concord, OH, a good corn crop was probably 48 or 50 bushels per acre. Do you know what it is now? The record corn crop just a few miles from there last year was 239, I think it was, 239 bushels per acre—239 bushels per acre. And when I was a boy, it was about 48 or 50.

Is that because the farmers are working 4 or 5 or 6 times as hard? No. It is because we did basic research. We learned more about fertilizers and soils and hybrids and all the things nobody had any concept of. There were no results guaranteed when we started to look into some of these things, and there is no result guaranteed in looking into space.

What is the difference, Mr. President, in research done on earth and research that will be performed on the International Space Station? A great difference, Mr. President, one that we are just beginning to understand.

We heard a little while ago here about some of the efforts to look into the area of microgravity research, into crystal growth in particular. We heard those efforts belittled. Yet, microgravity research in the production of protein crystal growth has the potential to pay off tremendously.

A paper was recently published by NASA listing the achievements of the last 10 years of microgravity research. I ask unanimous consent that this paper be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GLENN. Mr. President, let me go through and pick out just a few of the many exciting and promising accomplishments that have been made in this field in the last 10 years. In the period between Skylab and the present we have seen a wide array of basic applied microgravity research, in ground-based and suborbital facilities as well as orbital flight.

Starting back in 1988, scientists began to have some very good results from microgravity studies, especially in the field of protein crystal growth. We have had some 70 different proteins flown in orbit, and this area of research has emerged as one of the notable success stories of NASA's microgravity program.

I will not go through the results of all of these this evening, obviously, but let me just say that proteins are the basic elements of life. These complex chains of amino acids not only form the physical substance of living organisms, but they play an essential role in every biochemical process governing the body. Scientists seek to determine the molecular structures of proteins and the relationship between protein structure and function. This information can provide a better understanding of living systems and help develop new drugs for medical treatments.

We are finding that large high-quality crystals of the protein being studied can be developed in space better than they can on Earth. Crucial proteins fail to adequately form the needed crystals on Earth. In many cases, the failure can be attributed to the effects of Earth's gravity, which not only generates fluid flows which may damage growing crystals but also causes the crystals to sediment to the bottom of their growth container.

In microgravity, these proteins respectively yielded crystals 27 and 1,000 times larger than the ground-control experiments. The publication of the results generated many new questions about the fundamental mechanisms of protein crystal growth and led to the organization of the first International Conference on Crystalization of Biological Macromolecules in 1986 at Stanford. Some of the findings of that conference and the space findings revolutionized thought among investigators in the field.

They have come back then to the space environment as a means to gain insights into growth processes as a method of obtaining better crystals.

Charles Bugg of the University of Alabama at Birmingham, and his collaborators, subsequently grew crystals on a series of space shuttle flights from 1985 to 1986. The experiments contained only a fraction of a milliliter of growth solution and had no temperature control, but excellent crystals were obtained for human serum albumin, for human C-reactive protein, canavalin and concanavalin B, which appeared to diffract to higher resolution of those grown on Earth. These are all involved in drug research for the benefit of every human being right here on Earth.

These early exploratory experiments indicated that larger protein crystals could be grown in space, crystals of better purity and crystals that are larger and more easily studied.

The unprecedented success achieved in growing large high-quality protein crystals on some of these missions convinced many formerly skeptical protein investigators of the utility of the microgravity environment.

In the STS-26 experiment, microgravity-grown crystals of gamma-interferon D, procine elastase, isocitrate lyase were larger, displayed more uniform morphologies and yielded diffraction data to significantly higher resolutions than the best crystals of these proteins grown on Earth.

Let me give just a few more examples of important scientific experiments that have been studied in a microgravity environment.

Porcine elastase: Now why would we wish to study this? Because the use of porcine elastase in current research is used in a new class of inhibitors for treating emphysema. A practical use.

Gamma-interferon D: Crystals of this protein, grown in space, were larger than the best that had ever been produced on the ground. One was approximately 50 percent larger than the largest crystal that had been obtained previously. These large space-grown crystals displayed an increase in resolution data revealing they had higher internal molecular order.

The importance of this? The importance is that pharmaceutical companies are interested in using gamma-interferon as a possible drug for cancer therapy. Can I guarantee that we will have a cure for cancer out of this? No, I cannot. But I know there is enough scientific interest in this that this kind of experimentation should continue.

Human serum albumin, HSA: Why look at this? HSA, human serum albumin, is the most abundant protein in the circulatory system. As I stand here tonight, and those listening to me, it is the most abundant protein in the circulatory system. We are evolving much more knowledge about these kinds of protein crystals.

HSA crystals were grown aboard STS-24. At a recent mission review, Dr. DeLucas reported that exceptionally high-quality crystals of HSA were grown aboard the mission IML-1 in 1992, and the results have allowed the protein structure to be further refined.

The published results of this work, led by Daniel Carter at MSFC, are considered a breakthrough in rational drug design due to the potential utility of HSA for the transport of many biological and pharmaceutical molecules in the bloodstream. We can enhance other medicines through the study of these materials.

We can perhaps begin to see the day when we will tailor drugs of a purity, to a particular use or targeted for a particular disease.

I quote from this report:

Ten years of Spacelab experiments have clearly established that protein crystals of superior size and quality capable of providing increased structure data can be grown in microgravity.

I would add that cannot be duplicated here on Earth. The potential for this type crystal growth is tremendous.

Mr. President, in this same report they just list in tabular form proteins grown in space, and the possible uses of those proteins with some further experiments. I will not read all of these either.

But No. 1, done by Mr. Bugg, in one of his experiments, human purine nucleoside phosphorylase, that is a protein for immunosuppressive and anticancer drugs. Another one of the same type, lysozyme. It is a model protein that degrades bacterial cell walls. Can we learn how to use this for our benefit? Possibly. Human serum transferrin. Iron transport to hemoglobin synthesizing red blood cells. Interferon alpha-2b stimulates the immune system, our own immune system.

I would add another interesting thing. The immune system changes when you are up in space for 2 or 3 days. You cannot measure that. It comes back to normal when you return to Earth. Why? Why does the immune system change? Nobody seems to know that yet, but that is so fundamental it seems to me that experiments in space to find out why that happens may be fundamental to someday discovering a cure for AIDS or cancer or whatever.

But this goes on and on listing a number of these, and since I have entered this in the RECORD it will be available to those who would like to read more of these. It would take a couple hours tonight to go through all of these.

But, Mr. President, the area of protein crystal growth is one that has a tremendous amount of promise in science, regardless if some of the scientists, of course, are not that excited about it because they would rather have some of this money for their own scientific area of expertise. They do not want to see money spent some place else so they are somewhat jealous of this. I understand that. We talked about that with people involved in the program from way back in the earliest days, as to whether there was a general benefit to all of science just by the fact that we were going into space.

The space station represents a new frontier, an opportunity and challenge for the United States and for the whole world, in spite of those who may doubt its benefit. And I do not support this just because I happened to be involved with the program at one of its earliest stages. I support it because, as I said, from the earliest days back when I was in the space program I thought at each stage along the way we should not concentrate just on trying to go out further and further into space, deeper and deeper into space as was alluded to earlier.

I agree with Senator BUMPERS in that regard. Our objective now should not be just going into deeper space. We used to joke about this some time back when I was in the space program. We called it "canned man." You put a man in a can and see how far out in space you can send him or her and bring them back.

That is not the purpose of this program at all. The purpose, as I saw it and as I expressed my views from the earliest days in the space program, was that at each step along the way, as we expanded for the first time ever in human history, we expanded our ability to travel off the Earth, at each step we should maximize the research return available that then makes it valuable for people right here on Earth. And that is still my view to this day. That is what the space station allows us to do. That is the reason I support it.

If I believed that this was just a waste of $150 billion, as the Senator from Arkansas has said, I would not vote for this program in spite of the fact that I was involved with it personally at one time. But I do firmly believe that this program has a potential every bit as much as I alluded to earlier when we talked about Daniel Webster not wanting to spend money to explore beyond, or to buy land or acquire property beyond the Mississippi River, referred to as that area of savages and whirlpools of dust and prairie dogs and so on. "Of what possible use can it be?"

Well, what a myopic view. And I would say the same thing here. We have the ability to do research. We have the ability to develop new technologies and procedures to fight disease. We can understand our environmental challenges to provide a safe and healthy world for our children by looking at the world and making our research from above the Earth's atmosphere.

Mr. President, I understand the Senator from Virginia wished to ask a question. I will be glad to yield for purposes of a question without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized for purposes of asking a question.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

For some several years now, I have been associated with the distinguished Senator from Arkansas, [Mr. BUMPERS], opposing this.

This year, as a means of preparing, I invited to my office one Marcia S. Smith, who is a specialist in aerospace policy, Science Policy Division of the CRS—a very impressive individual who has dedicated much of her professional career to the subject of space and now the space station.

So I asked her, I said to this knowledgeable professional, "Miss Smith, could you summarize for me, what are the benefits if we achieve this space station?" And she stated them orally. I was so astonished, I said, "Could you put that in writing?" She said, "I would be glad to, Senator."

Mr. WARNER. Mr. President, I ask unanimous consent at an appropriate place in the RECORD my remarks together with this may appear in full.

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

(See exhibit 1.)

Mr. WARNER. In summary, she said:

The major benefits——

She was speaking of the Russian space station, and there is a direct parallel between that and this one.

The major benefits to humanity——

That is those of us in this Chamber tonight and across this great Nation of ours.

The major benefits to humanity that have occurred from Russia's space station are (1) understanding the reaction of humans to long durations in space and (2) understanding the Earth and the universe from remote sensing and astronomical research. However, if you believe that people will not travel to Mars (or elsewhere beyond Earth orbit), long duration human studies are not necessary, and remote sensing and astronomical research can be conducted on automated satellites as well as, if not better than, on space stations.

That is it. We are not going to Mars as far as I know. Does the Senator know of any planned trip to Mars? Does it justify this enormous expense simply for the benefit of understanding the reaction of humans to long duration in space?

Mr. GLENN. Will the Senator yield for an answer to his question?

Mr. WARNER. I am asking the Senator, does he agree with this?

Mr. GLENN. No, I do not agree. Obviously, the Senator has not been listening to my talk for the last half-hour or so.

Mr. WARNER. Oh, no, I have over the loudspeaker, Mr. President.

Mr. GLENN. I went into some of the areas—I had not finished yet—some of the advantages of the space program and the space station. But do I think we will go to Mars? Sometime, if that was the question, yes, I think we will, but I do not see this as a direct steppingstone to that. I think sometime we will go to Mars, but I am not for a Mars program at this point. A former Vice President advocated that, but I did not go along with him at that time.

But I have been giving a speech here at considerable length about why we need a space station. I think we are into a new element of microgravity in which we can do a lot of research. I see it just for the protein crystal research that I have been enumerating here; the potential of that is so large that I see that as being worth the expense of the space station if nothing else was involved.

But there is a lot more involved than just that, of course. We are involved in some international cooperation. I think this has an impact on our students and their ability, their willingness to go into math and science, and so on. And I would disagree that all of these things are something that in our time we should just lay down and say that it is not worth the effort. We are going into a whole new laboratory of space, and I think it is myopic to think there will not be big advantages that come from this as we use this for scientific experiments.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. GLENN. For a brief question; otherwise, I would like to finish my debate.

Mr. WARNER. I will make it brief.

The PRESIDING OFFICER. The Senator from Ohio yielded for one question. Does the Senator from Ohio yield for another question?

Mr. GLENN. I want to continue with the debate. Does the Senator have a short question?

Mr. WARNER. I do, I say to my friend.

She addressed the very question to which the Senator from Ohio alluded. I will read just one short paragraph.

Research into "microgravity materials processing" has been a strong focus of Russian space station research. Mir has a module especially dedicated to this type of research which studies, among other things, how crystals grow in microgravity or how particles suspended in a fluid can be separated by electricity (called electrophoresis), a process for creating very pure pharmaceuticals, for example. The value of conducting this research on a space station is controversial because most of the experiments can be conducted better on automated satellites where they are unaffected by the vibrations caused by the crew.

Mr. President, does the Senator from Ohio agree or disagree?

Mr. GLENN. I disagree with that. I think the attendant experiments are better. As they go along, and as things develop, the experimenters on board can adjust the experiment, as they have already done on some of the experiments on existing space lab flights or space flights already.

Mr. President, I would like to finish.

Mr. WARNER. I thank the Senator.

[Exhibit 1]

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, August 2, 1994.

Memorandum To: Senator John Warner (Attention: George Cartagena).

From: Marcia S. Smith, MSS Specialist in Aerospace Policy, Science Policy Research Division.

Subject: "Benefits to Humanity" from Russia's Space Station Program.

As the Senator requested at our meeting last Thursday, this memo addresses the question of what benefits have accrued to humanity from Russian space station research over the past 23 years and thus what benefits might develop from the new international space station that NASA is proposing to build with Russia, Europe, Japan and Canada.

RUSSIA'S SPACE STATION PROGRAM

Russia is currently operating its 7th space station, Mir (a list of all Russian space stations prepared by CRS for general congressional use is attached). For a national perspective, the space station program has contributed to Russia's (formerly the Soviet Union's) national prestige and provided jobs. They have gained considered experience in how to operate space stations for long periods of time. What benefits have been accrued to humanity as a whole would emerge from research conducted aboard the station in the following disciplines:

Human Reaction to Long Durations in Weightlessness

Research into how humans react to long durations in weightlessness benefits humanity if one believes that humans someday will travel to other destinations in the solar system, like Mars. If one does not believe that humans will travel to Mars, then there is no need for this research. The Russians have said that they want to send people to Mars someday and hence have conducted long-duration missions enabled by the space station program. Two Russian cosmonauts hold the record for longest continuous time in space (12 months); a cosmonaut currently aboard Mir is expected to break that record by staying for 14 months.

Biomedical Research

Biomedical research that, for example, could lead to cures for diseases on Earth has not been a major focus of Russian space station research to date. Sometimes categorized as materials processing rather than biomedical research, cosmonauts did produce quantities of a flu vaccine and interferon (an antiviral protein) on Salyut 7 and Mir. Though both can be produced on Earth, Russian press stories heralded the purity and quantities of the drugs produced on the space station. However, little has been said of this type of research in several years, suggesting that the drugs were not cost-effective to produce in space or were not as good as reported in the press.

Materials Processing Research

Research into "microgravity materials processing" has been a strong focus of Russian space station research. Mir has a module specially dedicated to this type of research which studies, among other things, how crystals grow in microgravity or how particles suspended in a fluid can be separated by electricity (called electrophoresis), a process for creating very pure pharmaceuticals, for example. The value of conducting this research on a space station is controversial because most of the experiments can be conducted better on automated satellites where they are unaffected by the vibrations caused by the crew (the exception is basic research where crew members are needed to interact with the experiments), and because of skepticism that cost-effective products will result. Soviet press stories in the late 1980s and early 1990s asserted that space station materials processing research had generated millions of dollars in revenue. The press reports, however, were discounted by other Russians who said it was a matter of one Ministry selling the products to another Ministry and claiming a profit. There is no public evidence that materials produced aboard Russian space stations are used operationally in Russian industry, although it is possible that some (such as cadmium-mercury-telluride, a substance used in infrared detectors and to which a lot of space station experiments have been devoted) are used in classified military programs without public discussion.

Environmental (Remote Sensing) Studies

"Remote sensing" is a term commonly used to refer to the use of cameras and other instruments to study Earth from space for primarily civilian purposes (remote sensing satellites are close cousins of military reconnaissance satellites). Remote sensing benefits humanity by providing a better understanding of Earth's environment, as well as by generating data that leads to crop forecasts, pollution monitoring, land use studies, and a host of other applications. Remote sensing can be conducted as easily, if not more easily (and cost effectively), by automated satellites rather than space stations. In the case of the Russian space stations, the orbit does not permit a complete view of the globe and remote sensing must compete with other scientific activities conducted by the crew. Still, the Russians have used each of their space stations as bases from which to conduct remote sensing, including visual observations by the crews. In particular, space station crews have studied the environmental degradation of the Aral Sea. [Some of the "remote sensing" studies, during the era of the Soviet Union at least, are thought to have been for military reconnaissance purposes; in fact, two of their early space stations (Salyut 3 and 5) are thought to have been primarily devoted to military reconnaissance rather than civilian remote sensing.]

Astronomical Studies

Several astronomical instruments (primarily for x-ray and ultraviolet astronomy) are aboard the Mir space station. In general, astronomical research benefits humanity by providing a better understanding of the origin and evolution of the universe, including our solar system. Some fields of astronomical research, including x-ray astronomy, must be conducted above the Earth's atmosphere because the atmosphere absorbs certain wavelengths of light. Space-based astronomy usually is conducted on automated satellites (like the Hubble Space Telescope)

rather than space stations because movements by the space station's crew interferes with the precise positioning required by the astronomical instruments. Nevertheless, the Russians have placed astronomical instruments on Mir (as well as earlier space stations) and useful data have resulted, though no major discoveries have been made because of that data.

Summary

The major benefits to humanity that have accrued from Russia's space station research are (1) understanding the reaction of humans to long durations in space and (2) understanding the Earth and the universe from remote sensing and astronomical research. However, if you believe that people will not travel to Mars (or elsewhere beyond Earth orbit), long duration human studies are not necessary, and remote sensing and astronomical research can be conducted on automated satellites as well as, if not better than, on space stations.

INTERNATIONAL SPACE STATION ALPHA

The extent to which the new international space station proposed by NASA would benefit humanity would parallel the Russian experience, although more attention is expected to be focussed on biomedical research on the new space station. It is possible that scientists can gain answers to medical questions by conducting research in microgravity that cannot be answered on Earth. If so, this could have great benefits for humanity, but there is no way to know in advance whether such research will, in fact, produce significant results. The question then is whether it is worth the price of the space station (currently estimated at $72.3 billion for construction plus 10 years of operation from FY 1994 through FY2012) to find out.

CRS prepared studies of Soviet space programs for the Senate from 1962 until 1987 which provide detailed information on space station experiments. If you would like copies of the relevant sections, or other information, please don't hesitate to call (7-7076).

SUCCESSFUL RUSIAN (SOVIET) SPACE STATIONS

Name and Launch and Reentry Dates/Comments

Salyut 1—Apr.-Oct. 1971. Successfully hosted one 3-man crew for three weeks, but all three died during their return to Earth due to improperly closed value in their spacecraft. Prior to their mission, another crew had docked with Salyut 1, but could not enter it due to a problem with the hatch.

Salyut 3—June 1974-Jan. 1975 Successfully hosted one crew for 3 weeks; another crew was unable to dock.

Salyut 4—Dec. 1974-Feb. 1977. Successfully hosted 2 crews on noncontinuous basis. Another crew was launched to the station, but the launch vehicle malfunctioned before they reached orbit; the crew was recovered safely near the Chinese border.

Salyut 5—June 1976-Aug. 1977. Successfully hosted 2 crews on noncontinuous basis; another crew are unable to dock.

Salyut 6—Sept. 1977-July 1982. First of two "second generation" space stations with 2 docking ports, enabling cargo resupply and thus longer duration flights. Successfully hosted 16 crews on non-continuous basis (last crew was in 1981); two other crews were unable to dock.

Salyut 7—Apr. 1982-Feb. 1991. Second-generation space station. Successfully hosted 11 crews on non-continuous basis (last crew was in 1986). One other crew was to be launched, but the launch vehicle erupted in flames on the pad; the crew was safely recovered using the emergency abort tower.

Mir—Feb. 1986-present. "Third-generation" space station, still being assembled. Three scientific or logistics modules (Kyant-1, Kvant-2, and Kristall) are now docket with the Mir core module—each encountered docking problems that eventually were overcome. Two more modules are yet to be launched. Intermittently occupied from 1986-1989; continuously occupied since Sept. 1989 by crews usually rotating on 5-6 month cycles. One crew (1987-1988) remained for 1 year; crew member currently on Mir expected to break that record and stay for 14 months.

At least two other Soviet space stations (Kosmos 557 and Salyut 2) failed before they could be occupied. Prepared by CRS for general congressional use August 1994.

Mr. GLENN. Mr. President, let me summarize some of the things I have been pointing out here. We have always had doubts about looking out into the unknown because nobody can pinpoint what the value is in the unknown until you do the research to find it out. If there is one thing that this Nation has learned, it is that money spent on research seems to have a way of paying off in the future beyond anything that we see at the outset.

Here we are moving into this new laboratory of space, moving out into microgravity where we never had the ability to do research before in a number of different areas; developing new technologies and procedures to fight disease, which I have just barely touched on here.

Mr. President, we are trying to understand environmental challenges, to provide a safe and healthy world for our children, we are trying to improve our competitiveness in the international marketplace by knowing more; we are striving to enhance the quality of our educational system. A permanent manned laboratory in space addresses each of these concerns while expanding knowledge and exploiting for worldwide benefit a new aspect of the human environment. The station is a symbol of our commitment to better our quality of life on Earth through research, the life sciences, biotechnology, and materials processing.

What are the benefits of this program, Mr. President? It continues our civilian space program and its ability to do this kind of research. Manned space missions remain the core of our space activities. It is the next logical step for our manned program. The knowledge of how we adapt to a weightless environment will lay the groundwork for future human exploration. But it also enables us now to do the research on board the spacecraft that I think is of value to us right here on Earth.

Second, the station will provide a manned laboratory to provide materials and life sciences research in a microgravity atmosphere. The space shuttle program has enabled scientists to perform very limited microgravity research. The research has already given us clues, however, to the causes of osteoporosis, clues to diabetes, and other diseases.

The shuttle missions last only a short period of time, and scientists agree that a manned orbiting laboratory is needed to fully realize our microgravity research capabilities.

And, Mr. President, I would like to emphasize this next point. I do not think this should be dismissed. The space station will be an instrument to educate American school children in math and science skills and encourage them in that direction. Recent studies have shown that skills in math, science, and engineering of U.S. schoolchildren has fallen farther and farther behind those of their international counterparts. The space station will provide a concrete example to our children of current and exciting scientific research and discovery and may guide some of them to pursue science and technology as career fields.

All you have to do is talk to the kids about some of these experiences in space, and just look at them and the excitement that is generated by even discussions on the topic and you will know what I am talking about.

The space station, Mr. President, will represent the largest international venture in science and technology ever undertaken. We have a leadership role at this time. We have the cooperation of Russia, Canada, Japan, and our own United States leadership. I think the agreement we have made, and the cooperation, is exemplary.

President Clinton has stated that pursuing advanced technology is essential to a healthy and dynamic U.S. economy. I agree. I think the space station will be a key element in developing and utilizing that advanced technology.

The benefits I have just stated are real. They are ours if we choose to pursue them. The first 30 years of space flight and exploration have provided us with extraordinary advancements with achievements, and discoveries. We have learned not only to travel into space, but to live and work there.

And what will the next 30 years hold? I hope that as much opportunity for new information will come out of this as came out in the past 30 years.

Mr. President, I ask unanimous consent that a series of letters be entered into the RECORD concerning the International Space Station Alpha Program, and regarding recommendations of the Advisory Committee on the Redesign of the Space Station.

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

MASSACHUSETTS INSTITUTE OF TECHNOLOGY,
Cambridge, MA, April 4, 1994.

Dr. JOHN H. GIBBONS,
Director, Office of Science and Technology Policy, Executive Office of the President, Washington, DC.

DEAR JACK: Several of us had the opportunity to travel to Johnson Space Center late last month to explore the status of the

International Space Station Alpha Program and to assess its progress in the context of the June 1993 recommendations of the Advisory Committee on the Redesign of the Space Station. I am writing to pass along my personal observations on this matter and have encouraged others who were present to do likewise.

This program has been dramatically reorganized and has progressed to an extent that greatly exceeded my expectations. This review was informal and intense, but lasted only one and a half days and therefore was of modest depth and detail. Nonetheless. I can state with confidence that the high-level conclusions were self-evident and overwhelmingly positive.

MANAGEMENT COSTING AND ACQUISITION

There has been an absolute sea change in the management and organizational structure of this program. As you know, the Advisory Committee was extremely critical of the organization structure that had evolved for Space Station Freedom. The new organization reflects both the recommendations of the Advisory Committee and the modern management practices brought to the table by Boeing, and it is consistent with the themes of Reinventing Government.

A single prime contractor has been engaged and is firmly in place. Significant levels of management have been removed, and there has been a large reduction in NASA and contractor staff support. The NASA Centers are now used as resources, and their directors have been removed from the line management of the program. The Center at Reston has been closed. The Integrated Product Team [IPT] concept has been implemented effectively and seems to have streamlined decision making and responsibility/authority chains. Program leaders from both NASA and Boeing were impressive in the clarity of their presentations, their command of issues, and their candor.

There has been an evident improvement in the budgeting and contract process, which inspires greater confidence. The single prime contractor approach, synergy between NASA contractor and oversight organization, concurrent fact-finding and constant "real time" problem resolution increase confidence that NASA can say within the cost parameters and guidance given by OMB. My colleagues, who have greater expertise that I in costing matters of complex projects, believe that costs within $2.1B per year and $17.4B run out through 2002 are achievable, but they characterize the budget as "success oriented."

TECHNICAL AND OPERATIONAL MATTERS

The ISSA is now committed to an orbital inclination of 51.6 degrees. Primarily through integration with Russia, there is multiple access to orbit, a well-developed Assured Crew Return Vehicle, an existing propulsion unit for orbital transfer and adjustment, and an increased technology and experience base. This partnership also enables an earlier date for first-element launch.

SCIENCE, TECHNOLOGY, AND ENGINEERING UTILIZATION

The overall situation regarding research utilization of the Space Station has greatly improved since the Advisory Committee report was issued. Strategic planning is underway for utilization of the capabilities of both ISSA and MIR. Plans are being made for the use of MIR to explore such important concepts as active control of experimental racks to enhance the microgravity environment for experiments. A peer review and research prioritization process are planned, but will require continual attention. A stronger line management structure is now in place for science, engineering and technology utilization. There is increased emphasis on technology and engineering research as a Station goal, but more should he done in this regard.

INTERNATIONAL ASPECTS

Comments by representatives of our international partners seemed to indicate that remarkable progress has been made integrating them into the management and operational mainstream. Integration of the Russians at the technical level appears to be proceeding well, but it is critical and must be made more complete. I encourage you to seek directly the views of the international partners, but the signs were very positive. I am particularly placed by this progress, because our recent national record as dependable partners in large scientific and technical projects has not been good.

AREAS OF CONCERN

It is essential that the process of updating the IGAs and MOUs associated with international participation in ISSA proceed expeditiously. The full integration of the Russian Space Agency and contractors into management and day-to-day activities is critical and should be accomplished as rapidly as possible.

The Integrated Product Team (IPT) approach will continue to work well as long as there is enthusiasm, commitment, and expertise on the teams and strong leadership and support from above. Leadership and momentum must be maintained.

Risk assessment and reduction must be an ongoing activity of the highest priority in the program. Nonetheless, I share the concerns of many of my colleagues that the Independent Assessment Team, which has been established, is too large and reduces the concept of continual accountability within the IPT-based organization. This requires careful examination at this time.

It is absolutely essential that budgetary stability and firm national commitment be established. Any deviation from the path that has been mapped out will result in increased costs and wasted effort.

PERSONAL NOTES

The efforts of the Space Station Redesign team, which last spring worked so intensively and effectively and against significant barriers to change—coupled with the recommendations of the Advisory Committee—have helped to bring profound change and potential stability to this program.

The International Space Station Alpha gives the nation an opportunity to show that it can establish large international programs in science and technology and that government can operate efficiently by breaking tradition and following contemporary management practices.

NASA leadership, starting with the Administrator and extending into the new ISSA organization, deserves credit and support for the bold changes they have effected.

Sincerely yours,

CHARLES M. VEST.

HANSEN EXPERIMENTAL PHYSICS LABORATORY, STANFORD UNIVERSITY,

Stanford, CA, March 26, 1994.

Dr. JACK GIBBONS,

Office of Science and Technology Policy, Washington DC.

DEAR JACK, As you know a number of former members of the Vest committee were given an informal briefing on the status of the International Space Station Alpha on the 25th and 26th of March, 1994. I felt it might be useful to provide you with my views. Since the panel to which I originally belonged was focused on Technical and Mission Assessment, these observations are also concentrating on those aspects. If there is value in publicizing these remarks feel free to do so.

I should mention that the available members of the original panel had informal discussions over dinner. The attached remarks generally reflect a consensus of the views expressed. You may not realize that our panel was very skeptical about this whole project when we first convened last year. Since that time, the changes wrought by Dan Golden, and an outstanding new project management team have won us over. Given our original skepticism, this turnabout is quite remarkable. Much of the advice the new team was given has been followed.

I believe this important project deserves to be strongly supported by the administration.

Sincerely,

BRAD PARKINSON.

COMMENTS ON TECHNICAL AND MISSION ASSESSMENT

(By Professor Bradford W. Parkinson after discussion with peers)

OVERVIEW

The ISSA, as defined at this review, has every prospect of becoming an outstanding international space research facility. The current design has addressed and reduced many of the major risk areas that existed in previous designs. An example is the multiple access now provided with three independent launch systems.

I most strongly endorse this new approach to the development of Space Station, especially the positive attitudes and leadership. They have made greater progress than was expected; this was a very pleasant and somewhat unanticipated surprise. Managerial competence, philosophies, and morale all are excellent. Especially encouraging was the very positive assessment by the international participants. The use of IPTs is appropriate; it is an excellent development approach for ISSA.

IMPACT OF MOVE AND CONSOLIDATION

This has been positive in virtually every respect. The sole negative might be some loss of NASA expertise, since only a small number of engineers elected to transfer from Reston to Johnson. Because much of the specific knowledge is still retained by the contractors, I do not consider this a major problem. It is more than offset by the streamlined management and the IPT approach.

RUSSIAN INVOLVEMENT

Given the cost and schedule constraints, I think this is a viable program only because of Russian participation. This is true because of the system improvements, due to their participation, in virtually all measures: capability, cost, schedule, and risk containment or robustness. Russian contributions should optimize the scientific and engineering returns from this world-class research facility. Specific positive attributes of the Russian involvement include:

1. Multiple access to space (mentioned above).

2. A larger, more capable station based on more components with proven space robustness.

3. Enhancment of Western space technology with the many uniquely Russian advances.

4. Valuable insights into proven Russian development processes. We should not be arrogant about Western development abilities,

it may be useful to find other techniques to "pick impeding rocks out of the stream".

5. Off-loading of the logistics for space.

6. Improved dialog in the culture of technology.

7. A blueprint for future international cooperation in space and elsewhere.

8. An off-the shelf (virtually) ACRV.

9. Earlier access to space for the science, engineering and technology communities; including use of MIR.

I recognize that the Russian situation is fluid, it is not clear that they are potentially less reliable than we are.

DEFINITION OF THE RUSSIAN CONTRIBUTION

A statement of work and list of contributions has been completed already. Of course, at this early date this definition is not complete. It is becoming completely defined at an accelerated rate. An open and candid dialog has begun, and the effort has been scoped. ICDs have been identified and their requirements drafted, with the interfaces placed in the most sensible way.

Current success is due, in part, to the close personal relationships developing between the working personnel of all the partners. The next important steps include the completion of a fully integrated schedule, and firm specifications for the furnished and deliverable items. This is being worked, but will require Herculean efforts in the next months. In particular there are a number of high-level strategic issues which remain to be resolved (crew composition, logistic coordination, etc.). I believe the team is up to the challenge.

CONTINGENCY PLANNING

Preliminary planning has been accomplished for total withdrawal of the Russians, and also for the most probable late deliveries. In the event of late deliveries, the current evolutionary approach provides autonomous operation for over a year in the event of such an event.

To address these contingencies further will start to require the serious investment of management time and dollars. I strongly recommend that only those contingencies viewed as reasonably likely by the program be further pursued. In this manner, it should be a part of an overall balanced risk assessment and recovery strategy. Since I do not believe the current program (with its cost and schedule constraints) can be reasonably pursued without Russian help, I suggest that efforts be concentrated on making our total international team successful rather than planning for partial failure.

COST

While cost was not a primary area for our panel, I believe the cost uncertainties are now substantially less due to a more mature and robust design.

SPECIFIC ASPECTS TO MONITOR

Generally, the monitoring of accomplishments against planned dates for specific major milestones will gain insight into progress. A particularly important yardstick will be the completion of the SOW, ICDs, and specifications. Completion of the IGA (which is, in part, a political problem) should give confidence of positive progress. Most importantly the help of Congress must be enlisted. A major element in achieving more support is greater public exposure of the technological and scientific station-associated possibilities, both as they are currently foreseen and as they emerge.

As a great nation we must not let this opportunity slip away. Appropriate furthering of the manned space program is a strong symbol of greatness and self-confidence. This symbol has been important to two generations of America's children. Recent successes show that NASA is returning to greatness. I and many of my colleagues believe that we must be unabashed in advocating a strong, balanced NASA program as a harbinger for the future.

OTHER COMMENTS:

Commercial use

The following comment came from my colleague, Dr. Crawley. It is an appropriate time for the agency and nation to develop and promulgate a consistent policy for commercial use of the Space Station. Such a policy need not be based on an initial, full recovery of cost: it is the role of national governments to develop and provide new research capabilities and underwrite their cost. Such a policy should address: quick and reliable access to space; proprietary data rights; and cost.

Non-research, commercial utilization should also be considered and rationally regulated.

Engineering research on station

I strongly endorse the inclusion of "conducting engineering research" as a major purpose of the ISSA. I assume it's omission in a key viewgraph was only an oversight. However I feel there is not enough evidence of this use in the current organization. Examples include: Micro-Propulsion, Structural Dynamic Research; and Drag-free mechanisms and capabilities

There is a need to give this Engineering Research more priority. It has a strong payoff in the quest for faster, better, and cheaper exploitation of space by all, both manned and unmanned.

AT&T,
BELL LABORATORIES,
Murray Hill, NJ, April 5, 1994.

Dr. JOHN H. GIBBONS,
Director, Office of Science and Technology Policy, Washington, DC.

DEAR JACK: This letter conveys to you some of my impressions following the brief review of the redesigned space station that was held on 25–26 March in Houston. I had intended to write to you more promptly following the review, but I found myself burdened with a number of urgent tasks.

I found that there had been major changes in the program as related to science, technology, and engineering utilization since the last time that I had an opportunity to review the program (late September 1993). In addition to such obvious improvements in eventual utilization as the presence of six, rather than four, crewpersons, there are major changes in the management structure for utilization and in the attitudinal approach by the management toward the use of the facility. All of these can only be termed as positive. I did not sense at this review such an adversarial stance between the builders of the facility and the "users" as had often been the case in the past. Indeed, in the past, the attitude could often be characterized as one of "we will build this facility and you will do good science (or engineering or whatever) with it". Now there appeared to be more of a team approach to constructing a facility that could be used beneficially for research if that is a national objective.

I should note that a major caveat to the above is that the management is very new overall, and especially in the utilization area. They remain to be tested by fire, as will happen, as the program proceeds. But they are going forward with the right outlook from the start. Nevertheless, I note that the previous program had a formal science/engineering advisory process in place during the program initiation (mid-1980's), and when the users were no longer needed or wanted, they were dismissed (about 1986–'87) and the program went merrily on its way. See the enclosed paper that I co-authored.

In my summary at the review I noted that under what I termed the "philosophy" of the utilization, that the need for strategic planning for the usage looms large. In particular, the planning requires much further and continuing work. It requires a continuing process to identify potentially profitable areas of research (areas in both science and engineering that truly require human presence), and to prioritize rigorously these areas. A strong peer review process needs to be in place for this strategic planning. Use should be made of present results and future research planned with the shuttle and spacelab to help in defining not just facilities for a station, but also research areas to pursue (as well as those to abandon).

I noted two items of concern related to the philosophy of utilization. One of these was that there must be an increase in the contributions to the body of peer-reviewed published knowledge from research made using human spaceflight capabilities. This must happen now, before station completion, as well as after the station is beginning to be used for the research intended. I also noted a possible suggestion for the use of "rotator" scientists and engineers at headquarters, on a one or two year term basis, in the peer review/strategic planning efforts. These would be good, senior people, as is done presently in Code S at headquarters.

As far as I was able to ascertain in the time available, the "fenced-off" costs for utilization appear to be reasonable. And it is good to have such amounts identifiable. Of equal importance are the procedures that will be used to apportion costs between the "users" and the program when problems arise in facility development and/or when new research approaches are warranted from new understandings achieved (such as in the case of the present uncertainties in the capabilities of MIR for supporting certain important research areas). The process described at the review for addressing such issues appears to be good at this time. But it is certainly an area that warrants watching.

I noted several issues that continue to bear watching in the case of the international utilization. First, and of major consequence, is the continued evaluation of the true capabilities of MIR, and the processes for making it the facility that could meet the user "requirements". The planning for this appears to be in the right direction at this time.

The entire matter of joint research between nations in terms of intellectual property rights and technology transfer needs more attention. More detailed guidelines and policies must be developed.

I addressed briefly the issues of the capabilities of the station as outlined in the review. First, the entire matter of the facilities, including the centrifuge, are being taken more seriously than they have been in the past. This is not to say that the issues of costs and schedules have been totally resolved; they haven't. But the process appears to be in place to do the team work to accomplish the goals. The capabilities for research in health maintenance and life support require more attention. It is not merely a matter of "more money", it would appear to me (since budgets are going to be limited), but rather a matter of prioritizing such objectives in the over-all strategic planning process. This needs much attention.

On the basis of discussions with colleagues in attendance, I noted the issue of EVA in the context of human capabilities and involvement. The over-all EVA requirements are larger now than in the past. However, it was pointed out to us that much of the EVA is now, with MIR, less time critical than it was in the past. More research is needed in the area of understanding human capabilities in EVA and the benefits as well as the risks. The best policy would appear to be to continue to try to minimize the EVA demands.

I left the review team and the station management team with one consideration that my colleagues and I developed regarding future oversight of utilization matters. That is, NASA should consider the establishment of a truly independent expert advisory group/visiting committee that would critically assess the science, technology, and engineering research program plans, progress, directions, and results on a quasi-regular basis.

I appreciated the opportunity to serve our country as a member of the station redesign review group. I hope that my contributions have been helpful to the federal government with regard to this major space facility.

Sincerely,

LOUIS J. LANZEROTTI.

JMR. ASSOCIATES,
Las Vegas, NV, April 5, 1994.

Dr. JOHN H. GIBBONS,
Science Advisor to the President, Office of Science and Technology Policy, Washington, DC.

DEAR JACK: After attending the review of the International Space Station in Houston on March 25-26, 1994, I wanted to let you know personally how impressed my colleagues and I were at the progress NASA has made since our last meeting in September. There has been nothing short of a dramatic improvement in the program management, budgeting and contract process.

We spent a full nine hours on March 24th with the NASA and Boeing cost teams. With representatives of NASA IG, GAO, OMB OSTP and NASA Headquarters present, the budget numbers for the reserve contingencies and unresolved adjustments were presented for everyone to see. It is a remarkable statement about the new openness, confidence, candor and philosophy of costing.

The costing process is consistent with previous Committee recommendations. We believe that the International Space Station Alpha program can be implemented with an expected budget authority of $2.1B/year. The team, where appropriate, has departed from the use of parametrics and "Freedom" deltas, and relied more on "bottoms up" and/or zero-based estimates. It is a very tight cost picture and we have much more confidence in the costs now than we did a year ago. In our opinion, NASA has successfully implemented a process which exemplifies the concept of the national performance review.

NASA's incorporation of progressive Integrated Product Team concepts, i.e. each team with authority, accountability and responsibility, will maximize the likely achievement of financial objectives. The new single prime and realigned contractor's approach, synergy between NASA, contractor and oversight organization, concurrent fact-finding and constant "real time" problem resolution, provide confidence that NASA can stay within the cost parameters and guidance given by OMB. The Boeing personnel, led by Mr. Larry Winslow, and NASA's new business manager, Mr. Dan Tam, have the leadership and expertise to successfully implement the current station plans on schedule and on cost. As the "scrubbing" process continues toward definitization of the contract, there appears to be resolution of acceptable costs, reserves and award fee structure.

Areas of uncertainty still exist within the Russian area of participation. The NASA program office has not had the opportunity to finalize costs for upgrading the MIR, a service module, the tug and other modifications. The scope of the Russian participation is not as clearly delineated as other participants. However, both parties are actively pursuing resolution and clarification with a target of June 1994. The Russian reserves and cost estimates appear adequate and the contracting process with a "cap" on incurred costs minimize risk of additional NASA expenditures.

We believe that the costs of $2.1B year and $17.4B run-out through 2002 are success-oriented but achievable. It is critical to understand that it is priced to specific launch and operational readiness dates. At this point, critical elements of a successful space station program include a strong national commitment and appropriation stability.

If I can be of further help, please do not hesitate to call.

Sincerely,

JAY W. CHABROW.

U.S. DEPARTMENT OF COMMERCE,
THE UNDER SECRETARY FOR TECHNOLOGY,
Washington, DC, April 1, 1994.

Dr. JOHN H. GIBBONS,
Director, Office of Science and Technology Policy, Washington, DC.

DEAR DR. GIBBONS: During the meeting on the International Space Station last week, I relayed a saying from an old friend that seemed to capture what I saw during the review in Houston. "Unless you create a burning platform, you can't get people to do their best." I think we must have created a burning platform under space station management last summer.

The original Vest Panel report was particularly critical of the management structure which had evolved to design, develop, and operate Space Station Freedom. Our earlier assessment included such tough statements as "if you can't fix the management structure, you ought to think twice about doing it at all". Many specific recommendations were made which the panel felt were essential for the ultimate success of the program. A comparison between those recommendations and the current management structure is most encouraging. The specific accomplishments are very impressive since last summer. I've listed some of the key ones below:

A quality, single prime contractor has been engaged and is firmly in place.

The NASA Center Directors have been removed from the direct line of management control for the Space Station project.

Significant levels of management have been removed.

The science team leader has been integrated into the management system in an appropriate way.

There has been a large reduction in NASA and contractor support staff.

The Integrated Product Team concept has been aggressively implemented and seems to have removed the bureaucratic oversight functions which previously frustrated decision making and responsibility/authority decision chains.

Safety and mission assurance and audit functions are now essential parts of the over-all team approach. The audit integration teams are integral parts of the management structure and safety personnel are assigned to each of the integrated product teams.

Training issues have been faced head-on and is a priority for the management team.

The international partners have become much more integrated into the management and operational structure, and their feedback at the meeting indicated a remarkable turnaround in this area.

The quality of the management personnel, especially the prime contractor, seems outstanding. The experience level is completely appropriate to the tasks.

Relationships with the sub-contractors appears to be appropriate and effective.

From my perspectives, the major areas of remaining concern are:

The newly chartered independent assessment group seems to be redundant and has the potential of reverting back to the old paradigm of quality control at the end of the process rather than built in as an integral part of the process. If an external review is deemed necessary, it should be a small, expert group that advises the Administrator on an "as needed" basis. A new 110+ organization represents a "back slide" to the previous management style.

The integration of the Russian Space Agency into the management and day-to-day activities is critical and should be accomplished as rapidly as possible.

The articulation of the rationale for the space station has not reflected a strategy which captures the imagination of the public and the Congress. A more realistic vision of the Station as an advanced technology testbed, as a space laboratory, as a testbed for international cooperation in large science and technology undertakings, and as a vehicle for future space industry development must be developed and communicated.

All in all, I think NASA has made great strides forward in addressing the management concerns we voiced last summer. In Houston, we saw an enthusiastic and highly competent space station team that seems fully capable of leading the development of the station and quickly identifying and resolving unforeseen problems in an expeditious manner.

Sincerely,

MARY GOOD.

ANSER,
Arlington, VA, March 30, 1994.

Dr. JOHN H. GIBBONS,
Office of Science and Technology Policy, Washington, DC.

DEAR JACK: Our meeting in Houston last week clarified a number of issues on the international space station. I was highly pleased with the cultural change, management approach, and implementation of Vest Committee recommendations. Russian participation is now largely defined, lacking only the interface control document level of detail. The new partnership and associated communications are working. My confidence level has reached an all-time high and for the first time I can really call myself a "Station advocate."

The reason for this change is simple—Now it makes sense! The program is viable with its new management structure and Russian participation. The Station will be more capable with Russian components. Development risk is reduced with Russian hardware. Operations will begin sooner, at lower costs with Russian contributions. Early use of the Russian Mir Station will refine and enhance operations while we gain valuable experience

in long duration space flight. We have multiple access and broader Earth coverage using Russian launch sites. Logistical support, using Russian launchers, will decrease dependence on the Space Shuttle. We will perform more science with the larger crew, including Russians.

It is often stated that "Russian participation in the Station program is motivated by U.S. foreign policy objectives." Clearly this is as true as it should be; and as it has ever been. However, the statement misses the point. Russian participation brings added capability and credibility to a previously much maligned and troubled Space Station program.

I now strongly endorse the program. NASA has performed a remarkable management turnaround and the Administration's Russian initiative has brought great strength and agility at reduced cost, while supporting broader foreign policy goals.

I am pleased to have been able to participate in this effort.

Sincerely,

JOHN M. FABIAN.

WIND TUNNEL STATUS—MAY 20, 1994

The National Facilities Study led by NASA with DOD, Commerce, Transportation, and Energy participation, was released May 9. The study recommends the construction of two new wind tunnels to provide U.S. industry with a competitive edge in the next round of wide-body commercial transport competition. The latest cost estimate for the tunnels is $2.55B; however, the Administration's cost target is two tunnels for $2B.

On April 12, a notice was published in Commerce Business Daily announcing NASA's intent to award a sole source contract to Boeing to perform studies associated with the proposed tunnels. These technical studies are needed to better estimate the capabilities and cost of the tunnels. The contract may be awarded within the next few weeks.

NASA has $74M which was appropriated in FY 1994 to perform studies; it is NASA's intent to use those funds over FY 1994 and FY 1995 to perform technical studies, preliminary design activities and relevant siting and environmental activities. In the near-term, only non-site specific activities will be conducted.

An industry teaming agreement was signed on May 9 to conduct Phases 1 and 2 of the wind tunnel program. Boeing is the team leader (and prime contractor for above-mentioned contract). Other participants are McDonnell Douglas, Lockheed, Pratt and Whitney and General Electric Aircraft Engines. Rockwell and Northrop also may join the team. The industry team has agreed in principle to an innovative approach to manage, finance, and construct the tunnels, which would make them more affordable, including an equity investment by industry.

On May 16, the industry team met with Administration officials from OMB, OSTP, National Economic Council, Council of Economic Advisors, Department of Treasury, National Security Council, Commerce, and NASA to discuss the economic rationale and national need for the tunnels. Additional meetings are scheduled.

Regarding siting of the proposed tunnels, the goal is a fair and open evaluation and selection process, driven by best commercial practices. A final site selection may come as late as late 1995, pending successful conclusion of the Environmental Impact Statement process at one or more candidate sites. The proposed process will be reviewed with the Administration and Congress before implementation.

A "go/no go" decision on this initiative will be made by the Administration as part of the FY 1996 budget process.

Mr. GLENN. I know I have talked awhile tonight.

I urge my colleagues to vote against the amendment proposed by Senator BUMPERS. I think it would be tragic if we went this far and then did not avail ourselves of the opportunity we have with the space station.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in support of the Bumpers amendment.

I think we have to recognize that we have to make some tough choices around here. This is one of those things that is, frankly, just not necessary. I think the evidence on that is overwhelming.

I would like to first of all commend Senator BUMPERS. He has been a tiger on this. I saw an earlier chart with a balanced budget amendment. My hope is that Senator BUMPERS will join the Presiding Officer and me and others in voting for the balanced budget amendment. The reality is we do not have to make the tough choices around here because we do not have that fiscal discipline.

Thomas Jefferson was right when he suggested the need for a balanced budget amendment, as he was on so many other things.

This is going to cost $2.1 billion for the next couple of years, and then it goes up from there. What could we do with $2.1 billion? First of all, I hear a lot of talk about the GATT treaty and where we are going on that. If we adopt the Bumpers amendment, that takes care of the cost of the GATT treaty. We could double the amount we spend on cancer research at the National Cancer Institute. We could double AIDS research. In 2 months of the space station, we could pay for the entire Rwanda relief program.

I heard my friend, Senator GLENN, and I have great respect for Senator GLENN. I think he is one of the really fine, capable Members of this body. If anybody ever has any question about his courage, just look at that little tiny thing he got into, which is infinitely smaller than these shuttles that we send up to space now. It took incredible courage to get into that thing and be the first American to go into space. But he mentioned the math benefits. For $2.1 billion, we could have the finest summer institutes for every grade school, high school, and college math teacher and science teacher—summer institutes to bring them up to grade and really do something in education, infinitely more than we are going to do here.

Listen to what Lennard Fisk, former NASA administrator for space science, has to say. This was in Aerospace America magazine in May of this year:

Space science is poised to decline, and human space flight is left with a Faustian bargain. It can spend over $6 million a day plus related shuttle costs, pursuing an ever-elusive station. Or, by Herculean effort and perhaps sheer good fortune, it can actually build the station—in which case NASA will be burdened for a political eternity with operational costs, restricting it from making a meaningful contribution to the advancement of technology and science.

That is the former NASA administrator.

James Van Allen, for whom the Van Allen radiation belts are named, in Discover magazine of July, a month ago, wrote:

The shuttle and space station represent precisely the opposite of everything (Dan) Goldin says he wants . . . they are bigger, slower, more expensive, and worse.

The evidence from the scientific community is simply overwhelming, unlike some other things that we have turned down. I am not saying we were wrong in turning them down, but the big project in Texas, the scientific community was overwhelmingly for it, and we said no, we do not have the funds for it. Here the scientific community is overwhelmingly against it, and we seem determined to go ahead with it. I will be pleasantly surprised if DALE BUMPERS prevails on this amendment. But I occasionally have been pleasantly surprised around here.

Let me quote from a CBO study:

NASA's strong tendency to underestimate the costs of its project is a third characteristic that compounds the risk of the agency's marginal adjustment strategy.

Finally, it says:

The analysis suggests that if spinoffs from NASA's program were important in the past, they are unlikely to be as important in the future.

We have to make tough choices, and I think this is one where the American people—while there is some popularity to a space station, it simply is not worth the expenditure.

I am pleased to cosponsor and support the Bumpers amendment.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of the Bumpers amendment at 9 a.m. on Wednesday, August 3; that there then be a time limitation of 1 hour and 45 minutes remaining on the amendment, with 30 minutes under Senator MIKULSKI's control, 16 minutes under Senator BUMPERS' control, and 15 minutes under Senator METZENBAUM'S control; that a vote occur on or in relation to the Bumpers amendment at 10:45 a.m.; that no amendments be in order to the Bumpers amendment; and that no other space station amendments be in order to the bill; and that at 9:30 a.m. tomorrow, Senator GRAMM of Texas be recognized to speak on Senator MIKULSKI's time for up to 15 minutes.

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

Mr. MITCHELL. Mr. President, I thank my colleagues. A vote will occur on or in relation to this amendment at 10:45 a.m. tomorrow morning.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. I ask unanimous consent that a legislative fellow serving in my office, Deborah Reilly, be granted the privilege of the floor during the consideration of this bill.

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

Mr. HEFLIN. Mr. President, it is my understanding that while the Bumpers amendment strikes the amount of money allocated toward the space station, it does not direct where it will go. It is not a deficit reduction amendment. It is an amendment that, in effect, means that the Appropriations Committee could allocate in ways that it might deem appropriate to certain other areas of activity. Some could be in this particular area, the VA-HUD Independent Agencies, or some could go to others. So there is no assurance, according to what we have here, as to where the money might go. So a person who is weighing in balance one program against another program therefore has nothing to weigh. So you do not know where it is.

In effect, by voting for the Bumpers amendment, you are giving the Appropriations Committee a pig in a poke, and saying "Here is over—what I believe is around $3 billion," somewhere in that neighborhood of what it strikes altogether—saying, "You go ahead and take this money. The Appropriations Committee has met and has gone through their allotments, and they have divided it up, and we do not know exactly where it might go into the future."

Therefore, a person who is called upon to vote, who normally would weigh various projects in balance and say, well, we need this program as opposed to that program, is not given that opportunity. So I just wanted to mention that in the beginning here.

I am in strong opposition to the amendment before us, and it is my privilege to report to the Senate today on the remarkable accomplishments of NASA and the new International Space Station management team, headed by a very able and outstanding administrator, Dan Goldin. I have been, and continue to be, a strong and vocal supporter of the International Space Station and vigorously oppose this attempt to terminate the program.

I share with many in this Nation and this Congress a vision of maintaining and expanding the human experience in space. We have taken a huge step forward on the path to realizing this vision, and I am pleased to share with you the accomplishments of the new project management team.

The program now has a distinct management structure with clear lines of responsibility and authority. One center has been designated as a host center to facilitate program administration, and one contractor was selected as the prime, with all others working as subcontractors. Transition to the new configuration and management structure is complete. The new management structure includes a concept widely embraced within the private sector, a tenet of total quality management known as the Integrated Product Team. These teams are a flexible management tool designed to bring together experts from several fields to work individual issues, solve problems, improve communications, and speed decisionmaking.

Each station product will be managed by a team of NASA, contractor, and international partner experts. Teams include operations, science utilization, safety, procurement, and program control analysts to ensure all requirements are met. Early interaction with hardware and software suppliers assures requirements are understood and checked throughout development. The Integrated Product Teams control their own technical plans, schedules, and budgets.

All team members are accountable for results and understand that their decisions affect overall station resources, costs, schedules, and success. Team members may change as life cycle development requires different areas of expertise. Use of the Integrated Product Team places both authority and responsibility right where it belongs, where the work is being done.

This is a level of accountability which encourages everyone to get the job done, and get it done right the first time. The incredible amount of work delivered over the past year reinforces the value of the Integrated Product Team and demonstrates what our talented, skilled, and experienced workforce is capable of accomplishing when given the proper environment to excel.

The accomplishments of 1993 and to date are many. The system design review in March of this year provides the following information relative to the status of the space station program.

The critical design review has been completed for five major components, including the U.S. laboratory module.

All subcontractor design reviews have been completed and over 90 percent of review actions coming out of them have been closed.

Over 4,800—or 89 percent—of the flight hardware design drawings have been released.

Thirty-eight thousand five hundred pages of software requirements and detailed design documents have been released.

A space station environmental control and life support experiment was fabricated and flown on a recent shuttle flight.

Portions of node 1, the payload for the first U.S. launch, have been completed. Several sections of the main truss structure, the backbone of the station, are complete. Solar array equipment is being built and tested, and test components are being delivered to Russia. Over 25,000 pounds of test hardware have been built, much of which will serve as flight hardware. By this time next year, over 75,000 pounds will be completed.

The international space station design incorporates approximately 75 percent of its predecessor's hardware. It is not as though previous plans were completely scrubbed and the redesign sketched on a clean sheet of paper. In fact the new design provides some significant advantages.

Compared to the *Freedom* design, the international space station has nearly twice the power, almost double the pressurized volume, and twice the number of laboratory modules. The station will orbit at a higher inclination, broadening the band of the Earth's surface and atmosphere visible to the station. The crew size has been increased from four to six full-time crew members. The amount of extra-vehicular activity, or spacewalks required to construct the station has been drastically reduced, thereby reducing program risk.

Dedicated and skilled men and women from around the country, and around the world, have been working hard toward accomplishing their goal of building the world's first international orbiting laboratory in space.

Our international partners report their progress toward our mutual goal:

Canada completed the critical design review for its component in 1993.

Japan completed its preliminary design review for the Japanese experiment module in 1992, and has its critical design review schedule for 1996.

The European Space Agency's attached pressurized module will be ready for its scheduled launch date, and the Ariane 5 launcher is under development.

The Memorandum of Understanding and Joint Management Plan with Russia is nearly completed. The Statement of Work leading to a fixed-price contract has been developed.

Several members of the Advisory Committee on the Redesign of the Space Station, which is commonly known to those in the space and scientific area as the Vest Committee, chaired by the Massachusetts Institute of Technology, has had the opportunity to review the status and progress of the space station program when they met with program managers in Houston during the spring. The committee had been formed as an independent group of academic, scientific, and business leaders to evaluate the redesign effort last year. The findings of the committee, published in June 1993, expressed some

rather pointed concerns relative to the execution of the program and made a number of recommendations intended to enhance program management.

I was pleased to learn of the reaction of the Vest Committee members to the briefings presented during the system design review. The members were encouraged to share their personal observations regarding the status of the program. Their review was intense and their comments are dramatic.

Dr. Charles Vest, president of the Massachusetts Institute of Technology and committee Chair reported that there had been an absolute "sea" change, meaning a complete wave change in the management and organizational structure of the program and that it had progressed to an extent that greatly exceeded his expectations. He detailed evident improvements in the budgeting and contracting process which inspired greater confidence that NASA and its prime contractor can stay within the cost parameters and guidance given by OMB.

He noted improvements in technical and operational matters, as well as in research utilization of the completed station. He observed remarkable progress in integrating our international partners into the management and operational mainstream.

Dr. Vest stated categorically that it is absolutely essential that budgetary stability and firm national commitment be established.

And to me this vote that we are having today will go a long way toward giving us budgetary stability and firm national commitment. I feel if we win this vote in the neighborhood of 60 votes it ought to send a message that we ought to have budgetary stability and firm national commitment and to proceed with certainty in order to have proper planning.

John Fabian, a member of the Vest Committee and president and CEO of Anser states "My confidence level has reached an all-time high and for the first time I can call myself a 'Station advocate'."

Let's repeat that. He says that. . . . "for the first time I can call myself a 'station advocate'."

Professor Bradford Parkinson of the Hansen Experimental Physics Laboratory at Stanford University provided extensive comments relative to technical and mission assessment. He states that the Russian contributions should optimize the scientific and engineering returns from this world-class research facility. He concludes by stating that he and many of his colleagues believe that we must be unabashed in advocating a strong, balanced NASA program as a harbinger for the future.

I applaud the efforts of the Vest Committee Members and value their assessment.

I would like to also take the time at this time to applaud the efforts of the administrator Dan Golden, who has worked so diligently and has provided great leadership in regard to the redesign of the space station and in regard to the management of a proper approach that we have today and for his approach toward the fiscal matters pertaining thereto. He has done a tremendous job.

Proponents of this amendment contend that within the NASA budget space science mission have been delayed, starved, or cancelled for want of funds while NASA spends an ever greater share of its budget on manned space flight. Actually, shuttle operations have been cut 15 percent per year for the past 3 years, and the science budget has increased from 22.4 percent of the budget in 1994 to 24.3 percent in 1995. Since 1991, funding for Mission to Planet Earth has increased 69 percent, Aeronautics funding increased by 42 percent and Microgravity and Life Sciences funding is up 40 percent. Two new robotic planetary missions were started this year, and a low-cost, rapid-schedule mission is planned for 1996. Long-distance, high-endurance missions are best performed through robotics. There are other missions which require the flexibility and judgment to receive, interpret, and manipulate data, and adapt as the mission progresses. These missions require a more sophisticated computer—the human mind. The goal is to program the right balance between these two types of missions. And thanks in large part to the dedicated efforts of both NASA programmers and the members of the Subcommittee on VA-HUD and independent agencies, we have before us a balanced program which provides for both types of missions.

Another comment frequently made on this floor is that the station, and NASA, have eroded the budgets of the other agencies represented in this bill. That charge is completely unfounded. A comparison of the fiscal year 1994 and fiscal year 1995 recommendations for the major agencies contained in this bill clearly shows that NASA is the only appropriation whose budget recommendation declined. The VA appropriation went up 3 percent, the HUD appropriation went up 3 percent, the EPA appropriation went up 13 percent, and the NSF appropriation increased by 15 percent. Clearly, NASA and the space station are not being funded at the expense of other agencies.

Mr. President, the international space station is well on its way to reality. I am convinced that the time is right for the Senate to state—categorically—its commitment to the international space station. The House has voted overwhelmingly—278 to 155—in support of the station. The administration is firmly committed to achieving the promise of this program. NASA, its contractors, and the thousands of men and women around the world who are dedicated to the construction and operation of the international space station have done everything we have asked of them, fixed each of our concerns. We must tell them today that we have seen their hard work and recognize their accomplishments.

I strongly encourage my fellow colleagues to stand with me in supporting the completion of this truly visionary project.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Chair recognizes the Senator from Wisconsin [Mr. FEINGOLD].

Mr. FEINGOLD. I thank the Chair.

Mr. President, I rise this evening to support the amendment offered by the senior Senator from Arkansas [Mr. BUMPERS]. If I did nothing else tonight, I want to take this opportunity to again say that the senior Senator from Arkansas has really been an inspiration since I have been here on the deficit reduction issue. A lot of us who were elected in 1992 thought we would come here as a new group and we would have to sort of stimulate the deficit reduction issue here. But I found that there is no one who is more dedicated to try to cut out waste in our Federal Government than Senator BUMPERS. I greatly appreciate his making this effort with regard to the space station possible.

With this amendment, Mr. President, we have an opportunity and really, unfortunately, I have to say, yet another opportunity, to terminate funding for the space station.

I have been somewhat gratified by the work this Congress and President Clinton have done in reducing the Federal budget deficit. We have done a fair amount in the last year and a half.

Through targeted revenue increases and substantial cuts in Federal spending programs, the Federal budget deficit is anticipated to be well under $200 billion for fiscal year 1995. And while we should all be pleased with the direction we are going in terms of deficit reduction, Mr. President, getting the deficit under $200 billion is similar to the mountain climber who has climbed just half way up the mountain. We have come a long way, but we have much more progress to make, and perhaps the toughest work and the most painful decisions lie ahead of us.

Mr. President, I think this is true, even if our goal is not to completely eliminate the Federal deficit, which is what I would prefer. Even if we want to maintain a level of annual deficits, say, of $150 billion a year, where we are approaching at this point, we will have to make many more tough decisions, and those decisions will have to include, in my view, further cuts in the Federal Government.

I know that over the course of this debate several Senators will mention that we have recently celebrated the

25th anniversary of the first manned lunar landing. Thanks to the vision and commitment of President John F. Kennedy and many others, the United States was able to complete this remarkable achievement in less than a decade after President Kennedy had suggested that such an endeavor could occur and could be achieved.

I recall, as a small child, when Alan Shepard first went into space. I recall very well being told in grade school when our dear colleague, Senator GLENN, did his famous mission. And I remember 1969, when the three astronauts landed on the Moon. I was aware of that; every child in America was aware of that, and we felt tremendous patriotic pride each time one of those events occurred.

But what I did not know was going on, which was also good, was at that time during the 1960's, the primary decade that the United States was investing billions of dollars into the space program, the average annual deficit in the Federal budget was only $5.5 billion. In 1969, the year the Apollo 11 landed on the Moon, we had a surplus in the Federal budget of about $3 billion.

This was, in fact, the last time we had a surplus in the Federal budget. Since 1969, the year of the landing on the Moon, the size of the annual deficits has risen dramatically, and through 1994, the average annual budget deficit for the 1990's has been a staggering $253 billion. With this in mind, we must ask ourselves if we can truly afford a project that will cost us at least $75 billion using even the most conservative estimates.

Many of my colleagues have made strong arguments with regard to the merits of building the space station. It is possible that investing in the space station may harvest long-term scientific benefits. But I am certainly not willing to gamble on this possibility with the financial future of our children and grandchildren.

Since President Reagan initiated the space station *Freedom* project in 1984, we have spent over $11 billion. Many of my colleagues and fellow space station opponents assert that we have spent this $11 billion and have nothing to show for it—no hardware, no shuttle launches, and certainly no breakthroughs to date in medical research. What we do have to show for this is an additional $11 billion tacked on to our nearly $5 trillion debt, not to mention the interest we will be paying on this tab over the next several years.

Now, after countless redesigns and funding reestimates, NASA is again coming to us and saying "Trust us, this time we know what we are doing—and, oh, by the way we need another $2.1 billion for operating and construction expenses this year." Though NASA tells us that the total cost estimates through 2002 will be only $17 billion—only $17 billion—these are only the construction costs to build the station and do not take into account the $13 billion it will take to operate the station and the over $32 billion in shuttle launches that NASA tells us will be necessary over the 10-year life of the space station. When you add up the real costs of the space station you find that the total price tag will be at least $75 billion. And again, this does not take into account how much our children and grandchildren will be paying in interest payments on this $75 billion that we will need to borrow.

I would also like to point out, Mr. President, that in opposing the space station, I am not necessarily indicating opposition to all space programs and scientific research initiatives. I support many of the programs NASA is currently involved with. Part of my concern about the space station funding comes from the recent report by the Congressional Budget Office that this program, with its tremendous costs, is draining scarce NASA funds away from other research-oriented projects, and funneling virtually all of that money into the space station.

Moreover, one of the great promises of the space station is that it will lead to enhanced efforts in medical research and biotechnology. I must point out that the $1.9 billion we are debating here today rivals the roughly $1.9 billion that constitutes the entire annual budget for the National Institute of Cancer. I welcome the opportunity to discuss and compare with any of my colleagues the recent track records of those who are constructing the space station and those invaluable scientists and medical professionals who have made dramatic progress in discovering effective treatments and cures for various forms of cancer.

Finally, I recognize that there are many jobs that could be put at risk if the funding for the space station is terminated. No question these are good-paying, high-technology jobs in the aerospace industry, the kind of jobs that we as a nation should be investing in. I am prepared to work with my colleagues from Texas, Alabama, California, and other affected States in finding alternatives to completely eliminating these jobs. I think it is reasonable to look at that. If it means retraining programs, I am prepared to consider that. The aerospace industry is an important one, and shifting our spending priorities within the space program does not necessarily mean that we have no more use for these workers. I firmly believe however, that we cannot continue a Federal spending program for the sole reason that it provides high-paying jobs in a select number of States. We must look at more important factors, such as the merits of the programs and whether we as a nation can afford to spend billions of dollars on a project of questionable value.

I would like to conclude by reminding my colleagues that we have all heard the grandiose speeches calling for spending cuts. But time and time again those speeches are disregarded when it comes time to vote in the U.S. Senate on specific spending items. I have repeatedly voted for spending reductions, not always necessarily because I oppose those particular programs, but because I am convinced that the dangers of continued bloated deficits far outweigh the merits of those programs I voted to cut. I do not see a lot of difference between this debate and last year's debate over the superconducting super collider which this Congress, somehow—almost miraculously was able to defeat. That debate seemed to send a message that Members of Congress were willing to put all spending programs on the table, and even projects with arguable scientific merit should be closely scrutinized at a time of fiscal crisis. I am deeply troubled that when the final vote on this debate is taken, that this body will have taken a giant step backward even though a host of nonprofit organizations including the National Taxpayers Union, Citizens Against Government Waste, and Friends of the Earth all agree that this is one of the biggest pork-barrel items in the Federal budget. I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin yields the floor.

The Chair recognizes the Senator from Alabama [Mr. SHELBY].

Mr. SHELBY. Mr. President, I rise to oppose the amendment offered by the distinguished Senator from Arkansas, Senator BUMPERS.

Commitment, Mr. President, that is what this debate is about. It is about this country's commitment to the future, to improving life on Earth and to creating new opportunities and hope for our children and our children's children. It is about sustaining human life beyond this planet.

The world, the universe we live in is only as big or small as we choose to make it, Mr. President. Columbus' discovery of the new world demonstrated this; although trying to prove the latter rather than the former, it was his foresight, his forbearance, his sacrifice and his commitment to discovery that set him on a course toward the unchartered boundaries of the world he lived in.

Where would we be today if Congress had pulled the plug on the space program in the early sixties because of the high cost and low return on the NASA space program? I suggest we might be reading about Yuri Gagarin in our history books instead of Neil Armstrong as being the first man to walk on the Moon.

Conquering new frontiers is expensive and it is a long-term effort to be

sure. But, Mr. President, this is undisputed: The issue raised here is not whether or not the space station costs a lot of money, it is whether we should spend all of our money on today or invest a little bit in tomorrow.

Opponents suggest that as a practical, budgetary matter, the Space Station costs more than it is worth and that we should therefore stop funding it now and redistribute that money to more pressing social programs.

As a practical, budgetary matter, we would be foolish to withdraw our investment in the space station now.

It would cost us more now to back out of this international venture than it would to continue. And it could cost us more than the billions of dollars we have already invested in developing the space station.

It could cost us years of hard won preeminence in space research and exploration; it could cost us international credibility as a world leader; it could cost us incalculable opportunities and discoveries—about this world and the universe we live in.

We do not know what all the costs are because we don't know what we may be missing out on by canceling funding for this program.

As I see it, one of the most important Federal priorities of any government is to create opportunities for a better life in the future. We can not effectively do that anymore by just pumping money into life on Earth today. We must look ahead. We must search for ways to sustain our society, our culture, our life into tomorrow.

Indeed, the answers to many of our problems on Earth today may be answered from our knowledge and understanding of space. There is no way we can conduct the kind of advanced research and development necessary to such an understanding by looking through a telescope. We need to be in orbit not on Earth.

The space station is not some pie in the sky ideal, some multibillion-dollar floating piece of nuts and bolts as the cynics would argue—rather, it is only as real and tangible and successful as we choose to make it.

The space station represents a legacy for our children and our grandchildren—and it may be the only positive, beneficial legacy we leave them at the rate we are going in this country.

About all this body does, sometimes is spend for the present and worry about the future tomorrow. It is our trademark. Half of every Federal dollar is already spent on direct benefits to individuals. What is $2 billion out of a budget of $1.5 trillion? I say it is a small, but significant, investment in tomorrow.

The administration thinks this program is important, the majority of Congress thinks this program is important and the American people think this program is important—and it is.

Look at your corner marquee, or drop by your neighborhood video store, or check your local listings.

What was once considered the stuff of fantasy or science fiction is now accepted as predictions into our future—previews of the reality of tomorrow. "Star Wars," "Star Trek," "Buck Rogers"—much of our modern culture sees space exploration and travel as the logical evolution of our civilization. And, I believe it is well-placed, it could be the future of our civilization if we choose to make that commitment—that commitment of leadership, that commitment of purpose, and that commitment of resources that is prerequisite to any successful space program.

So, tonight I ask my colleagues to join me in reaffirming this country's commitment to our future by opposing this short-sighted attempt to strip funding from the space station.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama [Mr. SHELBY] yields the floor.

The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. I thank the presiding officer very much.

Mr. President, I rise in opposition to this amendment that calls for an end to the space station—complete, total end.

Everybody in this body knows how the Senator from Arkansas feels about the space station. He has had the conviction and the courage to wage this fight for many, many years. I respect him for that. But in the meantime, a lot has changed to convince me that the Congress now should support, and should fund, and should take an immense interest in NASA's space station program.

Last year, I became chair of the Senate Subcommittee on Science, Space and Technology, and that entailed on my part the immediate obligation to take a very fresh look at NASA's mission, the entire agency's mission, and our country's objectives in our overall space program. I take that work seriously and I will continue to take that work seriously.

I made a special point of taking an intense and, frankly, somewhat wary look at the space station program. At the very same time, it turned out that the new administration had exactly the same questions and the same interest in addressing past criticisms, some of which had been valid. They were willing to look at problems forthrightly that had cast such dark shadows over NASA as a whole and this particular program for far too long.

Within his first months in office, President Clinton directed a major redesign of the space station to reduce its costs. I know that is the kind of thing people say, but I talked with the President during the campaign a number of times about this, as I did the Vice President, and he was determined in this mission: Redesign, better use of money, better efficiency, better purpose.

But his charge was really much more than saving money. He called on NASA to rethink its programs's objectives—the entire agency—and address some very valid concerns of our main international partners in space then—Japan, Europe, and Canada.

As a result of this, when NASA ultimately produced the station's redesign last year, it won the seal of approval from a very good West Virginian, who happens to be the president of the Massachusetts Institute of Technology, Dr. Charles Vest, and a resounding endorsement from a team of highly respected independent experts assigned to review the new program.

My conversations with Charles Vest have been very important to me because he is a stringent critic in general of science, and he deals with it, obviously, at his institution. He had major questions. He is a very different person about the space station now than he was several years ago. I know that from experience.

President Clinton, for his part, went on to recommend to Congress the idea of supporting a very bold initiative: Russian participation in the space station program, something most Americans would have never thought about or thought possible if they did think about it.

From a purely cost-saving perspective, and budget has been brought up tonight, NASA has estimated that Russia's participation will lower our own costs of development through the purchase of existing Russian space hardware and technology. In fact, Mr. President, in exchange, NASA values Russia's contribution to the program at roughly $5 billion—$5 billion—that they pay that we do not.

Over the past 20 months, I have worked very closely with my colleagues in the Senate and the House of Representatives and key officials from NASA and the administration, to review the progress made to reinvent NASA in the post-cold-war era. With my very good friend and colleague, the Senator from Montana, CONRAD BURNS, who is the ranking member, I have held a number of hearings on NASA, including its relevance to the economy. And here the Senator from Maryland and I, once again, share very strong solidarity. Relevance to the economy is important in everything, to the American economy now. Also, its performance and its annual budget requests.

But by far the greatest amount of time that I spend on NASA has been spent on this one program—the space station.

Meeting with experts and outside groups, I have had intense discussions with the Vice President and the NASA

Administrator on the role the space station plays within NASA and its importance to the foreign policy and science objectives of the United States.

A word on Dan Goldin. NASA has not had a leader like Dan Goldin. Dan Goldin, Mr. President, if you have met and talked with him, is abrasive, abrupt, fairly curt, and almost always right.

I have not seen an Administrator like that in my time in the Senate. I am impressed by Dan Goldin. In my remarks, I have given sort of the image of Dan Goldin directing not only NASA but the importance of the space station within NASA. He is an extraordinary leader of that agency.

So based on all of this, I have concluded that the space station program that we have today is sustainable, and is sustainable on many grounds. My distinguished colleague from Arkansas has argued that we should terminate funding for the space station today because we have funded the program for 10 years with nothing to show for it. My friend from Wisconsin, made the same point.

I acknowledge the validity of that point if we were standing on this floor a couple of years ago. But we are not. Again, we are now debating a redesigned, rejuvenated, and redirected program housed in an agency that also is expected to get leaner and better at everything that it does. Layers of management and bureaucracy have disappeared from NASA to reduce the station's development costs.

And now finally, Americans can look forward to the first element launch of the space station in 1997, only 3 years away, and permanent human capability in the year 2002.

My colleague has also questioned how Congress can vote for deficit reduction and yet fund the space station, and my colleague from Wisconsin raised the same point. I start by pointing out that Federal funding in this country for research and development has continued to shrink as a percentage of our budget.

This is not welcome news and, yes, Congress has to make the difficult choices among competing demands that are put before us. Just within this appropriations bill, which is extraordinarily complex, many tough decisions were made to make resources available for some priorities at the expense of other requests that did not seem as urgent and essential. A lot of very tough decisionmaking was made in this appropriations bill. That will not be appreciated by many because they did not have to go through what the Senator from Maryland has gone through, but she has gone through it and has done it, and there are extraordinary decisions that are made here.

However, our responsibility to future generations—and I think this is an important point. We talk constantly about the budget deficit. I voted for Gramm-Rudman-Hollings, I voted for the Budget Act, reconciliation bill. I did not use to be as concerned about budget deficits as I am now. I now take it as part of my being that we must spend less, do more with less.

It is a challenge to a modern legislator. But I repeat, our responsibility to future generations is not summed up in one act, and that is the one act of reducing the Federal deficit. That is not the entirety of what defines our responsibility to those who follow us. If we pursue that necessary and worthy goal by cutting a destructive path on the way, we will do far more harm than good. Ask a family, ask a business whether it understands the difference between investments and paying off debt. You have to do both, and you have to do them at the same time if you are looking ahead.

That is what funding the space station is about. We can continue to reduce the deficit, as some of us insured through what I really do consider an historic vote for the economic plan that we passed last year, but at the same time we can invest in the elements of a country whose strength is about breaking barriers, whose vision and magic is about exploring frontiers, making progress in knowledge and in technology. If we are to reach our 11- and 12-year-olds and 13-year-olds, and have any expectation that they will desire someday to be engineers and scientists, we have to reach them in more ways than simply the classroom and the books that they read in the classroom alone. There has to be a larger vision. There has to be an imagination which is uniquely American, which captures their attention and redirects some of them off into our future makers of genius.

The space station is one of the key science and technology investments that we must make to maintain the vitality of our industrial base, Mr. President. That is especially true as we try to find ways to pour less into defense and more into the civilian sector and into what produces jobs and skills for our people.

A final point is how important today's concept of the space station is to something called foreign policy and international cooperation. The creation of NASA in 1958 and the race to the moon that the Senator from Wisconsin was speaking about sprang from the hostilities of the cold war. Forging a partnership with Russia on the space station, in addition to those already forged with Japan, Europe and Canada, encourages our countries to work together, to work peacefully in the new frontiers of outer space. It is a very exciting start—very, very exciting. Our own national and global security in fact is tied to a stable Russia that is an engaged, constructive member of the international community.

The space station may be our country's best example of international cooperation in the post-cold-war era. That is quite apart from all of the other arguments for it. We are no longer debating a program mired in confusing agendas and careless planning. I voted against the space station several years ago because of confused agendas and no sense of purpose and no sense of leadership. I did not have confidence. I have confidence now in the leadership, in the product, in the planning, and the management of NASA in general and the space station in particular.

This Congress has properly demanded a program that has a mission, a design worthy of support. I believe it has earned our respect. I believe it is now a program that should go forward and chart an exciting part of the future that will help us conduct better research on Earth, that has united the space faring nations and provides a path for former adversaries to work towards a common goal.

West Virginia steelworkers and software engineers and thousands of other Americans have needed roles in this program. There is nothing wrong with that argument.

Gathered together, these tangible and intangible benefits of the space station leave no doubt in my mind that we must continue its support. I therefore urge my colleagues to vote against this amendment, and I would like to specifically thank Senator MIKULSKI for her valuable leadership in this debate and commend her for successfully balancing very complex, very important priorities in this very complicated appropriations bill.

I thank the Chair and yield the floor.

Mr. DODD. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Arkansas. Much of the discussion presented thus far has focused on the national aspects of this program, but I feel compelled to raise some broader points in support of the international space station.

As a member of the Senate Foreign Relations Committee, I have strong reservations about any unilateral action to terminate the space station program. America's investment in the space station is not just an investment in the American space program—it is an investment in the international exploration of space. It is a commitment to a new level of international scientific coordination that we must honor.

Questions have been raised about the cost of such a venture. I think it is important to realize just how seriously NASA and its international partners have taken those questions. Over the past year, engineers, scientists, and program directors from the entire space community have come together to meet the challenge of building and integrating a completely new, less costly space station.

Today, the fruits of that effort are tangible. The international effort has produced an unparalleled product—and for less cost than the original space station *Freedom* design. Clearly, NASA and our international partners have answered the cost challenge.

Likewise, financial commitments from our international partners have increased. Today, our international partners have expended almost $4 billion on the space station program. That figure will likely increase to almost $8 billion with continued contributions to the annual operations cost of maintaining the station. The message is clear—our international partners have put their money where their mouths are, and we should do no less.

Consider for a moment the synergistic benefits of such an investment. Each international partner will bring crucial and innovative technologies to the orbiting laboratory, and each will take new approaches to the problems that we seek to solve in the weightless environment of space. Our joint planning efforts are nearing completion. A new and even more ambitious space station design is ready. We are literally on the brink of a new international effort to explore the last frontier.

This new level of cooperation and exploration could bring the cumulative knowledge and experience of the world's greatest space programs together for the purpose of peaceful scientific research. Imagine the possibilities.

This is not a dream. It is a serious commitment to the future of extended space exploration and research. It brings together the talents, the experience and the financial investment of the international community to further the goal of peace. It is a commitment we must not, and cannot, abandon.

Our commitment is crucial, and it must not waver. We must not permit the naysayers to cloud the argument. America must continue its commitment to space.

I therefore, respectfully urge my colleagues to reject the amendment offered by the Senator from Arkansas.

Mr. BRYAN. Mr. President, I rise in strong support of the amendment offered by the Senator from Arkansas [Mr. BUMPERS].

The most important argument against the space station is quite simple: We cannot afford it.

As the cost of the space station continues to escalate, its potential usefulness continues to decline. The latest NASA estimates reveal an anticipated total cost to complete the space station and operate it for a decade of $72.3 billion—or nearly 10 times the initial estimate of $8 billion proposed by President Reagan in 1984.

We have already wasted $11 billion on the space station. The amendment offered by Senator BUMPERS simply cuts our losses, and saves the American taxpayer over $60 billion in future expenses for this unwise and imprudent project.

Standing on its own, the $2.1 billion a year funding for this space station is questionable, at best. In conjunction with the federal budget deficit, and its effects on other programs, spending $2.1 billion a year on the space station is inexcusable.

Under constant budgetary pressures, the space station program has fallen into a trap all too common in the Federal Government. It is driven solely by the budget number NASA can get through Congress. Scientific concerns, candid evaluations of its mission, and long range thinking about the place for the space station in the context of our overall investment in science are all secondary to the budget. The overriding factor in determining the future of the space station is its budget—a sure recipe for failure.

A strong case can be made that the space station is, in fact, killing NASA. Like many Federal agencies, the NASA budget is essentially a zero sum game. For every new program proposed, an old program must be cut. In an agency dominated by one program to the extent that NASA is dominated by the space station, starting a new program is extremely difficult, if not impossible. Continuing to fund the space station spells disaster for the future of NASA. In essence, we are sacrificing the future of America in space to fund a decade old program with little merit or relevance in today's scientific environment.

As the cost of the space station has increased nearly tenfold, its planned mission has been vastly reduced. When proposed in 1984, the space station was intended to be an observatory for the stars and for the Earth, an assemble point for deep space missions, a satellite servicing center, a factory in space, and a laboratory for life sciences and microgravity research. As currently designed, the space station will serve only as a laboratory.

Even its function as a laboratory has been significantly compromised. The number of racks available for scientific research has been greatly reduced, and it now apepars that many of the types of experiments proposed for the space station could, and probably will, be performed for less cost on Earth, on the space shuttle, or on other, lower cost spacecraft.

I am also concerned by the recent changes which tie the space station so strongly to the Russian space program. While I share with most people the great interest in what is happening in the former Soviet Union, it is clear that Russia, or any other of the former Soviet Republics, is not a suitable partner for a scientific project of such magnitude. In fact, accommodations made to make our space station compatible with Russian involvement have further compromised the design of the space station. Quite simply, Russia is unstable, and we should not be spending $2.1 billion on a space station program dependent upon its future involvement with the United States.

I am willing to make the prediction that the space station as it is currently proposed will never be completed. At some point, NASA will be forced to terminate the space station project. It is in the interests of the American taxpayer, as well as NASA, that this termination occur sooner, rather than later. I urge my colleagues save the taxpayer's $60 billion by supporting the amendment offered by the Senate from Arkansas.

Ms. MIKULSKI. Mr. President, I rise as the chair of the subcommittee and in opposition to the Bumpers amendment. But before I do, I would like to thank the Senator from West Virginia for his very gracious comments about my work as an appropriator. But where an appropriator can work with an authorizer, the task is made easier and I believe makes for wiser, more prudent and targeted decisions. The Senator from West Virginia chairs both the Subcommittee on Space in the Commerce Committee and chairs the full Committee on Veterans Affairs. So we have been a one-two team here, working in tandem, and it has been a personal delight. But I also believe America has been well served by our partnership in focusing on what are the real needs and how to address them in specific and pragmatic ways.

Mr. President, I have been listening to the debate on the space station. Of course, I have been listening to the debate on the space station for 8 years because I chair this subcommittee. I want to say to the Senator from Arkansas, who has offered the amendment to defund the space station, that I admire him. I know he cares deeply about the people of Arkansas and about the people of the United States. And he has been a very articulate voice every year on controlling the deficit.

We have been cutting our deficit. We have been cutting our deficit without cutting our future. There are two types of public spending: Those that you did not get anything for your money and those that are public investments that ultimately generate the new ideas that lead to the new products which lead to the new jobs. That is what I believe the space station is. It is a public investment in research and new technologies that will have important value to both space science and also will be value added to commercial products.

I believe the Senator from Arkansas is making the wrong recommendation with his amendment. I believe it is wrong for our economic future, and I believe it is wrong for foreign policy.

Mr. President, 25 years ago, our Nation launched a space program that is

one of the greatest accomplishments of this century. On July 20, 1969, our astronauts, Buzz Aldrin and Neil Armstrong, became the first human beings to walk on the Moon, the crowning moment of the Apollo space program. We were all inspired by that. Not only were we inspired, but out of the Apollo program came technologies that are benefiting American citizens in their day-to-day lives right now. And like all of America, I lived through the drama of the cold war space race. I was a young woman in college in the 1950's when Sputnik shattered America's complacency about its technology superiority.

In 1969, I was fighting the war on poverty in the streets of Baltimore when Armstrong and Aldrin planted a flag on the Moon and made America proud again. They landed, they walked, and they broadcast their astronomical feats to the world. I was mesmerized by the moment. And ever since I became the chairperson of this subcommittee on appropriations I have been a strong supporter of the national space agency, and America's balanced space program. And I am a strong supporter of the space station because it is going to be a significant scientific laboratory. If we manage the project with fiscal discipline, and if we meet the commitments that we have made with international partners, we will be able to hold our head high. And I believe we are accomplishing these things with the International Space Station *Alpha* Program.

A lot of things have happened in the space station program since we had this debate in the Senate last year, and since we began this kind of rolling debate since 1988. I believe now the international space station *Alpha* looks better than ever. We streamlined the management of the space station, reduced its four centers to a single center, and we have a single prime contractor, clear lines of authority, budget accountability, and the cost of it brought down by $2 billion.

In the redesigned space station there will be more space, more electrical power, and more crew members to do research and experiments. With all these improvements, we will be able to save 75 percent of the plans we originally had for space station *Freedom*.

During the debate last year the administration had begun to negotiate with the Russian space agency. Last year, we had not yet finished our redesign of the space station. We had a lot of questions about the program, and yet people still voted to fund it. This year I am going to be able to say that their faith was well balanced. We now have a space station that is a major international scientific collaboration including Europeans, Canadians, the Japanese, and now the Russians.

Back in 1989 while we were furiously building bombs, and bomb shelters, and missiles to aim at the Soviet Union, and they were building bombs, bomb shelters, and missiles to aim at us, we were also involved in a space race. And did anyone dare to hope that in 25 years we would be working together in an international scientific laboratory where all these nations could work on research in space, where we go out together from Earth to explore, to learn, and to work together to learn about our solar system and our universe, and to build new technologies that will improve the lives of our children and our grandchildren here and around the world?

The research we will do on the space station will continue to generate the kind of knowledge that will create the products we cannot now even imagine and treatments once confined to our dreams.

Space technology has already helped us wage the war on heart disease by developing laser systems. It has helped increase advanced and pediatric pacemakers enabling little kids to live longer, and without a lot of surgical intervention. Right this minute there is a little girl being tucked in by her dad, and who is alive because of the pediatric pacemaker and who will be able to replace it as she grows older, stronger, larger because of what this space program has done.

It has created a hearing aid that can be implanted. We have reduced cardiac deaths. We have developed new body imaging techniques for early detection. Right now it is being used in breast cancer research.

This is a wise investment even in lean times because we are saving lives, generating jobs, developing products for global export. But we must invest today to be ready for the world tomorrow.

The space station is responsible for 40,000 good jobs in this country right now, jobs for men and women, blue and white collar, manufacturing workers, scientists, engineers, technicians, and clerks. These are the kinds of jobs that will carry us into the next millennium.

The new Senator from Wisconsin, Senator FEINGOLD, called this the biggest pork project. Well, I did not want to stand up and interrupt his argument. But this is not pork. Pork goes "oink, oink." It does not go "go, go." Pork is an add on, like a baroque object that looks good, but does not necessarily add intrinsic value. It serves either ego or a special interest, and it is fat.

What is the space program and the space station? It is not pork. This is not because of ego. This is because of a strategic plan to be able to take us into the 21st century.

Jobs from the new economy will be based not only in traditional industries and services but also on new technologies, and new products. These are the kinds of investments that will ensure that this Nation is not left out and not left behind. We have addressed the concerns that some scientists had years ago about the space station. And I know the Senator from Arkansas who has returned to the floor would say, "I remember when it was overweight and underpowered." Well, so do I. Now we have been able to streamline that. The design is more efficient, more effective, and more targeted to research. He is going to say, "Well, I remember when it was a transportation mode."

Then the Senator from Virginia, Senator WARNER, said, "Well, it is only good if you want to go to the Moon." I also remember when its original design was to be a conduit in the sky for astronauts going to Mars. But we knew that astronauts going to Mars is going to be a $500 billion undertaking. And we said no way, the subcommittee both in authorizing and appropriations, because we knew this was not a goal that was fiscally achievable in this century.

What we did say is that we need a space station to do the type of scientific research that cannot be done on Earth such as life science microgravity, and other areas of activity.

I believe the space station is on the right track. And I believe our collaboration, now with the involvement of the Russians, will enhance our work and actually save us money because they have some products that we can incorporate, and some technologies that will actually enhance the timeline.

In May 1995 there will be a docking between the United States astronauts and the Russians on *Mir*. For the first time, Russians and American astronauts will rendezvous in space, and not only will they do an extraordinary handshake of peace and friendship and collaboration symbolizing the end of the cold war not only on Earth but in space, but that new handshake will take us to, I truly believe, new cures for cancer, new products of materials that will be safe, will be resilient, will be the kinds of things, alloys, that we cannot yet now dream.

I believe that in May 1995 it would be a national and international embarrassment if we jettisoned the space station and American astronauts and the Soviet astronauts along with the Canadians and Japanese would look across the solar system and be emptyhanded because of the shortsighted nature, the well-intentioned but shortsighted nature, of the Bumpers amendment.

Mr. President, I yield the floor.

Before I yield the floor, I say to my colleague from Arkansas, does the Senator wish to continue speaking on this or are we ready to move to closure on this night's session? I thought it was very excellent debate.

Mr. BUMPERS. Mr. President, I have just 3 or 4 minutes to wrap up.

Ms. MIKULSKI. I thank the Senator from Arkansas being willing to stay

late, to lead the debate, and to bring his supporters over. We have tried to do the same. I thought the debate was rich in content and in a tone civil and courteous.

We look forward to the wrapup tomorrow morning.

Mr. BUMPERS. I thank the Senator from Maryland very much.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I know that the distinguished Senator from Maryland knows that I have the utmost respect for her and her work as the chairperson of this very important subcommittee on appropriations, dealing with the space station as well as housing, and so on.

I have listened as carefully as I could to some of the statements that have been made by people who support the space station. Without being disrespectful, or denigrating to any of them, I would just simply say that many times when I was a trial lawyer it was much more gratifying than debating an issue on the Senate floor.

When I had 12 jurors to speak to who were anxious to hear what I had to say about a case, I knew I had a fighting chance. That is the beauty of the American system of justice. But it has plenty of flaws. As a trial lawyer, I knew that jury of 12 men and women were going to listen. I knew they were going to make up their minds based on the evidence they heard, and what the lawyers said to them in what we call summations. I must tell you one of the things that makes this a depressing place is that speaking in the Senate is not like speaking to 12 jurors. You are speaking to people who, for the most part, have made up their minds. It does not make any difference what the argument is—the vote is not going to change.

My guess is that I will receive about the same number of votes I received last year. The Director of NASA, Dan Goldin, has gone up and down the corridors of the Senate office buildings with a Russian astronaut, making the case that this is critical to American-Russian relations. The Vice President—my former seatmate, who sat right here, my dear friend, who believes strongly not only in the space station, but especially the foreign policy initiative of having the Russians join us in the space station—has lobbied virtually every Senator that he thought might be in doubt.

So, yes, Mr. President, you do not have the luxury of talking to jurors who are undecided and who are going to cast their votes in the jury room based on what they heard. No lobbyists, no $160,000 jobs, just deciding on the merits.

Mr. President, that brings me to a couple of the arguments I heard tonight—as I knew I would—about the merits of the space station; namely, how we would grow protein and material crystals on the space station. Everybody including the people who are in the semiconductor business, and who use crystals, say they do not need it; that there is nothing critical about a wafer or a crystal grown in space that is different from any crystal created on the ground. The difference is that one costs $156 billion, and the other one costs an awful lot less.

Here is what Robert Park said before the Committee on Commerce, Science, and Transportation. Now, Dr. Park is, the director of the Washington office of the American Physical Society. As I pointed out earlier, the American Physical Society is 45,000 physicists in this country. In his testimony, he called it the "microgravity myth"—the idea that you can grow crystals for semiconductors or medicine in space that are purer than crystals made on Earth. Here is what he said:

> The only unique property of a space station environment is microgravity. It is not surprising, therefore, that much has been made of that property in attempts to sell the space station. But many years of research on shuttle flights, and in continuous operations of the Russian space station, Mir, has produced absolutely no evidence that this environment offers any advantage for processing materials or drugs. Indeed, there are sound reasons for doubting that it could. Gravitational forces are simply too weak to significantly affect most processes.

He goes on to say:

> In November, however, a team of Americans that collaborated in protein crystal growth experiments on the space station Mir and on the U.S. space shuttle, reported in Nature magazine that 10 years of work, at stupendous costs, have produced no significant breakthrough in protein crystal growth. No protein has been observed to crystallize in microgravity that does not crystallize on Earth.

Mr. President, everybody who has looked at the growing of protein crystals in space says this is utter nonsense.

But I am not speaking to 12 jurors; I am speaking to Senators who have already made up their minds to spend this $156 billion. I said earlier—and I misspoke myself—that we had never participated with the Russians in a single scientific experiment in space. I stand corrected. We did experiment with them on the growth of crystals and found out it was nothing. Yet, Senator after Senator will get up on this floor and talk about that being one of the principal reasons for going into space, to grow crystals and to cure cancer.

Mr. President, I have never been as certain in my own mind of the righteousness of what I believe as I am about this. I have been a deficit hawk for as long as I can remember, and I am absolutely rapt solid as to how the deficit has been falling. It is the most dramatic deficit reduction by far in the history of the country. But the mentality here is that the deficit is going down; therefore, it will not hurt to go ahead and vote for the space station.

Here it is: $2.1 billion for the next 3 years. Beginning in 1997, almost $4 billion a year. One Senator said that when you consider the fact that we have a $5 trillion debt, that is not very much. What we would spend on the space station in 1997 would run my State for 2 years. That is not very much, folks, but it is big bucks in Arkansas.

So here you see it, Mr. President, $3.9 billion for those years—3.6, 3.3, 3.2, and 3.1 each year after it is deployed. That is $10 million a day. You are not going to believe this, but of this $3.1 billion, almost $500 million of that is for water—to supply the astronauts with water. That ought to be laughable if it were not so serious.

But when Senators start stampeding through that door over there, these arguments do not mean a thing, and once again we will fund the space station and jeopardize the future of the country and the future of our children.

Mr. President, one final thing about the Soviet space station *Mir*. You remember I said they had seven up there. Since 1974, the Russians and the Soviets have had seven space stations deployed. They have one up there now called the *Mir*. It is an interesting thing, they said they developed a flu vaccine years ago, and it was on the front page of every Russian newspaper about how the Russians discovered a flu vaccine they could make in space. And nobody ever heard from it again. Do you know why? Because they found out they could make it cheaper on ground than they could in space. And so it goes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas yields the floor.

The Chair recognizes the Senator from Utah, [Mr. BENNETT].

Mr. BENNETT. Mr. President, I enjoyed listening to my colleague from Arkansas, with whom I sometimes join and with whom I sometimes cross swords. This happens to be one of the occasions when we will cross swords because I am in a different mode with respect to the space station than is he.

I respect his efforts and I respect his integrity for speaking out for what he believes.

The times when he and I have been together have come on issues relating to appropriate business practices, because I come from a business environment. My background is in business. And I am doing everything I can to maintain a businessman's point of view while I am in the Senate and try to avoid the Potomac fever that causes people to lose the perspective that they have after they are first elected. After I've been around here a little longer, that may happen to me. But I am doing what I can to prevent that.

So, I look at this from a business point of view. You may think, Mr. President, I am now going to start to list all of the benefits that will come out of the space station in a bottom line balance sheet fashion. I could do that, but there are other Senators who do that as well or better than I, and I would simply be redundant. Instead I take you to a business experience summarized in a conversation I had when I was the CEO of a company that was growing very rapidly but was still at the time quite small.

I was spending money as the CEO of that company in a research and development mode. Some of the people were concerned that we might not have the money. "Maybe you will postpone spending on those kinds of things until we get really stable. You do not know what you are going to get out of having these R&D people around. And, Bob, why are you spending the money?"

I remember saying to them, "If you do not spend the money on your future, you are not likely to have one."

It just kind of popped out on the occasion, but I liked it, and I repeated it. And I want to repeat it here in this context. If we do not spend some money on our future, we are not likely to have one, even if we cannot at this point quantify exactly what will come as a result of that spending.

Just 2 weeks ago, on July 20, 25 years previously American astronauts landed on the Moon. As I say, just 2 weeks ago we celebrated that anniversary. This is an event that I think changed our perception of the universe and our place in it forever. It inspired the Nation to continue its efforts in space. It also acted as a catalyst to bring our people together in a sense of rejoicing over an accomplishment that virtually nothing else has ever done.

The Apollo landing stands out as one of the most significant events in our Nation's history. Look back over the great civilizations of history. Each one is marked by a crowning achievement that lasts down through the ages: the pyramids in Egypt, the building of the Taj Mahal in India, demonstrating the apex of their architectural excellence, and Angkor Wat in Thailand, and so on—these represent the golden eras of these civilizations.

I think our Nation will be remembered for, among other things, the realization of the dream of human space flight and exploration, and Apollo will be one of those monuments. But if we do not add to Apollo with further monuments, we will end up looking back on that with the same kind of nostalgia that we now use to look back on the Greeks and the Egyptians and others who do not play a major role in the modern world.

I salute the men and women who made the Apollo landings possible, both the astronauts who made the historic voyage and the people on the ground who made the trip not only possible but safe and successful.

When I think on the 25th anniversary of Apollo, it is appropriate that we commemorate that by demonstrating our commitment to keep it up.

As I say, I could give you a list of all of the benefits that come out of space and space exploration in terms of things that have changed our lives here.

I remember seeing a video presentation on public television where an individual was standing in a room filled with medical equipment and said: "I am here in a room with the very latest medical equipment to show you the benefits of space. I am now going to remove from this room everything that owes its beginnings and its technological advances to the space program."

You can anticipate what is coming. In the next visual the room was empty. Everything owed its genesis to the space program.

So I could give you that list. As I say, I will not do that because other Senators have done that, and we have that in the RECORD, and we have that in the speeches on the floor.

I want to concentrate on the issue I have already raised, the issue of investing in the future, the issue of our vision and our concern about wonder.

My colleague from Ohio, Senator GLENN, has already touched on this with his story about Daniel Webster and his inability to see what could come out of the future.

G.K. Chesterton once said, "We are perishing for lack of wonder, not for lack of wonders."

We are indeed surrounded by wonders. But do we have that sense of wonder that I am sure he is referring to? As I say, this is the issue and this is the idea that I want to emphasize today. Think of it. It is a wondrous thing to send a man through space. It is a wondrous thing that men have walked on the Moon. Somewhere, in our debate about appropriations bills and crime, health care procedures, we seem to have lost our wonder.

Mr. President, I am here as the successor to Jake Garn, and those who remember Jake remember him for two things. No. 1, he used to complain bitterly about late night sessions. I am here at a late night session perhaps in honor to Jake's complaint. But, No. 2, he loved space. And he came back to the Senate and made a statement to the appropriations subcommittee about this which I would like to repeat here because it focuses on this issue of wonder.

He says, now quoting former Senator Jake Garn:

> Each time the shuttle flies is a miracle of human capabilities, both on the ground and in orbit. Each flight may not be as flashy or as notable as the Hubble mission, or Endeavor's maiden voyage. But each one provides a treasure of knowledge with great potential for advancement and improvement of the human condition * * *. The possibilities are mind-boggling.
>
> I have been "out among the people" now for the past year and a half. I have spoken to thousands of people in a wide variety of settings and when I speak to them about space, it's not the science or the technology that seems to strike the deepest chords with them; it's the "vision" it's the majesty of it all; the excitement of discovery. In these days when so much of society seems to respond only to things which provide instant gratification, it is heartwarming to me to find so much interest and such an overwhelming response to the "vision thing."
>
> History is filled with examples of once great nations who lost their drive to explore, who turned inward and lost sight of their real place in the world. When they lost that vision, they lost their place of leadership.
>
> Leadership, like trust, must be earned. It must be reaffirmed and proven by consistency in word and actions. My challenge to the President is to demonstrate this leadership; to support and expand this nation's space program; to not be swayed by the naysayers who claim who cannot afford it. I challenge him to allow the space program to embody the fundamental and instinctive need of human beings to explore and expand their horizons—to allow it to hold out the vision of a better understanding of who and what we are, and what part we play in the universe in which we live.

I know that that is in the report language, but I think it is appropriate to repeat it here on the floor because Senator Garn reacted to the wonder of this incredible opportunity and was its champion here on the floor of the Senate for 18 years. And, as a tribute to him, as I say, I think it is appropriate that I repeat this and, it is equally appropriate, as a tribute to him, that I do it in a late-night session.

We will now vote on whether or not to keep the space station. We will look at the charts. We will look at the bottom line. We will make the decision on a sound economic basis.

I am certainly not urging us to do anything that would be economically foolish or reckless or based on pure fantasy. I believe that support for the space station can be justified economically and we can demonstrate that the Nation will indeed get its money's worth.

But I do want to inject this note in the whole debate: Was it worth it for this Nation to go to the Moon? Was it worth it to pay what it cost us to allow the whole Nation to gather around one figuratively giant TV set and watch Neil Armstrong announce his "one giant leap for mankind"? Was that worth it to us as a people?

I venture to say that we will all say yes, not only from what happened on the balance sheet, but for what it did to us as a community. It was worth it because of the wonder. It remains one of the great moments in American history.

So looking back on the first quarter century of American space exploration as marked by Apollo, recognizing, of

course, there was much that went on before that, I find inspiration to continue our march of destiny beyond the Earth. And we cannot continue it without taking the next giant leap for mankind, which is to break beyond our present technology, go into a frontier we have not tried before, and build the space station.

For that reason, Mr. President, I urge all of my colleagues to support the space station and help America keep its sense of wonder.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah yields the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from Utah for his excellent remarks. I recall with fondness the work that I did, together with Senator Garn, on this appropriation.

It is a special treat to this Senator to have the support from Senator BENNETT. That certainly was very much in the Garn tradition.

MORNING BUSINESS

JUDGE H. LEE SAROKIN

Mr. DOLE. Mr. President, in the coming days, we are going to hear a lot of overheated rhetoric about how great the crime bill is, but when it comes to fighting crime, actions always speak louder than words.

Yes, we can put more police on the streets. We can toughen the criminal laws. We can build more prison space. But these efforts, no matter how worthwhile, will quickly go down the crime-fighting drain if the Federal bench is dominated by judges who seek to expand the rights of criminal defendants and hamstring law enforcement in the process.

One judicial nominee whose views did not square with President Clinton's tough-on-crime rhetoric was Judge Rosemary Barkett. Another such nominee may be Judge H. Lee Sarokin, who was recently selected by President Clinton to fill a vacancy on one of the Nation's highest courts, the third circuit court of appeals.

In an article appearing in the West Virginia Law Review, Judge Sarokin suggests that the pre-trial and pre-conviction detention of those charged with violent crimes violates the "presumption of innocence." If Judge Sarokin's views were to prevail, it appears that vicious criminals like the World Trade Center bombers would be free to roam the streets of our country at any and all times prior to their actual convictions. The Senate, of course, recognizes that pre-trial detention is an important public safety measure. And that is why we passed an anticrime bill last November that encouraged the States to adopt pre-trial detention laws for those charged with violent crimes.

In the same West Virginia Law Review article, Judge Sarokin also takes aim at mandatory sentencing, insisting that "mandatory and uniform sentencing * * * deprives judges of the right to grant mercy in those instances in which the facts cry out for it." And he argues for an air-tight exclusionary rule, even when the police act in a good faith belief that their search is lawful. The Supreme Court, of course, took a contrary view in the Leon decision, upholding a "good faith" exception to the exclusionary rule.

Mr. President, not only is Judge Sarokin's soft-on-crime judicial philosophy a source of concern, his judicial temperament is a big issue as well.

As a member of the Federal District Court in New Jersey, Judge Sarokin presided over a case in which several tobacco companies were the defendants. During the trial, Judge Sarokin's bias against the defendants was apparently so blatant and so well-publicized that the third circuit court of appeals took the extraordinary step of actually removing him from the case. Even the New York Times applauded the removal, saying that Sarokin had been "far out of line" and had "flunked an important test of credibility."

Mr. President, I have not made up my mind on the Sarokin nomination, and I will continue to examine his record carefully. But from what I see so far, it appears that Judge Sarokin will have a lot of explaining to do at his confirmation hearing tomorrow.

Mr. President, I ask unanimous consent that the article from the West Virginia Law Review and the New York Times editorial be reprinted in the RECORD immediately after my remarks.

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

[From the West Virginia Law Review]

BEWARE THE SOLUTIONS!

(By the Honorable H. Lee Sarokin)

I assume law schools still teach that a good lawyer is one who recognizes the problem. But in this day and age I suggest that the current generation should beware the solutions to those problems.

Although there is some dispute as to the existence of the so-called litigation explosion, it cannot be denied that more and more people are turning to the courts. It is popular to suggest that increased litigation is caused by the growing number of lawyers and their need to feed, clothe and shelter themselves and their families; but I suggest that the real reason is a general loss of faith in the other branches of government to protect individual rights coupled with an abiding confidence in the courts to protect those rights. Despite the apparent low popularity rating of lawyers, more and more people are turning to them for assistance. Providing them this assistance is the challenge for this generation.

The real danger is not what the lawyers are doing, but what is being done to the law. The judicial system is blamed for crime, for drugs, for abortion, for increased insurance premiums, for illegal aliens, for excessive verdicts, for the collapse of religion (no small accusation), for reverse discrimination, for the spread of pornography and obscenity, and for freeing the guilty. We are only responsible for about half those things.

The judicial system was not meant to cure all the social ills of our society. It was created as a forum to resolve disputes in a fair way and to protect rights in civil and criminal matters. The system also serves to set standards of conduct. We tend to forget that one of the purposes of tort liability is deterrence—it discourages defective and shoddy workmanship and negligent and harmful conduct.

But look at the proposals—some of which have been adopted already: Put people in jail before they are convicted; let illegally obtained evidence be used if the officer meant well; require judges to impose certain jail sentences even though the particular case warrants otherwise; make lawyers disclose how much they were paid by their clients and make them give it back if the source was illegal; put a cap on tort awards irrespective of the injuries sustained; test everyone for drugs, even though they have never given any indication that they ever indulged; and most recently, do not tell the accused that they have constitutional rights because they might exercise them. The law schools and in particular the law reviews have a vital role to play in these areas.

There is a strange tension in the law. All cases are decided based upon precedent. That of course is necessary to the stability of the law. How can lawyers advise their clients if they cannot rely upon the continuity of the law? On the other hand, the law is constantly being expanded and even reversed. The news is filled every day with examples. The press rarely reports that a previous decision has been followed. Instead, the reports focus on changes, reinterpretations, and reversals.

Law reviews can serve us best if they analyze the changes that are proposed either through court decisions or legislation. Law review writers should make judgments as to whether the proposed solutions are necessary and, more importantly, whether they conflict with any of those guarantees which we cherish as a society.

If we want to live in a democracy, if we want freedom and individual rights, society must pay a price. Every generation must decide whether the price is too high. Many of society's ills can be reduced or eliminated by a reduction in our individual rights. Somebody once asked the president of a famous car manufacturer why the industry did not make an automobile that was totally safe—one that could not injure the driver or passengers on impact. He said: "We have one. It's called a tank, but it would cost a million dollars to buy it."

There are many remedies to our problems, but they likewise are too expensive—not in terms of money, but in terms of freedom. The future leaders of the profession and its present spokespersons must decide and speak out as to whether the expense is worth the remedy.

Look at what is happening in the criminal area. We have pretrial detention of the accused in direct contradiction of the presumption of innocence. We have lawyers being forced to disclose the source of their fees and run the risk of forfeiture in direct opposition to the lawyer-client privilege and the right to effective assistance of counsel. Mandatory

and uniform sentencing is in the wings depriving judges of the right to grant mercy in those instances in which the facts may cry out for it.

And now the Justice Department calls for a retreat from Miranda. What is the rationale? The Justice Department cannot abolish the fifth amendment, so it proposes not to tell the accused that privileges exist for fear that if an accused was made aware of his constitutional rights he might exercise them. Who will this affect? Certainly not the inside traders, the elected officials, or other white collar persons charged with crimes. Rather it will affect the poor and uneducated, and perhaps even the innocent.

So what we, as individuals and as members of the legal profession, must decide is whether discovering and convicting criminals is more important than the constitutional rights that were created to protect everyone. Crimes would certainly be solved more quickly, and possibly more convictions obtained if we did not have to worry about the fourth and fifth amendments. But is that a result worth achieving? Is the cost too great?

The same analysis is necessary in connection with the drug problem. Indeed, it is closely related to the growth of crime. What price are we willing to pay in order to find out who is using drugs? Illegal handguns are used in robberies and murders every day. Would we think of searching every house and apartment in a large city to find and confiscate them? We probably would find a number of robbers and murderers in the process. The reason we do not do this is because the price is not worth it. As a free society, we have decided that it is more important to be protected in our property and persons than to find criminals. If we searched everyone or every house to find the guilty, we undoubtedly would be successful; but we cannot judge the worth of the Bill of Rights by considering what the benefits would be if its guarantees were not enforced. Those guarantees are invaluable, even though they may protect criminals and interfere with investigations and convictions.

Drugs are a menace. They are devastating our country. They cause crime, affect productivity, and seduce our children. We can help or discipline the users if we can identify them. So should we surrender our rights of privacy or our rights against unreasonable search and seizure and attack this cancer, or should we insist upon the preservation of our rights no matter how just the cause or great the need.

I suggest that the legal profession not look to public opinion for the answer. The will of the majority is not the guide here. The Bill of Rights is peculiarly necessary to protect minorities and minority viewpoints. The politicians can look to the polls for guidance; the legal profession should not and, indeed, cannot.

The greatness of our judicial system is that its decision need not be popular. We could combat crime by concealing the fifth amendment from the accused. We could discover the drug user by invading his privacy. We could protect the public by keeping accused criminals incarcerated before trial despite the presumption of innocence. We could track ill-gotten gains by forcing lawyers to disclose the source of their fees, despite the effect on the lawyer-client privilege and an accused's right to counsel. We could limit recovery of injured parties even though it would deprive them of what they need to survive. We could use illegally obtained evidence to convict, if we no longer wished to deter police lawlessness.

All of these suggestions and solutions need exposition. They require a balancing of the highest order. My bias is reflected in the way that I phrase these questions, but it need not be yours. Re-examine what is old; and, if you believe that it is no longer valid, urge its change. Challenge what is new and proposed if you believe that it destroys rights and principles worth saving. Law reviews serve an important function when they summarize the law in a particular area, but they are at their best when they enhance the law or defend against its encroachment where necessary. Think of the valuable insight that can be given on pretrial detention, retention of the Miranda rule, mandatory sentencing, the legality of drug testing in the public and private sector, surrogate mothers, restrictions on advertising as now proposed regarding cigarettes, all of the ramifications of liability involving the cigarette industry, and tort reform in general.

When the law is changed by decisions or legislation so as to affect individual rights, our spirits should soar! We should not feel a gnawing doubt in the pit of our stomachs. If a change has occurred or is proposed with which you cannot agree, then use your training, your wisdom, your pens (or now more probably word processors) to speak out.

The law is under siege. Join with the revolutionaries if you think the attack is warranted but mount the bastions to defend it if you think it is not.

[From the New York Times, Sept. 10, 1992]

TOPICS OF THE TIMES; JUSTICE BECLOUDED

When Judge Lee Sarokin of U.S. District Court in New Jersey issued a key ruling against tobacco manufacturers in February, he began with a thorough denunciation of the industry. He declared that "despite some rising pretenders, the tobacco industry may be the king of concealment and disinformation."

That may be so, but the judge was far out of line to say it. He had been assigned to preside over an eventual trial on the very issue he opined about so colorfully: whether cigarette makers had conspired to withhold information about the dangers of smoking. The U.S. Court of Appeals rightly pulled the judge, able and hard-working as he is, off the case.

Even with its record of slick marketing and efforts to smokescreen evidence that cigarettes kill, the tobacco industry is entitled to a judge who has not given the appearance of strong feelings that go to the merits of its lawsuit.

Judge Sarokin had been asked to decide whether certain industry documents must be produced over the industry's objection that they are private legal papers. The judge could compel their disclosure if they showed fraud. Since fraud was also the central issue in the lawsuit, he had to be especially careful in issuing his ruling.

Instead, on his opinion's first page, Judge Sarokin charged that: "All too often in the choice between the physical health of consumers and the financial well-being of business, concealment is chosen over disclosure, sales over safety, and money over morality. Who are these persons who knowingly and secretly decide to put the buying public at risk solely for the purpose of making profits and who believe that illness and death of consumers is an appropriate cost of their own prosperity!"

That was powerful stuff, which generated news across the country. But with it, Judge Sarokin flunked an important test of credibility. Granted that the defendants have long wished for a different judge, they are entitled to just that rather than one who has put his own impartiality in question.

SUSAN G. KOMEN BREAST CANCER FOUNDATION

Mr. CAMPBELL. Mr. President, I am happy to be here today to talk about the Susan G. Komen Breast Cancer Foundation and their tremendously successful Race for the Cure. As you know, the Susan G. Komen Breast Cancer Foundation is one of the major funders of breast cancer research in the country. They have raised over $19 million since 1982—and they are committed to raising more money for research and education through Race for the Cure events in 48 cities this year.

Breast cancer is the leading cause of death for women between the ages of 35 and 52. There are 1.8 million women in this country who have been diagnosed with breast cancer, and an additional 1 million who do not yet know they have this disease. Until we find a cure, early detection through mammography screening and clinical breast examination is the best approach we have to fight breast cancer. But the Susan G. Komen Breast Cancer Foundation is looking for a cure, and Race for the Cure events are a major source of funding for these efforts.

I am pleased to join the efforts of Colorado Race for the Cure volunteers this year to lead the first ever Ride for the Cure in Aspen, CO with my wife Linda and my daughter Shanan. As you may know, my family rides motorcycles together as often as we can. And this July 30, we hope to be joined by hundreds of other bikers, breast cancer survivors, and friends as we Ride for the Cure into the Rockies and then back to Aspen for a special barbecue. It is all part of Aspen's fourth annual Race for the Cure benefit. Hundreds of volunteers have been working on Race for the Cure for many months in Colorado. I am happy to participate in this event and invite all of my colleagues and constituents to join Linda, Shanan, and me in our ride for the Cure in Colorado and across the Nation.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. As I have done each week the 103d Congress has been in session, I rise to report to the Senate on the gruesome toll taken by gun violence in New York City. This past week, 17 persons were killed by gunshot, bringing this year's total to 584.

THE RETIREMENT OF MRS. DORIS ELERDING

Mr. MURKOWSKI. Mr. President, a long time member of my staff, Mrs. Doris Elerding, has decided to depart

Washington and her service to the Senate for what is perhaps the best of all reasons—to be closer to her children and grandchildren.

I rise today to say a few words of tribute to Doris and her superb service to me, the Senate, and the people of Alaska.

Doris moved to Ketchikan, AK, from Bellingham, WA, with her husband, Ira Elerding, in 1962.

Ira had received an offer to work as an electrician at the Ketchikan pulp mill, so Ira and Doris decided to go to Alaska for what they thought would be an adventure lasting just a few years.

Once in Ketchikan, attentions turned to raising a family, Doris and Ira got involved in the community, and as often happens in Ketchikan, the moss began to grow under their feet. They decided to stay.

I first came to know Doris when I was involved in the banking business. Doris was working at the First National Bank of Ketchikan, working as a secretary to the bank's president, Bill Moran, Sr.

Shortly after I was elected to the Senate in November 1980, I received a phone call from Doris. Her beloved husband, Ira, had passed away, and her boss was getting ready to retire from the bank, so Doris was interested in working with me in Washington.

It is not easy to find Alaskans who are willing to leave Alaska to work in Washington, DC, so I told her she could have a job, provided she was sure she would like living on the east coast.

Doris figured it was time for another adventure and reported for work in February 1981. She has served as our receptionist ever since.

In her many years of answering phones, dispensing gallery passes, arranging White House tours, and much more, Doris has touched the lives of thousands of people, Alaskans and non-Alaskans alike.

I know that she has touched so many lives because I rarely return to Alaska without someone walking up to me and asking: "How's Doris? Please tell her I said hello."

It even happens here in Washington. I will be at one of the many functions or dinners that we must attend here in Washington and someone will often approach to ask: "How's Doris?"

In addition to making visiting Alaskans and other visitors feel at home, Doris has always kept a watchful eye on the young Alaskans and others who have worked for me over the years.

At one time Doris owned a home here on Capitol Hill that she would open up to young people looking to rent a room, or to new staff needing a place to stay until they could find apartments of their own. If you rented a room from Doris, and were a little late getting home, or were a new staffer just arriving on a plane from Alaska, you could always count on the fact that Doris would be waiting up for you. Doris often took young people under her wing and kept an eye on them.

Doris' graciousness and willingness to help others is deeply rooted in her strong faith and devotion. Many who worship at St. Joseph's know Doris from morning Mass.

You could find Doris there each and every morning—even the morning it was icy and she slipped on the sidewalk and broke her ankle.

It was not too long before Doris was back, in a full leg cast, struggling up the stairs to attend Mass once again.

The final story I will share occurred very recently, after Doris told me of her plans to leave.

It was the evening of the congressional barbecue at the White House. My wife Nancy was in Alaska, so I asked Doris if she could accompany me.

Doris did not hesitate. She grabbed her camera and joined in the festivities.

At one point, seated among a table of Senators and other dignitaries, she asked what she described as "a nice young man" to snap a picture of the group with her camera.

The "nice young man" readily and graciously agreed. When someone leaned over to Doris and told her that she was having her picture taken by the Secretary of Transportation, she shrieked in delight and insisted that he join in the picture as well.

I do not know precisely what the press reported the next day about the White House barbecue, but I am able to report to my colleagues that Doris was the life of the party.

Over the years, Doris has taken good care of us. Unfortunately for us, the time has come where she has determined that her children and grandchildren need her more.

She ended her service to the Senate on July 10, and is moving to Portland, OR to be close to children and grandchildren in Portland as well as Sitka and Ketchikan, AK.

We will miss her, but trust in her ability to keep in touch and visit us often.

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

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) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through July 29, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 387), show that current level spending is below the budget resolution by $4.9 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–1998. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated July 26, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1994.

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 1994 budget and is current through July 29, 1994. 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. 64). 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 July 25, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT, FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS JULY 29, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/under resolution
On-budget:			
Budget Authority	1,223.2	1,218.4	−4.9
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–1998	5,153.1	5,122.8	−30.3
Maximum Deficit Amount	312.8	311.7	−1.1
Debt Subject to Limit	4,731.9	4,551.8	−180.1
Off-Budget:			
Social Security Outlays:			
1994	274.8	274.8	(3)
1994–1998	1,486.5	1,486.5	(3)
Social Security Revenues:			
1994	336.3	335.2	−1.1
1994–1998	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 of the Deficit-Neutral reserve fund.

[2] 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.

[3] Less than $50 million.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS JULY 29, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation [1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offsettting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Extending Loan Ineligibility Exemption for Colleges (P.L. 103–235)	5	3	
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		4	
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)		
Federal Housing Administration Supplemental (P.L. 103–275)	(5)	(2)	
Total enacted this session	(2,748)	(645)	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted [2]	(5,562)	1,326	
Total Current Level [3, 4]	1,218,395	1,217,054	905,429
Total Budget Resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under Budget Resolution	4,854	1,095	
Over Budget Resolution			80

[1] Includes Budget Committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $14,203 million in budget authority and $9,079 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $757 million in budget authority and $291 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount as an emergency requirement.

[4] At the request of Budget Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

[5] Less than $500 thousand.

Notes.—Numbers in parenthesis are negative. Detail may not add due to rounding.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the Constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,636,361,778,400.62 as of the close of business Friday, July 29, the most recent day that information was available this afternoon. Averaged out, every man, woman and child in America owes a share of this massive debt, and that per capita share is $17,783.53.

TRIBUTE TO JAMES P. CONNOR

Mr. BIDEN. Mr. President, on another August day, 50 years ago, a battle patrol—part of the 3d Infantry Division of the 7th Regiment, United States Army—landed at a place in southern France, known on that day and ever after as "Red Beach." The advance platoon was involved in one of the most difficult missions of the second wave invasion of occupied Europe, Operation Anvil-Dragon, to clear the mined beach, and to destroy heavily fortified enemy positions, for the amphibious vehicles that would follow ashore.

Shortly after the landing, the platoon's lieutenant and sergeant were killed. Command fell on the shoulders of a 25-year-old draftee, a graduate of St. Mary's Commercial School in his home town of Wilmington, DE, a leather worker by trade. In the 3 years since he had been drafted, he had made sergeant himself, and now, with a 36-man platoon that was reduced ultimately to just seven soldiers, with no senior or career officers, James P. Connor took command on Red Beach.

Sergeant Connor inspired his outmanned and outgunned troops to continue the fight, and to believe that they could—and would—win. He was wounded three times, but even when he could no longer stand, Sergeant Connor refused medical treatment and continued to issue orders and to push his troops forward. He was heard to shout, "They can hit me, but they can't stop me." The platoon of 7 reached the enemy position and captured 40 Germans. The beach was secured in 3 hours.

For his uncommon valor—for his heroism—Sgt. James P. Connor received the Medal of Honor, one of only two citizens of our small State to earn that highest of all military recognitions in the 20th century. Sergeant Connor's citation hailed his driving spirit, by which he had practically carried the platoon, through mines and gunfire, to the successful completion of its mission.

After his discharge from the Army in 1945, Jim Connor returned home to Delaware. He got married and raised a family, four sons. He started a new job with the Veterans Administration, where he worked until his retirement, helping others who had also served our Nation in uniform. He lived, as he had before 1941, and like so many of his neighbors and friends, what we too often think of as just a regular, productive, law-abiding citizen.

When James P. Connor died last week at the age of 75, his wife said, simply but profoundly, that he had been a private person. Although his Medal of Honor gave him opportunities—deserved opportunities—to be in the spotlight, Jim Connor was never comfortable there. Like so many in the World War II generation, he felt that he had simply done his job, done what he was supposed to do as an ordinary American citizen, and an ordinary American citizen was all he ever wanted to be.

Mr. Connor personified the kind of character, the kind of values, that are incompatible with self-promotion. He was the kind of patriot who does not seek applause or reward, but serves out of a genuine and instinctive sense of duty, and with a sense of obligation to those who died in their own service to our Nation. He was, not only during those 3 hours on Red Beach but for all the years of his life that followed, the embodiment of the lessons taught so well by his generation.

It is the lesson that liberty and the blessings it allows cannot be taken for granted by those who enjoy them, that the defense of freedom and its integrity must always be the mission of ordinary Americans. It is the lesson that our best remembrance of, and highest tribute to, those who have served and sacrificed for us lies not in the words we say when the spotlight is on us, but in the lives we live every day.

Our highest tribute is to refuse to abandon the faith in our common purpose that led Sergeant James P. Connor to shout, "they can't stop me"; to refuse to abandon the belief in one another—the belief and the trust—that inspired that platoon of seven to keep fighting together, that made a hero out of Jim Connor, and so many other, ordinary Americans; to refuse to abandon the dream whose value we feel instinctively, the dream of America.

Our highest tribute is to build this country and our communities, to build lives like that of a private and ordinary man named Jim Connor, whose dedication to family, friends and fellow citizens made him a hero every day of his life. To be worthy of such extraordinary ordinary citizens, who by their driving spirit carry us toward our promise as a people, we must continue to keep the faith in our common purpose, and to build the hope, the belief in one another, the dream.

Someone once said that, "What we have done for ourselves alone dies with us; what we have done for others and the world remains and is immortal." We will mourn the death of James P. Connor, for a very long time, but the celebration of Jim Connor's life—of what he did for us, and for his family and friends—will never end.

We extend our sympathies to Mr. Connor's wife of 48 years, Elizabeth Chlepciak Connor, to their 4 sons, James, Donald, Jeffrey and Michael, to his sister, Dorothy Brown, and to the 8

grandchildren whom he no doubt would claim as his dearest legacy. In doing so, we honor a private man whose courage and character in service to us all reminded us that the ranks of our history's heroes are filled by ordinary Americans. May we always keep this Nation worthy of such citizens.

NATIONAL POW/MIA RECOGNITION DAY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 196, National POW/MIA Day, and I ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 196) designating September 16, 1994, as "National POW/MIA Day" and authorizing display of the National League of Families POW/MIA flag.

The Senate proceeded to consider the joint resolution.

Mr. BENNETT. Mr. President, I ask that the joint resolution proceed to third reading and final passage.

The PRESIDING OFFICER. Without objection, the joint resolution is deemed read three times and passed.

So the joint resolution (S.J. Res. 196) was passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 196

Whereas the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships;

Whereas, in the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990, the Federal Government officially recognized and designated the National League of Families POW/MIA flag as the symbol of the Nation's concern and commitment to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for in Southeast Asia; and

Whereas the sacrifices of the Americans whom are still missing in action and unaccounted for from all our Nation's wars and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 16, 1994, is designated "National POW/MIA Recognition Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

SEC. 2 REQUIREMENT TO DISPLAY NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

(a) IN GENERAL.—The POW/MIA flag shall be displayed, as a symbol of the concern and commitment of the United States to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for and to ending the uncertainty for their families and the Nation—

(1) at all national cemeteries and the National Vietnam Veterans Memorial on May 30, 1994 (Memorial Day), September 16, 1994 (National POW/MIA Recognition Day), and November 11, 1994 (Veteran's Day); and

(2) on, or on the grounds of, the buildings specified in subsection (b) on September 16, 1994.

(b) BUILDINGS.—The buildings specified in this subsection are—

(1) the White House;

(2) the Capitol Building; and

(3) the buildings containing the primary offices of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service Commission.

(c) POW/MIA FLAG.—As used in this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized officially and designated by section 2 of the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990 (36 U.S.C. 189).

Mr. BENNETT. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 2319

Mr. BENNETT. Mr. President, I ask unanimous consent that S. 2319 be star printed to reflect the following changes, which I now send to the desk.

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

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM-138

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying, report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of March 3, 1994, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution 778 requires U.N. Member States temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq, to finance Iraq's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the escrow account are to be returned, with interest, to the Member States that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the U.N. Security Council. No Member State is required to fund more than half of the total transfers or contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos.

12724 and 12817 (the "Executive orders"). The report covers events from February 2, 1994, through August 1, 1994.

1. During the reporting period, there were no amendments to the Iraqi Sanctions Regulations.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. There are currently 30 enforcement actions pending. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and Iraqi Sanctions Regulations with respect to transactions involving Iraq. Three penalties totaling $38,450 were collected from three banks for violation of the prohibitions against Iraq, and noncompliance with reporting requirements and an Office of Foreign Assets Control directive license.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to the Office of Foreign Assets Control's listing of individuals and organizations determined to be Specially Designated Nationals ("SDNs") of the Government of Iraq. One Jordanian-Iraqi joint venture company prominently involved in shipments to Iraq was identified as an SDN of Iraq on May 4, 1994. A copy of the notice is attached.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution 778, on October 26, 1992, the Office of Foreign Assets Control directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On March 1, 1994, following payments by the Governments of the United Kingdom ($447,761.19), the Netherlands ($1,566,994.55), Australia ($476,110.00), and the European Community ($3,758,310.31), respectively, to the special United Nations-controlled account, entitled United Nations Security Council Resolution 778 Escrow Account, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $6,240,176.05 from the blocked account it holds to the United Nations-controlled account. Similarly, on March 22, 1994, following the payment of $525,182.50 by the Government of the Netherlands, $2,478,089.89 by the European Community, $2,352,800.00 by the Government of the United Kingdom, $444,444.44 by the Government of Denmark, $1,204,899.30 by the Government of Sweden, and $3,100,000.00 by the Government of Japan, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $10,105,416.13 to the United Nations-controlled account. Again on June 30, 1994, the Federal Reserve Bank of New York was directed to transfer $6,969,862.89 to the United Nations-controlled account, an amount corresponding to the aggregate total of recent payments by the governments of other Member States: European Community ($1,042,774.31), United Kingdom ($1,570,804.48), the Netherlands ($1,062,219.51), Kuwait ($2,000,000.00), and Sweden ($1,294,064.59). Cumulative transfers from the blocked Federal Reserve Bank of New York account since issuance of Executive Order No. 12817 have amounted to $130,928,726.04 of the up to $200 million that the United States is obligated to match from blocked Iraqi oil payments, pursuant to the United Nations Security Council Resolution 778.

5. The Office of Foreign Assets Control has issued a total of 496 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 52 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, food intended for humanitarian relief purposes, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexisting intellectual property rights in Iraq.

6. The expenses incurred by the Federal Government in the 6-month period from February 2, 1994, through August 1, 1994, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $2.3 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

7. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. Four years after the invasion, a pattern of defiance persists: a refusal to recognize the international boundary with Kuwait or to account for missing Kuwaiti detainees, sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors, and ongoing widespread human rights violations, among other things. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continued to violate basic human rights of its own citizens through systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by United Nations Security Council Resolution 688. For more than 3 years, Baghdad has maintained a complete blockade of food, fuel, and medicine on northern Iraq. The Iraqi military routinely harasses residents of the north, and has attempted to "Arabize" Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring States.

In 1991, the United Nations Security Council adopted Resolutions 706 and 712, which would permit Iraq to sell up to $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. The resolutions also provide for the payment of compensation to victims of Iraqi aggression and other U.N. activities with respect to Iraq. The equitable distribution within Iraq of this humanitarian assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. Nearly a year ago, the Iraqi government informed the United Nations that it would not implement Resolutions 706 and 712.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to

the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions require that the Security Council be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1994.*

MESSAGES FROM THE HOUSE

At 11:32 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 195. Joint Resolution to designate August 1, 1994, as "Helsinki Human Rights Day."

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4506) making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. BEVILL, Mr. FAZIO, Mr. CHAPMAN, Mr. PETERSON of Florida, Mr. PASTOR, Mrs. MEEK of Florida, Mr. OBEY, Mr. MYERS of Indiana, Mr. GALLO, Mr. ROGERS, and Mr. MCDADE as the managers of the conference on the part of the House.

At 4:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1690. An act to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

H.R. 2826. An act to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

H.R. 3898. An act to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and for other purposes.

H.R. 4535. An act to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes.

H.R. 4724. An act to amend title 38, United States Code, relating to veterans housing programs, and for other purposes.

H.R. 4768. An act to amend title 38, United States Code, to make changes in veterans' education programs, and for other purposes.

H.R. 4776. An act to amend title 38, United States Code, to improve veterans' employment programs, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1690. An act to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2826. An act to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974; to the Committee on Foreign Relations.

H.R. 3898. An act to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4535. An act to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4724. An act to amend title 38, United States Code, relating to veterans housing programs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4768. An act to amend title 38, United States Code, to make changes in veterans' education programs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4776. An act to amend title 38, United States Code, to improve veterans' employment programs, and for other purposes; to the Committee on Veterans' Affairs.

The following bill, previously received from the House of Representatives, was read the first and second times by unanimous consent and referred as indicated:

H.R. 2266. An act for the relief of Orlando Wayne Naraysingh; to the Committee on the Judiciary.

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-3136. A communication from the President of the United States, transmitting, pursuant to law, a report requesting a supplemental appropriation for the Department of Housing and Urban Development; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOYNIHAN, from the Committee on Finance, without amendment:

S. 2351. An original bill to achieve universal health insurance coverage, and for other purposes (Rept. No. 103-323).

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments:

H.R. 4569. A bill to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

William T. Coleman, III, of Michigan, to be General Counsel of the Department of the Army.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON:

S. 2348. A bill to repeal the prohibitions against recommendations relating to Federal employment and United States Postal Service employment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GORTON:

S. 2349. A bill to amend the Elwha River Ecosystem and Fisheries Restoration Act with respect to the licensing of certain hydroelectric projects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2350. A bill to establish a Meat, Poultry, and Eggs Inspection Agency to administer the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, to expand the application of such Acts, to provide for the establishment of safe cooking standards for meat and poultry products, to improve scientific research and understanding of foodborne illnesses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN:

S. 2351. An original bill to achieve universal health insurance coverage, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. KENNEDY:

S. 2352. A bill to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON:

S. 2348. A bill to repeal the prohibitions against recommendations relating to Federal employment and U.S. Postal Service employment, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL CIVIL SERVICE JOBS LEGISLATION

• Mr. SIMON. Mr. President, today I am introducing a bill that repeals a provision of the Hatch Act that prevents Members of Congress from making recommendations, oral or written, on behalf of people applying for Federal Civil Service or U.S. Postal Service jobs.

Last summer Congress amended the Hatch Act to prohibit Members of Congress from writing a simple letter of

recommendation for anyone applying for a nonpolitical civil service position. Mr. President, I think that's going a bit too far.

My bill repeals the prohibition on recommendations. It does, however, leave intact reasonable guidelines. Under my proposed legislation, recommendations must be based on personal knowledge or records of the applicant, and may only include evaluation of work performance, ability, general qualifications, comments on character, loyalty, suitability, et cetera.

Mr. President, I am sure there have been times when an elected official has recommended an individual for Government employment simply because that individual has been a loyal friend. I am equally sure that these types of abuses are the exception rather than the rule. I don't believe there is anything wrong with an elected official sending a written letter of recommendation on behalf of someone who is applying for a job with the Federal civil service or with the Postal Service—as long as the recommendations fellow reasonable guidelines.

I do understand the need for tightly written guidelines for such letters of recommendation. But I think we can leave it up to the House and Senate ethics committees to delineate what is and is not appropriate with regard to these recommendations. My understanding is that they already have that power under their existing rulemaking authority.

I have many outstanding employees and interns. Some of them choose to go on to apply for jobs with Federal agencies, Federal judges, the U.S. Postal Service, the executive branch, et cetera. I see no reason why they should not be allowed to ask me—their former employer—for a letter emphasizing their suitability for a job. It's common practice in the private sector. We don't prohibit CEO's of major corporations from making recommendations for these same positions. Many of these executives have just as much, if not more, leverage in the job world.

Mr. President, I hope that you and my colleagues agree that this law could be tempered a bit. I would like to see this prohibition repealed as soon as possible.●

By Mr. GORTON:

S. 2349. A bill to amend the Elwha River Ecosystem and Fisheries Restoration Act with respect to the licensing of certain hydroelectric projects, and for other purposes; to the Committee on Energy and Natural Resources.

THE ELWHA RIVER ECOSYSTEM AND FISHERIES RESTORATION ACT AMENDMENT ACT OF 1994

● Mr. GORTON. Madam President, today I am introducing legislation to amend and improve Public Law 102-495, the Elwha River Ecosystem and Fisheries Restoration Act. I recently testified before the Senate Energy Committee in relation to this legislation, and ask unanimous consent that a copy of my testimony be printed in the RECORD. I further ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 2349

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. (a) The Congress finds and declares that—

(1) Salmon and steelhead are important biological, commercial, recreational, and cultural resources in the Olympic Peninsula;

(2) Many salmon and steelhead runs in the Olympic Peninsula have become greatly depleted;

(3) Due to the depressed economy of the Olympic Peninsula region, restoration of salmon and steelhead runs, and establishment of consistent recreational, commercial and tribal fisheries is of critical importance;

(4) The Congress of the United States recognized the importance of Elwha River anadromous fisheries by the enactment of the Elwha River Ecosystem and Fisheries Restoration Act, P.L. 102-495;

(5) Significant Federal budget limitations make it uncertain whether funding for acquisition and removal of the Elwha dams pursuant to P.L. 102-95 will be provided in the next several years;

(6) There are other means of enhancing regional anadromous fish populations that appear to be more cost-effective than dam removal.

(7) Should funds for dam acquisition and removal not be provided, uncertainty over the disposition of the dams creates unacceptable financial risk for the owner of the dams and the local industrial consumer, and threatens a significant number of jobs in the Olympic Peninsula region.

(b) The purpose of this Act is to provide for the immediate restoration of native anadromous fisheries in the Olympic Peninsula in order to prevent possible listing of such stocks under the Endangered Species Act, to provide reasonable financial security for the owner of the Elwha dams and the local industrial consumer, and to protect important jobs in the Olympic Peninsula region.

SEC. 2. For the purposes of this Act the term "streams of the Olympic Peninsula" means streams which drain from the Olympic National Park or the Olympic National Forest, all tributaries of such streams, and any other streams in the immediate region which the Secretary deems appropriate.

SEC. 3. Section 5 of the Elwha River Ecosystem and Fisheries Restoration Act (P.L. 102-495, 106 Stat. 3173) is amended by adding a new subsection (d) as follows:

"(d) If by September 30, 1997 the Elwha Project and the Glines Project are not acquired pursuant to section 3, the Commission is authorized and directed to issue a license for such projects pursuant to the Federal Power Act. Such license shall include provisions for facility modifications and operational changes that will enhance Elwha River anadromous fish populations, but such provisions shall be cost-effective and economically justifiable over the term of the license.".

SEC. 4. Section 9 of The Elwha River Ecosystem and Fisheries Restoration Act is amended—

(1) by striking "for expenditure through the Assistant Secretary for Fish, Wildlife, and Parks"; and

(2) by striking "for expenditure through the National Marine Fisheries Service".

SEC. 5. The Elwha River Ecosystem and Fisheries Restoration Act is amended by redesignating section 9 as section 10, and by inserting a new section as follows:

"SEC. 9. OLYMPIC PENINSULA NATIVE ANADROMOUS FISHERIES RESTORATION.

"(a) The Secretary shall immediately prepare a program for the restoration of the Olympic Peninsula native anadromous fisheries in consultation with the Secretary of Commerce, the State, local Indian tribes and other parties that the Secretary may deem appropriate.

"(b) Implementation of the program shall commence not later than January 1, 1997.

"(c) The program shall provide for the recovery and enhancement of the native, anadromous fishes of the Olympic Peninsula, consistent with the rights of any Indian tribe secured by treaty or other Federal law, and applicable State law.

"(d) In developing the recovery program, the Secretary—

"(1) shall consider the use of experimental fisheries restoration techniques; and

"(2) shall ensure that native wild stock will not be adversely affected to a significant extent if hatchery-raised fish are used.".

SEC. 6. In addition to the sums authorized to be appropriated by the Elwha River Ecosystem and Fisheries Restoration Act, there are hereby authorized to be appropriated to carry out the purposes of Sec. 9 of the Elwha River Ecosystem and Fisheries Restoration Act the sum of $25 million.

STATEMENT OF SENATOR SLADE GORTON ON THE ELWHA RIVER ECOSYSTEM AND FISHERIES RESTORATION ACT

Mr. Chairman, thank you for allowing me to testify before the subcommittee today, particularly on such short notice.

When I joined you, Mr. Chairman, and the rest of the Washington Congressional delegation in passing the Elwha River Restoration Act, I think we all agreed on one thing—that the struggle over the fate of the Elwha River dams was deadlocked, and could only be resolved by an act of Congress.

Beyond that point, there was, and is, a wide range of opinion on what is ultimately the best solution for the Elwha. Personally, I do not feel that dam removal is the most cost-effective means of restoring salmon runs throughout the region. I think we can do as much for salmon with less money by pursuing other enhancement projects, while at the same time preserving jobs, the local water supply, a renewable energy source and the Port Angeles economy.

But regardless of whether or not you accept this notion, I think we can all agree that the status quo is unacceptable.

Each year that goes by without the dams being either removed or relicensed is another year in which we do nothing for Elwha salmon runs. Each year without action is another year in which the Port Angeles community cannot plan its economic future.

Congress and the Administration simply must make a decision.

The Elwha River Restoration Act was designed to establish a framework in which this decision could be made. But upon reflection, Mr. Chairman, that legislation was seriously flawed. The Elwha Act does not offer a true choice among legitimate options, and it threatens to leave the Elwha in the same deadlock that we have all been trying to break.

If the Administration and Congress do decide to appropriate funding for acquisition of

the dams, the deadlock will indeed be broken.

But after observing this year's appropriations process, it is not at all clear that Congress will approve dam acquisition even if funds for the project are requested by the Administration.

What if funding in not appropriated?

Most of us involved in passing the Elwha Act were under the impression that the dams would revert to their prior licensing status if money for dam acquisition was not appropriated within five years. The dams' owner, FERC and everybody else would be thrown back into court to fend for themselves. This provision was to be an incentive for all parties to work towards securing appropriations for dam acquisition.

But upon closer reading of the Act, it appears to me and others with whom I have consulted that failure to appropriate funding for dam acquisition would simply result in annual operating licenses for the dams, ad infinitum.

Regardless of which interpretation is correct, Mr. Chairman, in the absence of dam acquisition it may be years, if not decades, before the Elwha debate is settled and we actually began doing something constructive for the salmon. Though I do not believe dam removal is the best option, even that option is better than the status quo.

I therefore intend to introduce legislation to resolve the Elwha issue—one way or the other.

The foundation of this bill is a provision to improve Olympic Peninsula salmon runs. It authorizes $25 million for implementation of a peninsula-wide salmon enhancement program in the event that the dams are not acquired by the Federal government.

The bill gives the Administration and Congress two more years to find the $29.5 million necessary to acquire the dams in accordance with the original Elwha Act.

If the dams are not acquired at the end of those two years, FERC would be directed to relicense the dams. As a condition of relicensing, the dams' owners would be required to install fish passage facilities and fund other reasonable mitigation measures as required by FERC and the National Marine Fisheries Service.

Finally, the bill will include the text of legislation already introduced by the Chairman and Sen. Murray. That legislation, which is the subject of today's hearing, gives the Administration broader authority over which agencies could fund dam acquisition and removal.

I am working with interested parties to develop this legislation further, and hope to introduce a bill very soon. I believe it is a responsible proposal that provides Congress and the Administration with two salmon recovery options.

My bill will force us to make a choice.

It will force us to do something for the region's salmon runs.

And it will force us to resolve the Elwha issue so that the Port Angeles community can plan for the future.

My bill will not, Mr. Chairman, scuttle the process established in the Elwha Act. It is rather an attempt to put a time limit on that process, and to provide a more cost-effective alternative to dam removal.

I look forward to working with the committee on this proposal, as well as the legislation already introduced by Sen. Murray. I thank the Chairman for giving me this opportunity to testify.●

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2350. A bill to establish a Meat, Poultry, and Eggs Inspection Agency to administer the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, to expand the application of such acts, to provide for the establishment of safe cooking standards for meat and poultry products, to improve scientific research and understanding of foodborne illnesses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE KATIE O'CONNELL SAFE FOOD ACT

● Mr. BRADLEY. Mr. President, I introduce legislation to ensure the safety of America's food supply. The Katie O'Connell Safe Food Act is a comprehensive measure that would reform our outmoded meat and poultry inspection system, and take steps to prevent foodborne illness from affecting the lives of Americans.

Katie O'Connell was a 2-year-old girl from my home State of New Jersey. She died from eating a hamburger at a fast food restaurant that was contaminated with a deadly pathogen called E coli. The meat Katie ate had been declared safe by inspectors from the U.S. Department of Agriculture.

Mr. President, Katie died from a disease that should have been detected through our Federal meat inspection system. That system failed her and her family, and has failed thousands of others across the country. The legislation I am introducing today is designed to make sure that our system does not fail again.

Diseases caused by foodborne illness often strike those most vulnerable in our society: our children. As we stand here today, health officials in New Jersey are battling an outbreak of the disease that killed Katie O'Connell—one of the victims is a 21-month-old infant who is in intensive care. Her life is in danger because she ate meat that had been declared safe by Federal inspectors in the Department of Agriculture.

These cases in New Jersey are far from isolated: The Centers for Disease Control estimates that over 9,000 people die, and another 6.5 million become sick, from foodborne illness every year. The system is failing our citizens, and we have to do something to change it.

The inspection process currently used by the Department of Agriculture's Food and Safety Inspection Service is antiquated and inadequate. Their basic methods of inspection have changed little since the first inspection laws were established in 1906. The tools that inspectors use are still sight, smell, and feel—these methods do absolutely nothing to detect contaminants such as E coli. When these methods were implemented, the Model-T was considered high technology. Now we are in the space age, and we have an inspection system that is still a Model-T.

There is no excuse for these outmoded methods: For over 15 years, the General Accounting Office has reported that the existing inspection system is obsolete, and has repeatedly urged that it be replaced with a scientific inspection system to protect the public from foodborne illness. The Department of Agriculture has had more than enough chances, and more than enough time, to change its outmoded system. They have failed to do so, and it is time to change it for them.

The Katie O'Connell Safe Food Act will transfer the responsibility for enforcing meat, poultry, and egg inspections from the Department of Agriculture to an independent Federal health agency. Foodborne diseases are a public health issue and a serious one. The prevention of such diseases has no place being lodged in a Department whose charter is the promotion of meat and poultry products. In removing this function from the Department of Agriculture, this legislation will remove the conflict of interest that currently exists.

Moreover, the lack of scientific methods currently used to ensure the safety of food is alarming and, indeed, negligent. This bill will direct immediate research into the development of inspection methods that will detect pathogens such as E coli.

Finally, this legislation will take important steps toward finding a cure to the diseases caused by contaminated food. It will direct the Centers for Disease Control and the National Institutes of Health to increase the research, monitoring, and documentation of cases that occur, so we can begin to eliminate what is currently a severe lack of medical knowledge about these illnesses.

We do not have the power to right the wrong that has been done to Katie O'Connell and others who have been affected by the deficiencies in our national food inspection system. We in the Congress do have the power to change that system, and protect the health of our citizens and the lives of our children. That is what this legislation is intended to do.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Katie O'Connell Safe Food Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—MEAT, POULTRY, AND EGGS INSPECTION AGENCY

SUBTITLE A—ESTABLISHMENT AND AUTHORITIES OF AGENCY

Sec. 101. Establishment of Meat, Poultry, and Eggs Inspection Agency.
Sec. 102. Director of Meat, Poultry, and Eggs Inspection.
Sec. 103. General authorities of the Director.
Sec. 104. Bureau for Improved Inspection Capabilities.
Sec. 105. Rules.

SUBTITLE B—TRANSITIONAL PROVISIONS

Sec. 111. Termination of Food Safety and Inspection Service and transfer of assets, appropriations, and personnel to the Agency.
Sec. 112. Clarification of authority of Director to administer the Federal Meat Inspection Act.
Sec. 113. Clarification of authority of Director to administer the Poultry Products Inspection Act.
Sec. 114. Clarification of authority of Director to administer the Egg Products Inspection Act.
Sec. 115. Office of Inspector General of the Agency.

SUBTITLE C—OTHER MATTERS

Sec. 121. Definitions.

TITLE II—EXPANSION OF FOODS COVERED BY INSPECTION LAWS

Sec. 201. Coverage of additional meats under the Federal Meat Inspection Act.
Sec. 202. Coverage of additional poultry under the Poultry Products Inspection Act.

TITLE III—ESTABLISHMENT AND ENFORCEMENT OF SAFE COOKING STANDARDS FOR MEAT AND POULTRY PRODUCTS

Sec. 301. Establishment of safe cooking standards.
Sec. 302. Enforcement of safe cooking standards.
Sec. 303. Civil penalty for violations of safe cooking standards.
Sec. 304. Effect on State and local laws.
Sec. 305. Whistleblower protections.
Sec. 306. Definitions.

TITLE IV—EPIDEMIOLOGICAL ACTIVITIES REGARDING FOODBORNE DISEASES

Sec. 401. Epidemiological activities.

TITLE V—RESEARCH ON TREATMENT OF FOODBORNE DISEASES

Sec. 501. Research on treatment; National Institute of Diabetes and Digestive and Kidney Diseases.

TITLE I—MEAT, POULTRY, AND EGGS INSPECTION AGENCY

Subtitle A—Establishment and Authorities of Agency

SEC. 101. ESTABLISHMENT OF MEAT, POULTRY, AND EGGS INSPECTION AGENCY.

(a) ESTABLISHMENT OF AGENCY.—There is established in the executive branch an agency to be known as the "Meat, Poultry, and Eggs Inspection Agency". The Agency shall be an independent establishment, as defined in section 104 of title 5, United States Code.

(b) RESPONSIBILITIES OF AGENCY.—The Agency shall be responsible for the implementation and administration of—

(1) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(2) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(3) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(4) the establishment and enforcement pursuant to title III of safe cooking standards for the preparation of meat and poultry products at restaurants and other retail food establishments; and

(5) such other inspection, research, and oversight authorities regarding meat, poultry products, and eggs inspection as may be provided to the Agency by this Act or other laws.

SEC. 102. DIRECTOR OF MEAT, POULTRY, AND EGGS INSPECTION.

(a) APPOINTMENT.—There shall be at the head of the Agency a Director of Meat, Poultry, and Eggs Inspection who shall be appointed by the President, by and with the advice and consent of the Senate. The Agency and the inspection laws shall be administered under the supervision and direction of the Director.

(b) COMPENSATION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Director of Meat, Poultry, and Eggs Inspection.".

SEC. 103. GENERAL AUTHORITIES OF THE DIRECTOR.

(a) ASSISTANT DIRECTORS.—

(1) APPOINTMENT.—The Director may appoint not more than 8 assistant directors of the Agency, who shall perform such supervisory and administrative duties with respect to the Agency and the inspection laws as the Director considers appropriate.

(2) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Directors, Meat, Poultry, and Eggs Inspection Agency.".

(b) OFFICERS AND EMPLOYEES.—The Director may appoint officers and employees for the Agency in accordance with the provisions of title 5, United States Code, relating to appointment in the competitive service, and fix the compensation of the officers and employees in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(c) DETAIL OF PERSONNEL OF OTHER AGENCIES.—The Director may enter into agreements with other Federal agencies, in particular the Department of Agriculture, under which officers or employees of the agencies may be detailed to the Agency. The detailing of an officer or employee of another agency under this subsection shall be made without prejudice to the status or advancement of the officer or employee within the other agency.

(d) ADDITIONAL AGREEMENTS WITH OTHER AGENCIES.—The Director may utilize or employ the services, personnel, equipment, or facilities of any other Federal agency, with the consent of the head of the agency concerned, to perform such functions on behalf of the Agency as the Director considers appropriate.

(e) EXPERTS AND CONSULTANTS.—The Director may procure the services of experts and consultants as authorized by section 3109 of title 5, United States Code, and pay in connection with the services travel expenses of individuals, including transportation and per diem in lieu of subsistence while away from the homes or regular places of business of the individuals, as authorized by section 5703 of such title.

(f) BUREAUS, OFFICES, AND DIVISIONS.—The Director may establish within the Agency such bureaus, offices, and divisions as the Director may determine to be necessary to discharge the responsibilities of the Agency, including an Office of the General Counsel.

(g) REGIONAL AND FIELD OFFICES.—The Director may establish, alter, discontinue, or maintain such regional or other field offices as the Director may determine to be necessary to carry out the functions vested in the Director or other officials of the Agency.

SEC. 104. BUREAU FOR IMPROVED INSPECTION CAPABILITIES.

(a) ESTABLISHMENT.—There is established within the Agency an entity to be known as the "Bureau for Improved Inspection Capabilities", which shall support efforts to develop modern scientific techniques to improve the inspection of meat, poultry, and eggs under the inspection laws and to incorporate the techniques into the inspection practices used by the Agency.

(b) BUREAU DIRECTOR.—The Director shall designate 1 of the assistant directors of the Agency appointed under section 103(a) to serve as director of the Bureau. The director of the Bureau shall report directly to the Director.

(c) ADVISORY COMMISSION ON INSPECTION.—

(1) APPOINTMENT AND DUTIES.—The Director shall appoint an advisory commission to make recommendations to the Director regarding methods to improve inspection techniques used to carry out the inspection laws, including improving the reliability of the inspections. The commission shall also perform such other advisory or investigative duties as may be assigned to the commission by this section or the Director.

(2) MEMBERS.—The members of the commission shall consist of—

(A) representatives of the meat, poultry, and egg industries;

(B) scientists who are experts in the field of food safety; and

(C) government officials who are actively involved in meat, poultry, or eggs inspection at the Federal or State level.

(3) TIME PERIOD FOR FIRST RECOMMENDATIONS.—Not later than 180 days after the date on which the commission is first appointed, the commission shall present the Director with a list of recommendations regarding methods for improving current meat, poultry, and eggs inspection techniques.

(d) GRANT AND CONTRACT AUTHORITY FOR RESEARCH.—The Director may make grants to, and enter into contracts with, State and local governments, institutions of higher education, and nonprofit research organizations for the purpose of promoting research to evaluate the feasibility of implementing recommendations submitted by the commission under subsection (c). Grants and contracts under this subsection shall be made by the Director on a competitive basis in consultation with the Bureau and the commission. The commission shall review and evaluate research conducted with assistance provided under this subsection.

(e) IMPLEMENTATION OF RESULTS.—The Director may prescribe rules to carry out any recommendations submitted by the commission under subsection (c) that the Director determines have potential for improving inspection techniques or reliability under the inspection laws.

SEC. 105. RULES.

The Director may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules as the Director determines to be necessary or appropriate to administer and manage the functions of the Agency.

Subtitle B—Transitional Provisions

SEC. 111. TERMINATION OF FOOD SAFETY AND INSPECTION SERVICE AND TRANSFER OF ASSETS, APPROPRIATIONS, AND PERSONNEL TO THE AGENCY.

(a) TERMINATION OF SERVICE.—As soon as the Secretary of Agriculture determines is

practicable, the Secretary shall terminate the activities of the Food Safety and Inspection Service of the Department of Agriculture to the extent the activities relate to the administration or operation of the inspection laws.

(b) TRANSFER OF ASSETS AND FUNDS.—Consistent with section 1531 of title 31, United States Code, the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds of the Food Safety and Inspection Service used in connection with the administration or operation of the inspection laws shall be transferred to the Agency not later than the date of the termination of the Food Safety and Inspection Service under subsection (a). Unexpended funds transferred pursuant to this subsection shall be used by the Director only for the purposes for which the funds were originally authorized and appropriated.

(c) TRANSFER OF PERSONNEL.—During the period beginning on the date of enactment of this Act and ending on the termination of the Food Safety and Inspection Service under subsection (a), the Secretary of Agriculture shall transfer to the Agency the officers and employees of the Food Safety and Inspection Service who perform duties in connection with the administration or operation of the inspection laws.

(d) EFFECT OF TRANSFER ON PERSONNEL.—The transfer under subsection (c) of any full-time employee (except a special Federal employee) and part-time employee holding a permanent position shall not cause the employee to be separated or reduced in grade or compensation during the 1-year period beginning on the date of the transfer of the employee under subsection (c). Any person who, on the day preceding the date of enactment of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Agency to a position having duties comparable to the duties performed immediately preceding the appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of the service of the person in the new position.

(e) REFERENCES.—After the termination of the Food Safety and Inspection Service under subsection (a), any reference in any other Federal law, Executive order, rule, regulation, document, or other material to the Food Safety and Inspection Service in connection with the administration or operation of the inspection laws shall be considered to be a reference to the Agency.

SEC. 112. CLARIFICATION OF AUTHORITY OF DIRECTOR TO ADMINISTER THE FEDERAL MEAT INSPECTION ACT.

(a) DEFINITION OF DIRECTOR.—Subsection (a) of section 1 of the Federal Meat Inspection Act (21 U.S.C. 601(a)) is amended to read as follows:

"(a) The term 'Director' means the Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency.".

(b) REPEAL OF REFERENCES TO SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), such Act (21 U.S.C. 601 et seq.) is amended by striking "Secretary" each place it appears and inserting "Director".

(2) EXCEPTIONS.—Sections 1(n)(10), 7(c)(2), and 409(b) (21 U.S.C. 601(n)(10), 607(c)(2), and 679(b)) are amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(c) REPEAL OF REFERENCES TO DEPARTMENT OF AGRICULTURE.—Such Act is amended—

(1) in section 18 (21 U.S.C. 618), by striking "Department" and inserting "Meat, Poultry, and Eggs Inspection Agency"; and

(2) in section 20(e)(4) (21 U.S.C. 620(e)(4)), by striking "Department of Agriculture" and inserting "Meat, Poultry, and Eggs Inspection Agency".

SEC. 113. CLARIFICATION OF AUTHORITY OF DIRECTOR TO ADMINISTER THE POULTRY PRODUCTS INSPECTION ACT.

(a) DEFINITION OF DIRECTOR.—Subsection (i) of section 4 of the Poultry Products Inspection Act (21 U.S.C. 453(i)) is amended to read as follows:

"(i) The term 'Director' means the Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency.".

(b) DEFINITION OF AGENCY.—Subsection (q) of section 4 of such Act (21 U.S.C. 453(q)) is amended to read as follows:

"(q) The term 'inspection service' means the Meat, Poultry, and Eggs Inspection Agency.".

(c) REPEAL OF REFERENCES TO SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), such Act is amended—

(A) in the last sentence of section 2 (21 U.S.C. 451), by striking "Secretary of Agriculture" and inserting "Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency";

(B) in sections 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 18, 19, 20, 22, 23, 25, 27, and 29 (21 U.S.C. 453 et seq.), by striking "Secretary" each place it appears and inserting "Director";

(C) in section 17 (21 U.S.C. 466)—

(i) by striking "Secretary of Agriculture" each place it appears and inserting "Director"; and

(ii) in subsection (d)(4), by striking "Secretary" both places it appears and inserting "Director"; and

(D) in section 24(b) (21 U.S.C. 467f(b)), by striking "Secretary" the second place it appears and inserting "Director".

(2) EXCEPTIONS.—Sections 4(h)(10), 8(b)(2), and 24(b) (21 U.S.C. 453(h)(10), 457(b)(2), and 467f(b)) are amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

SEC. 114. CLARIFICATION OF AUTHORITY OF DIRECTOR TO ADMINISTER THE EGG PRODUCTS INSPECTION ACT.

(a) DEFINITION OF DIRECTOR.—Subsection (x) of section 4 of the Egg Products Inspection Act (21 U.S.C. 1033(x)) is amended to read as follows:

"(x) The term 'Director' means the Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency.".

(b) REPEAL OF REFERENCES TO SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), such Act is amended—

(A) in the last sentence of section 2 (21 U.S.C. 1031), by striking "Secretary of Agriculture" and inserting "Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency";

(B) in sections 4 (other than subsection (j)), 5, 6, 7, 8 (other than subsection (e)(8)), 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, 22, 24, and 26 (21 U.S.C. 1033 et seq.), by striking "Secretary" each place it appears and inserting "Director";

(C) in section 4(j) (21 U.S.C. 1033(j)), by striking "responsible Secretary" and inserting "Director or the Secretary of Health and Human Services, as the case may be,";

(D) in the last sentence of section 5(d) (21 U.S.C. 1034(d)), by striking "said Secretaries" and inserting "the Director or the Secretary of Health and Human Services";

(E) in section 8(e)(8) (21 U.S.C. 1037(e)(8)), by striking "Secretary of Agriculture" and inserting "Director";

(F) in section 11 (21 U.S.C. 1040)—

(i) by striking "Secretary of Agriculture" and inserting "Director"; and

(ii) by striking "either of said Secretaries" and inserting "either the Director or the Secretary of Health and Human Services";

(G) in section 13 (21 U.S.C. 1042), by striking "Secretary of Agriculture" both places it appears and inserting "Director"; and

(H) in subsections (c) and (d) of section 23 (21 U.S.C. 1052), by striking "Secretary of Agriculture" both places it appears and inserting "Director".

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1)(B) shall not apply to the following uses of the term "Secretary" in such Act:

(i) Section 5(d) (21 U.S.C. 1034(d)), the second place the term appears.

(ii) Section 5(e)(3) (21 U.S.C. 1034(e)(3)), both places the term appears.

(iii) Section 5(e)(5) (21 U.S.C. 1034(e)(5)), the second place the term appears.

(B) OBSOLETE REFERENCES.—Sections 13 and 23(d) (21 U.S.C. 1042 and 1052(d)) are amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(c) REPEAL OF REFERENCES TO DEPARTMENT OF AGRICULTURE.—Such Act is amended—

(1) in section 4(q) (21 U.S.C. 1033(q)), by striking "Department of Agriculture" and inserting "Meat, Poultry, and Eggs Inspection Agency"; and

(2) in section 26(a)(2)(C) (21 U.S.C. 1054(a)(2)(C)), by striking "Department of Agriculture" and inserting "Meat, Poultry, and Eggs Inspection Agency".

SEC. 115. OFFICE OF INSPECTOR GENERAL OF THE AGENCY.

(a) TREATMENT OF AGENCY AS A DESIGNATED FEDERAL ENTITY.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting "the Meat, Poultry, and Eggs Inspection Agency," after "the Legal Services Corporation,".

(b) TIME FOR ESTABLISHMENT.—The Office of Inspector General of the Agency required to be established by the Director as a result of the amendment made by subsection (a) shall be established not later than 180 days after the date of enactment of this Act.

Subtitle C—Other Matters

SEC. 121. DEFINITIONS.

As used in this title:

(1) AGENCY.—The term "Agency" means the Meat, Poultry, and Eggs Inspection Agency established under section 101.

(2) DIRECTOR.—The term "Director" means the Director of Meat, Poultry, and Eggs Inspection appointed under section 102(a).

(3) INSPECTION LAWS.—The term "inspection laws" means—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.); and

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).

TITLE II—EXPANSION OF FOODS COVERED BY INSPECTION LAWS

SEC. 201. COVERAGE OF ADDITIONAL MEATS UNDER THE FEDERAL MEAT INSPECTION ACT.

The Federal Meat Inspection Act is amended by inserting after section 2 (21 U.S.C. 602) the following new section:

"SEC. 2A. COVERAGE OF ADDITIONAL MEATS.

"In addition to cattle, sheep, swine, goats, horses, mules, and other equines covered by this Act, the Director may extend the application of this Act to cover other animals (such as deer, bison, and rabbits) intended for human consumption.".

SEC. 202. COVERAGE OF ADDITIONAL POULTRY UNDER THE POULTRY PRODUCTS INSPECTION ACT.

The Poultry Products Inspection Act is amended by inserting after section 5 (21 U.S.C. 454) the following new section:

"SEC. 5A. COVERAGE OF ADDITIONAL POULTRY.

"In addition to chickens and turkeys covered by this Act, the Director may extend the application of this Act to cover other poultry (such as quail, pheasant, and squab) intended for human consumption.".

TITLE III—ESTABLISHMENT AND ENFORCEMENT OF SAFE COOKING STANDARDS FOR MEAT AND POULTRY PRODUCTS

SEC. 301. ESTABLISHMENT OF SAFE COOKING STANDARDS.

(a) ESTABLISHMENT.—The Director shall establish, by rule, safe cooking standards for the preparation of meat and poultry products, and foods containing meat and poultry products, at restaurants and other retail food establishments. The Director shall require that all meat and poultry products, and foods containing meat and poultry products, that require cooking or smoking shall be cooked to heat all parts of the item to a temperature established in the standards as sufficient to destroy potentially harmful foodborne microorganisms.

(b) ENTITIES SUBJECT TO SAFE COOKING STANDARDS.—Each restaurant or other retail food establishment operating in the United States shall comply with the safe cooking standards established pursuant to subsection (a), except that the Director may exempt a restaurant or other retail food establishment, or types of restaurants and other retail food establishments, from the standards.

(c) EXCEPTION TO COMPLIANCE.—A restaurant or other retail food establishment may deviate from the safe cooking standard applicable to the cooking or smoking of a particular meat or poultry product, or a food containing a meat or poultry product, if a customer orders the item in an uncooked form or to be prepared in a manner that necessitates a lower cooking temperature than the standard.

SEC. 302. ENFORCEMENT OF SAFE COOKING STANDARDS.

(a) ENFORCEMENT.—The Director shall use the officers and employees of the Meat, Poultry, and Eggs Inspection Agency to enforce the safe cooking standards established under section 301(a).

(b) INSPECTIONS.—To ensure compliance with the safe cooking standards established under section 301(a), the Director shall cause to be made, by inspectors appointed for the purpose, an examination and inspection of the preparation of meat and poultry products, and foods containing meat and poultry products, at restaurants and other retail food establishments subject to this title. The examination and inspection shall be conducted with such frequency, and in such manner, as the Director considers necessary, as provided in rules issued by the Director. The Director shall take into account such factors as the Director considers to be appropriate, including—

(1) the nature and frequency of the cooking operations at the restaurant or other retail food establishment involved;

(2) the adequacy and reliability of the cooking controls and sanitary procedures at the restaurant or establishment; and

(3) the history of compliance with inspection requirements in effect under this title by the operator of the restaurant or establishment.

(c) ACCESS.—For purposes of any examination or inspection under subsection (b), an inspector shall have access to every part of a restaurant or other retail food establishment subject to this title during operating hours of the restaurant or establishment.

SEC. 303. CIVIL PENALTY FOR VIOLATIONS OF SAFE COOKING STANDARDS.

(a) PENALTY.—A restaurant or other retail food establishment subject to this title that violates a safe cooking standard established under section 301(a) shall be liable to the United States for a civil penalty assessed under subsection (b) in an amount of not less than $100, but not to exceed $1000, for each violation.

(b) ASSESSMENT.—

(1) HEARING.—A civil penalty payable under subsection (a) may be assessed by the Director only on the record after an opportunity for a hearing.

(2) SUBPOENAS.—In connection with a hearing under paragraph (1), the Secretary shall have the power to issue subpoenas.

SEC. 304. EFFECT ON STATE AND LOCAL LAWS.

Nothing in this title precludes a State or local government from establishing or enforcing any safe cooking standards for the preparation of meat and poultry products, and foods containing meat and poultry products, that are not in conflict with the safe cooking standards established under section 301(a).

SEC. 305. WHISTLEBLOWER PROTECTION.

(a) PROTECTION.—No employee of a restaurant or other retail food establishment subject to this title, and no other person, may be harassed, prosecuted, held liable, or discriminated against in any way because that employee or other person—

(1) has notified the Meat, Poultry, and Eggs Inspection Agency of a violation or possible violation of a safe cooking standard established under section 301(a); or

(2) has testified, is about to testify, has assisted or participated, or is about to assist or participate in a proceeding or other action to enforce the standard.

(b) ENFORCEMENT OF PROTECTIONS.—The process and procedures specified in subsections (b), (c), and (d) of section 31105 of title 49, United States Code, shall apply with respect to an alleged violation of subsection (a) of this section in the same manner as such subsections apply to a violation of subsection (a) or (b) of such section 405, except that any reference to the Secretary of Labor in such subsections shall be deemed to refer to the Secretary of Agriculture for purposes of this subsection.

SEC. 306. DEFINITIONS.

As used in this title:

(1) DIRECTOR.—The term "Director" means the Director of Meat, Poultry, and Eggs Inspection appointed under section 102(a).

(2) FOOD.—The term "food" has the meaning provided in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)).

(3) MEAT.—The term "meat" has the meaning provided the term "meat food product" in section 1(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j)).

(4) POULTRY PRODUCT.—The term "poultry product" has the meaning provided in section 4(f) of the Poultry Products Inspection Act (21 U.S.C. 453(f)).

(5) RESTAURANT; OTHER RETAIL FOOD ESTABLISHMENT.—The terms "restaurant" and "other retail food establishment" mean any place at which meat or poultry products, or foods containing meat or poultry products, are cooked or smoked for retail sale to and consumption by a customer without additional cooking by the customer, whether or not the consumption occurs on the premises or elsewhere. The terms include any central kitchen facility that cooks or smokes meat or poultry products, or foods containing meat or poultry products, that are ready to eat when the products or foods leave the facility and are served in meals or as entrees sold to customers at a restaurant owned or operated by the same person, firm, or corporation owning or operating the facility.

TITLE IV—EPIDEMIOLOGICAL ACTIVITIES REGARDING FOODBORNE DISEASES

SEC. 401. EPIDEMIOLOGICAL ACTIVITIES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317F the following new section:

"SEC. 317G. PREVENTION AND CONTROL OF FOODBORNE DISEASES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out activities for the prevention and control of foodborne diseases. The Secretary may carry out the activities directly, and through grants to, and cooperative agreements and contracts with, public and nonprofit private entities.

"(b) POPULATION-BASED SURVEILLANCE REGARDING SELECTED DISEASES.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary, in collaboration with public and nonprofit private entities, shall select specific populations and, with respect to the selected populations, carry out the following activities regarding foodborne diseases:

"(A) Monitor the incidence and prevalence of the diseases.

"(B) Carry out activities to identify the pathogenic agents for the diseases.

"(C) Determine the extent to which various treatments are effective responses to the agents so identified.

"(D) Carry out activities to determine the circumstances under which individuals are at risk of the diseases.

"(E) Evaluate efforts to control the diseases.

"(F) Such other activities as the Secretary determines to be appropriate.

"(2) SELECTION OF DISEASES FOR STUDY.—The Secretary shall select the foodborne diseases with respect to which paragraph (1) is to be carried out. For purposes of the preceding sentence, the Secretary may select conditions that have, or have not, been scientifically named, and may select pathogenic agents.

"(c) ACTIVITIES REGARDING NEW AND EMERGING FOODBORNE PATHOGENS.—In carrying out subsection (a), the Secretary, in collaboration with States, shall carry out the following activities regarding new and emerging foodborne pathogens:

"(1) Collect data on the incidence and prevalence of the pathogens throughout the States.

"(2) Conduct epidemiological research on the pathogens, including research to identify significant strains and research to determine whether different strains can cause the same foodborne disease.

"(3) Assist the States in developing the capability to identify the pathogens.

"(4) Carry out demonstration projects for the control of foodborne diseases caused by the pathogens, including projects for disseminating information on the treatment of the diseases.

"(5) Such other activities as the Secretary determines to be appropriate.

"(d) SUPPLIES AND SERVICES IN LIEU OF FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—On the request of a recipient of an award of a grant, or a party that enters into a cooperative agreement or contract, under this section, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the recipient or party to carry out the program involved. For the purpose, the Secretary may detail to the recipient or party any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing officers and employees and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with the request, expend the amounts withheld.

"(e) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to public and nonprofit private entities with respect to the planning, development, and operation of any program or service carried out pursuant to this section. The Secretary may provide the technical assistance directly or through grants, cooperative agreements, or contracts.

"(f) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section other than activities under subsections (b) and (c), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1995 through 1999.

"(2) POPULATION-BASED SURVEILLANCE REGARDING SELECTED DISEASES.—For the purpose of carrying out subsection (b), there are authorized to be appropriated $7,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1999.

"(3) ACTIVITIES REGARDING NEW AND EMERGING FOODBORNE PATHOGENS.—For the purpose of carrying out subsection (c), there are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1999.

"(4) AVAILABILITY OF FUNDS FOR STAFFING.—The purposes for which amounts appropriated under paragraph (1), (2), or (3) may be expended shall include defraying costs incurred in employing officers and employees of the Centers for Disease Control and Prevention. Amounts available for a fiscal year pursuant to the preceding sentence shall be in addition to any other amounts that are available for the year for program management regarding the Centers.".

TITLE V—RESEARCH ON TREATMENT OF FOODBORNE DISEASES

SEC. 501. RESEARCH ON TREATMENT; NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES.

Subpart 3 of part C of title IV of the Public Health Service Act (42 U.S.C. 285c et seq.) is amended by adding at the end the following new section:

"SEC. 434A. FOODBORNE DISEASES.

"(a) IN GENERAL.—In carrying activities under section 426, the Director of the Institute shall conduct or support activities regarding foodborne diseases, including research on the treatment of the diseases.

"(b) CLINICAL GUIDELINES.—In carrying out subsection (a), the Director of the Institute shall develop clinical guidelines on the treatment of foodborne diseases.

"(c) DATA SYSTEM; CLEARINGHOUSE.—The activities of the National Digestive Diseases Data System under section 427(b) shall include activities regarding foodborne diseases. The activities of the National Digestive Diseases Information Clearinghouse under such section shall include activities regarding foodborne diseases, including activities regarding clinical guidelines developed under subsection (b).".●

By Mr. KENNEDY:

S. 2352. A bill to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes; to the Committee on Labor and Human Resources.

MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS REAUTHORIZATION ACT OF 1994

Mr. KENNEDY. Mr. President, I am pleased to introduce the Mental Health and Substance Abuse Programs Reauthorization Act of 1994. This bill would reauthorize a series of important Federal programs that constitute the Federal effort against mental illness and substance abuse, disorders that affect the lives and health of millions of Americans.

An estimated 20 percent of American adults suffer from depression or other forms of mental illness each year, and at least 12 percent of children and adolescents have some degree of emotional disturbance. Substance abuse is a problem for an estimated 11 million Americans, many of whom are also at great risk of contracting AIDS, tuberculosis and other infectious diseases.

The programs we are considering today support treatment for Americans with mental illness and substance abuse disorders. They also fund prevention programs, especially for children so they do not start using alcohol, tobacco or illegal drugs. And they support research, which informs us about the causes of these illnesses and what works in preventing and treating them.

As my colleagues will remember, this bill is a followup to the 1992 ADAMHA Reorganization Act, Public Law 102-321, a law that changed the way the Federal Government conducts and manages these activities. This important initiative transferred the three substance abuse and mental illness research institutes, the National Institute on Mental Health, the National Institute on Drug Abuse, and the National Institute on Alcoholism and Alcohol Abuse, to the National Institutes of Health. It then created a new agency—the Substance Abuse and Mental Health Services Administration—as a home for treatment and prevention activities, including the mental health and substance abuse block grants.

In the near future, I believe we must comprehensively reexamine the new structure that we created to make sure that the research and service agencies are collaborating appropriately, and to determine how well the three transferred research institutes have been integrated into the NIH. We also made a series of decisions about the block grants in 1992, including a new formula, that may deserve further scrutiny in the future.

But for two reasons, I do not believe that this is the right time to conduct a comprehensive, long-term review of these programs. First, the mission of these agencies and these programs may be altered significantly by the passage of health care reform. Many of us have worked hard to ensure that the health bill contains a generous benefit for mental health and substance abuse, and if that becomes a reality, the focus of the Federal public health programs will shift to ensuring integration of the public and private treatment delivery systems.

It is difficult to ascertain the proper role of these Federal programs until we know how strong a mental health and substance abuse benefit is ultimately included in health care reform and how long it takes to achieve total parity between mental disorders and other medical disorders.

Second, during the 2 years since we transferred the research institutes and created the services agency, there has been a change of administrations. The new leadership at HHS has not had an adequate opportunity to assess the current structure, and in fact the first permanent Administrator of the Substance Abuse and Mental Health Services Administration, Dr. Nelba Chavez, was only confirmed by the Senate last month. So we have not had an opportunity to see the agency operating at full strength, and it would be premature to evaluate its performance.

As a result of these two considerations, Senator KASSEBAUM and I have decided to propose this simple 1 year reauthorization of the programs and to defer a more comprehensive reauthorization debate until next year. The 1 year reauthorization is necessary to assure that the programs are not disadvantaged in the ongoing appropriations process.

I want to emphasize that this reauthorization does not signal my disapproval or the Labor Committee's disapproval of the hard-core substance

abuse initiative proposed by the Clinton administration. I commend the President, Secretary Shalala and Drug Czar Lee Brown for focusing attention on the most severe cases of substance abuse. Hard-core substance abuse affects society most directly in terms of crime, medical costs, lost productivity and infectious diseases. I hope and expect that States are currently focusing Federal resources on this target population, and I think we should codify that priority. But in the interest of moving forward with a simple 1 year reauthorization for the reasons described above, I have refrained from including this substantive proposal in the bill at this time.

Indeed, there are only two substantive proposals in the bill. First, at the request of Senator JEFFORDS we are extending existing flexibility for States to allocate money between mental health and substance abuse. Second, we are repealing the obsolete Capacity Expansion Program.

I know that some Members would like to raise other issues about these programs, including the formula allocations, and I assure my colleagues that they will have an opportunity to do so when we review these programs more comprehensively. In the meantime, I urge passage of this reauthorization proposal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mental Health and Substance Abuse Programs Reauthorization Act of 1994".

SEC. 2. PROJECTS TO IMPROVE MATERNAL, INFANT, AND CHILD HEALTH.

Section 399(r) of the Public Health Service Act (42 U.S.C. 280c-6(r)) is amended by inserting before the period the following: ", and such sums as may be necessary for fiscal year 1995".

SEC. 3. GRANTS FOR SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

Section 399D(p)(1) of the Public Health Service Act (42 U.S.C. 280d(p)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 4. NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.

Section 464H(d)(1) of the Public Health Service Act (42 U.S.C. 285n(d)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 5. NATIONAL INSTITUTE ON DRUG ABUSE.

Section 464L(d)(1) of the Public Health Service Act (42 U.S.C. 285o(d)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 6. NIDA MEDICATION DEVELOPMENT PROGRAM.

Section 464P(e) of the Public Health Service Act (42 U.S.C. 285o-4(e)) is amended—

(1) by striking "and $95,000,000" and inserting "$95,000,000"; and

(2) by inserting before the period the following: ", and such sums as may be necessary for fiscal year 1995".

SEC. 7. NATIONAL INSTITUTE OF MENTAL HEALTH.

Section 464R(f)(1) of the Public Health Service Act (42 U.S.C. 285p(f)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 8. GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.

Section 501(m) of the Public Health Service Act (42 U.S.C. 290aa(m)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 9. GRANTS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.

Section 506(e) of the Public Health Service Act (42 U.S.C. 290aa-5(e)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 10. RESIDENTIAL AND OUTPATIENT TREATMENT PROGRAMS FOR PREGNANT AND POSTPARTUM WOMEN.

Section 508(r)(1) of the Public Health Service Act (42 U.S.C. 290bb-1(r)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 11. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.

Section 510(e)(1) of the Public Health Service Act (42 U.S.C. 290bb-3(e)(1)) is amended in the first sentence by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 12. GRANTS FOR SUBSTANCE ABUSE TREATMENT IN STATE AND LOCAL CRIMINAL JUSTICE SYSTEMS.

Section 511(d) of the Public Health Service Act (42 U.S.C. 290bb-4(d)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 13. TRAINING IN PROVISION OF TREATMENT SERVICES.

Section 512(d) of the Public Health Service Act (42 U.S.C. 290bb-5(d)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 14. COMMUNITY PREVENTION PROGRAMS.

Section 516(c) of the Public Health Service Act (42 U.S.C. 290bb-22(c)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 15. PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH.

Section 517(h) of the Public Health Service Act (42 U.S.C. 290bb-23(h)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 16. EMPLOYEE ASSISTANCE PROGRAMS.

Section 518(e) of the Public Health Service Act (42 U.S.C. 290bb-24(e)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 17. MENTAL HEALTH DEMONSTRATION PROJECTS.

Section 520A(e)(1) of the Public Health Service Act (42 U.S.C. 290bb-32(e)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 18. DEMONSTRATION PROJECTS FOR INDIVIDUALS WITH POSITIVE TEST RESULTS.

Section 520B(j) of the Public Health Service Act (42 U.S.C. 290bb-33(j)) is amended by striking "1994" and inserting "1995".

SEC. 19. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS.

Section 535(a) of the Public Health Service Act (42 U.S.C. 290cc-35(a)) is amended by striking "1994" and inserting "1995".

SEC. 20. COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES.

Section 565(f)(1) of the Public Health Service Act (42 U.S.C. 290ff-4(f)(1)) is amended by striking "fiscal year 1994" and inserting "fiscal year 1995".

SEC. 21. TRAUMA CENTERS OPERATING IN AREAS SEVERELY AFFECTED BY DRUG-RELATED VIOLENCE.

Section 1245 of the Public Health Service Act (42 U.S.C. 300d-45) is amended in the first sentence by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 22. BLOCK GRANTS FOR COMMUNITY MENTAL HEALTH SERVICES.

Section 1920(a) of the Public Health Service Act (42 U.S.C. 300x-9(a)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 23. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE.

Section 1935(a) of the Public Health Service Act (42 U.S.C. 300x-35(a)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 24. CAPACITY EXPANSION.

(a) REPEAL.—Section 1971 of the Public Health Service Act (42 U.S.C. 300y) is repealed.

(b) USE OF APPROPRIATED AMOUNTS.—Amounts appropriated for capacity building activities under section 1971(j) of the Public Health Service Act (42 U.S.C. 300y(j)), which remain unexpended after the date of enactment of this Act, shall be utilized as if appropriated under section 1935(a) of such Act.

SEC. 25. BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE.

Section 205(b) of the ADAMHA Reauthorization Act (42 U.S.C. 300x(b) note) is amended—

(1) in paragraph (1), by striking "fiscal year 1993 or 1994" and inserting "any of the fiscal years 1993 through 1996"; and

(2) in paragraph (2), by striking "fiscal year 1993 or 1994" and inserting "any of the fiscal years 1993 through 1996".

ADDITIONAL COSPONSORS

S. 1148

At the request of Mr. BROWN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1148, a bill to allow for moderate growth of mandatory spending.

S. 1329

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1408

At the request of Mr. LOTT, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 1651

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1651, a bill to authorize the minting

of coins to commemorate the 200th anniversary of the founding of the United States Military Academy at West Point, New York.

S. 2031

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2031, a bill to amend the Merchant Marine Act, 1936, to prohibit the imposition of additional charges or fees for attendance at the United States Merchant Marine Academy, and to express the sense of the Senate that no additional charges or fees shall be imposed for attendance at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and for other purposes.

S. 2258

At the request of Mr. DECONCINI, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 2258, a bill to create a Commission on the Roles and Capabilities of the U.S. Intelligence Community, and for other purposes.

S. 2286

At the request of Mr. LUGAR, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2286, a bill to amend title 23, United States Code, to provide for the use of certain highway funds for improvements to railway-highway crossings.

S. 2332

At the request of Mr. HATFIELD, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2332, a bill to amend the Federal Columbia River Transmission System Act to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System.

SENATE CONCURRENT RESOLUTION 64

At the request of Mrs. MURRAY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of Senate Concurrent Resolution 64, a concurrent resolution expressing the sense of the Congress regarding the Gautemalan peace process and the need for greater protection of human rights in Guatemala.

AMENDMENTS SUBMITTED

THE IMPROVING AMERICA'S SCHOOLS ACT OF 1993

CRAIG (AND OTHERS) AMENDMENT NO. 2437

Mr. CRAIG (for himself, Mr. SIMPSON, Mr. NICKLES, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GRASSLEY, Mr. SMITH, Mrs. KEMPTHORNE, and Mr. BROWN) proposed an amendment to the bill (S. 1513) entitled "Improving America's Schools Act of 1993"; as follows:

On page 1244, line 10, before the period, insert the following: "if the Federal share of the financing of such a repair, renovations, alteration, or construction project is greater than 25 percent of the total cost of the project."

KASSEBAUM AMENDMENT NO. 2438

Mrs. KASSEBAUM proposed an amendment to the bill S. 1513, supra; as follows:

At the end of title IV of the bill, insert the following new section:

SEC. . CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Notwithstanding any other provision of law, beginning on June 1, 1994, and ending on the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), the Secretary shall not issue any new final regulations to implement such Act.

PRESSLER AMENDMENT NO. 2439

Mr. PRESSLER proposed an amendment to the bill S. 1513, supra; as follows:

On page 913, line 13, strike "and".

On page 913, line 18, strike the period and insert "; and".

On page 913, between lines 18 and 19, insert the following:

"(C) provide an assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.".

GENERAL AVIATION REVITALIZATION ACT OF 1994

KASSEBAUM AMENDMENT NO. 2440

Mr. FORD (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes, as follows:

On page 4, strike out line 15 and all that follows through page 5, line 3, and insert in lieu thereof the following:

"(3) the term 'limitation period' means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and"

OLD U.S. MINT IN SAN FRANCISCO ACT OF 1994

McCAIN (AND BOXER) AMENDMENT NO. 2441

Mr. COHEN (for Mr. McCAIN for himself and Mrs. BOXER) proposed an amendment to the bill (S. 2185) to require the Secretary of the Treasury to transfer to the Administrator of General Services the Old U.S. Mint in San Francisco, and for other purposes; as follows;

Add at the end of the bill the following new section:

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

(A) IN GENERAL. Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

THE IMPROVING AMERICA'S SCHOOLS ACT OF 1993

GRAMM (AND DOLE) AMENDMENT NO. 2442

Mr. GRAMM (for himself and Mr. DOLE) proposed an amendment to the bill S. 1513, supra; as follows:

At the appropriate place insert the following:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.

"Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. . FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in

accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

(c) SUPERSEDURE OF OTHER LAW.—The amendment made by subsection (a) supersedes any other law authorizing a downward adjustment of a mandatory minimum term of imprisonment for an offense as described in subsection (a).

SEC. . MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be no less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SUBTITLE E—RULES OF EVIDENCE, PRACTICE AND PROCEDURE

SEC. 831. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

KENNEDY AMENDMENT NO. 2443

Mr. KENNEDY proposed an amendment to the bill S. 1513, supra; as follows:

On page 2, strike lines 17–27, and on page 5, strike lines 1 through 7. Insert in lieu thereof the following:

"(3) the term 'eligible local education agency' means a local educational agency in which—

(A) at least 15 percent of the children that reside in the geographic area served by such agency are eligible to be counted under section 1123(c)(1) of this Act; *or*

(B) the United States owns Federal property described in paragraph (5) of section 9014 that has an assessed value (determined as of the time or times when acquired) aggregating 90 percent or more of the assessed value of all real property in such agency (determined as of the time or times when so acquired); and

(C) demonstrates in the application submitted under section 15006 that such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary school libraries, media centers, and facilities used for academic or vocational instruction.

On page 1235, beginning with line 10, strike all through page 1244, line 19, and insert the following:

"SEC. 15003. PURPOSE.

"It is the purpose of this title to help our Nation meet the National Education Goals through the repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities, used for academic or vocational instruction.

"SEC. 15004. DEFINITIONS.

"For the purpose of this title—

"(1) the term 'alteration' means any change to an existing property for use for a different purpose or function;

"(2) the term 'construction' means the erection of a building, structure, or facility, including the concurrent installation of equipment, site preparation, associated roads, parking, and utilities, which provides area or cubage not previously available, including—

"(A) freestanding structures, additional wings, or floors, enclosed courtyards or entryways, and any other means to provide usable program space that did not previously exist; and

"(B) the complete replacement of an existing facility, but only if such replacement is less expensive than alteration, renovation, or repair of the facility;

"(3) the term 'eligible local educational agency' means a local educational agency—

"(A) in which at least 15 percent of the children who reside in the geographic area served by such agency are eligible to be counted under section 1123(c)(1); and

"(B) demonstrates in the application submitted under section 15006 that such agency has urgent repair, renovation, alteration or construction needs for its public elementary or secondary school libraries, media centers, and facilities, used for academic or vocational instruction;

"(4) the term 'renovation' means any change to an existing property to allow its more efficient use within such property's designated purpose; and

"(5) the term 'repair' means the restoration of a failed or failing real property facility, component, or a building system to such a condition that such facility, component, or system may be used effectively for its designated purpose, if, due to the nature or extent of the deterioration or damage to such facility, component, or system, such deterioration or damage cannot be corrected through normal maintenance.

"SEC. 15005. IMPROVEMENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION FACILITIES PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—From amounts appropriated under subsection (b) for any fiscal year, the Secretary shall award grants to eligible local educational agencies with applications approved under section 15006 to carry out the authorized activities described in section 15008.

"(2) SPECIAL RULE.—The Secretary may reserve not more than 1 percent of the amount appropriated under subsection (b) to provide assistance to Indian schools in accordance with this title.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this title.

"SEC. 15006. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each eligible local educational agency desiring to receive a grant under this title shall submit an application to the Secretary.

"(b) APPLICATION CONTENTS.—Each application described in subsection (a) shall contain—

"(1) an assurance that the application was developed in consultation with parents and classroom teachers;

"(2) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with funds provided under this title, including the priority for the repair of the deficiency;

"(3) a description of the criteria used by the applicant to determine the type of corrective action necessary to meet the purpose of this title;

"(4) a description of the corrective action to be supported with funds provided under this title;

"(5) a cost estimate of the proposed corrective action;

"(6) an identification of other resources, including unused bonding capacity, that are available to carry out the activities for which funds are requested under this title;

"(7) a description of how activities supported with funds provided under this title will promote energy conservation; and

"(8) such other information and assurances as the Secretary may reasonably require.

"SEC. 15007. AWARD OF GRANTS.

"(a) CRITERIA.—The Secretary shall award grants under this title on the basis of—

"(1) high numbers or percentages of the total number of children aged 5 to 17, inclusive, residing in the geographic area served by an eligible local educational agency who are counted under section 1123(c)(1);

"(2) the extent to which the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the project without Federal assistance; and

"(3) such other criteria as the Secretary may prescribe by regulation.

"(b) SPECIAL RULE.—The Secretary shall only award grants under this title if the Secretary determines that sufficient funds will be provided under this title or from other sources, including the issuance of bonds, to carry out the activities for which assistance is sought.

"(c) AWARD CATEGORIES.—

"(1) IN GENERAL.—From the funds appropriated to carry out this title for each fiscal year, the Secretary shall award grants to eligible local educational agencies in each of the following categories:

"(A) Eligible local educational agencies in which the number of students enrolled is less than 2,500.

"(B) Such agencies in which such number is 2,500 or greater but less than 5,000.

"(C) Such agencies in which such number is 5,000 or greater but less than 10,000.

"(D) Such agencies in which such number is 10,000 or greater but less than 25,000.

"(E) Such agencies in which such number is 25,000 or greater but less than 50,000.

"(F) Such agencies in which such number is 50,000 or greater.

"(2) ALLOCATION AMONG CATEGORIES.—The Secretary shall allocate funds under this title among the categories described in paragraph (1) on such basis as the Secretary determines is appropriate, after considering such factors as—

"(A) the relative numbers or percentages of students counted under section 1123(c)(1); and

"(B) the relative costs of carrying out activities under this title in eligible local educational agencies in each such category.

"(d) MAXIMUM AWARD AMOUNTS.—The Secretary shall annually set the maximum award amounts for each category described in subsection (c)(1).

"(e) FREQUENCY OF AWARDS.—No local educational agency may receive more than one grant under this title in any five-year period.

"SEC. 15008. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Each eligible local educational agency receiving a grant under this title shall use the grant funds only to—

"(1) ensure the health and safety of students through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction; or

"(2) upgrade or alter such library, center, or facility in order to accommodate new instructional technology.

"(b) PARTICULAR ACTIVITIES.—Subject to subsection (a), each eligible local educational agency receiving a grant under this title may use the grant funds for activities such as—

"(1) meeting the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990;

"(2) removal or containment of severely hazardous material such as asbestos, lead, and radon using a cost-effective method;

"(3) meeting Federal, State, or local codes related to fire, air, light, noise, waste disposal, building height, or other codes passed since the initial construction of such library, center, or facility; and

"(4) replacing an old such library, center, or facility that is more cost-effective to tear down than to renovate.

"SEC. 15009. REQUIREMENTS.

"(a) SPECIAL RULES.—

"(1) MAINTENANCE OF EFFORT.—An eligible local educational agency may receive a grant under this title for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

"(2) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair, renovation, alteration, and construction of school facilities used for educational purposes, and not to supplant such funds.

"(b) GENERAL LIMITATIONS.—

"(1) REAL PROPERTY.—No part of any grant funds under this title shall be used for the acquisition of any interest in real property.

"(2) MAINTENANCE.—Nothing in this title shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this title.

"(3) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this title shall comply with all relevant Federal, State, and local environmental laws and regulations.

"(4) ATHLETIC AND SIMILAR FACILITIES.—No funds received under this title shall be used for stadiums or other facilities that are primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

"SEC. 15010. FAIR WAGES.

"All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

"SEC. 15011. FEDERAL ASSESSMENT.

"The Secretary shall reserve not more than 1 percent of funds appropriated for each fiscal year under section 15005(b)—

On page 1035, between lines 11 and 12, insert the following:

"PART P—PROMOTING SCHOLAR-ATHLETE COMPETITIONS

"SEC. 8901. FINDINGS.

"The Congress finds that—

"(1) athletic and intellectual competition can be a force for understanding and friendship among an economically and culturally diverse population;

"(2) the World Scholar-Athlete Games in 1993 brought together 2,000 young scholars ranging in age from 16 to 19 who are talented in art, creative writing, poetry, singing or athletics, from 125 countries and all 50 States; and

"(3) through experiences on the playing field, in group discussions and informal gatherings, scholar-athlete competitions can foster understanding, acceptance and friendship among students who might otherwise never interact.

"SEC. 8902. PURPOSE.

"It is the purpose of this part to provide authorization for the establishment of a model educational, athletic, and cultural event that—

"(1) is intended to bring together academically qualified youth of diverse cultural, economic, and social backgrounds;

"(2) is replicated by each State; and

"(3) invites adult and student leaders in education, business and government representing all 50 States to attend and observe the model event, including such event's educational and cultural programs, so that such leaders are qualified to administer similar events in their home States.

"SEC. 8903. PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—(A) If funds are appropriated pursuant to the authority of subsection (c) for fiscal year 1995, the Secretary is authorized to award a grant to a nonprofit organization to enable such organization to carry out model scholar-athlete games in accordance with the purpose of this part.

"(B) If funds are appropriated pursuant to the authority of subsection (c) for fiscal year 1996, the Secretary is authorized to award a grant to a nonprofit organization to reimburse such organization for the costs of conducting scholar-athlete games in 1995.

"(2) SPECIAL RULE.—Scholar-athlete games assisted under this part shall be held in 1995.

"(3) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to a nonprofit organization that—

"(A) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model;

"(B) has capability to administer federally funded scholar-athlete programs;

"(C) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program;

"(D) has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1995;

"(E) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as well as replicate such program internationally; and

"(F) the Secretary determines has plans for conducting scholar-athlete games after 1995 without Federal assistance.

"(b) PAYMENTS.—From the amount authorized to be appropriated pursuant to the authority of subsection (c) for fiscal year 1995, the Secretary is authorized to make grant payments of 50 percent of such amount at the beginning of such year and the remaining 50 percent of such amount incrementally according to procedures established by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of the fiscal years 1995 and 1996 to carry out this part.

On page 1368, after line 24, insert the following:

TITLE ___—ALBERT EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the "Albert Einstein Distinguished Educator Fellowship Act of 1994".

SEC. ___02. FINDINGS.

The Congress finds that—

(1) the Department of Energy has unique and extensive mathematics and science capabilities that contribute to mathematics and science education programs throughout the Nation;

(2) a need exists to increase understanding, communication, and cooperation between the Congress, the Department of Energy, other Federal agencies, and the mathematics and science education community;

(3) elementary and secondary school mathematics and science teachers can provide practical insight to the Legislative and Executive branches in establishing and operating education programs; and

(4) a pilot program that placed elementary and secondary school mathematics and science teachers in professional staff positions in the Senate and the House of Representatives has proven successful and demonstrated the value of expanding the program.

SEC. ___03. PURPOSE; DESIGNATION.

(a) PURPOSE.—The purpose of this title is to establish within the Department of Energy a national fellowship program for elementary and secondary school mathematics and science teachers.

(b) DESIGNATION.—A recipient of a fellowship under this title shall be known as an "Albert Einstein Fellow".

SEC. ___04. DEFINITIONS.

As used in this title—

(1) the term "elementary school" has the meaning provided by section 10101(11) of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act;

(2) the term "local educational agency" has the meaning provided by section 10101(15) of the Elementary and Secondary Education Act of 1965, as so amended;

(3) the term "secondary school" has the meaning provided by section 10101(21) of the Elementary and Secondary Education Act of 1965, as so amended; and

(4) the term "Secretary" means the Secretary of Energy.

SEC. ___05. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish the Albert Einstein Distinguished Educator Fellowship Program (referred to in this title as the "Program") to provide 12 elementary or secondary school mathematics or science teachers with fellowships in each fiscal year in accordance with this title.

(2) ORDER OF PRIORITY.—The Secretary may reduce the number of fellowships awarded under this title for any fiscal year in which the amount appropriated for the Program is insufficient to support 12 fellowships. If the number of fellowships awarded under this title is reduced for any fiscal

year, then the Secretary shall award fellowships based on the following order of priority:

(A) Three fellowships in the Department of Energy.

(B) Two fellowships in the Senate.

(C) Two fellowships in the House of Representatives.

(D) One fellowship in each of the following entities:

(i) The Department of Education.

(ii) The National Institutes of Health.

(iii) The National Science Foundation.

(iv) The National Aeronautics and Space Administration.

(v) The Office of Science and Technology Policy.

(3) TERMS OF FELLOWSHIPS.—Each fellowship awarded under this title shall be awarded for a period of ten months that, to the extent practicable, coincides with the academic year.

(4) ELIGIBILITY.—To be eligible for a fellowship under this title, an elementary or secondary school mathematics or science teacher must demonstrate—

(A) that such teacher would bring unique and valuable contributions to the Program;

(B) that such teacher is recognized for excellence in mathematics or science education; and

(C)(i) a sabbatical leave from teaching will be granted in order to participate in the Program; or

(ii) the teacher will return to a teaching position comparable to the position held prior to participating in the Program.

(b) ADMINISTRATION.—The Secretary shall—

(1) provide for the development and administration of an application and selection process for fellowships under the Program, including a process whereby final selections of fellowship recipients are made in accordance with subsection (c);

(2) provide for the publication of information on the Program in appropriate professional publications, including an invitation for applications from teachers listed in the directories of national and State recognition programs;

(3) select from the pool of applicants 12 elementary and secondary school mathematics teachers and 12 elementary and secondary school science teachers;

(4) develop a program of orientation for fellowship recipients under this title; and

(5) not later than August 31 of each year in which fellowships are awarded, prepare and submit an annual report and evaluation of the Program to the appropriate Committees of the Senate and the House of Representatives.

(c) SELECTION.—

(1) IN GENERAL.—The Secretary shall arrange for the 24 semifinalists to travel to Washington, D.C., to participate in interviews in accordance with the selection process described in paragraph (2).

(2) FINAL SELECTION.—(A) Not later than May 1 of each year preceding each year in which fellowships are to be awarded, the Secretary shall select and announce the names of the fellowship recipients.

(B) The Secretary shall provide for the development and administration of a process to select fellowship recipients from the pool of semifinalists as follows:

(i) The Secretary shall select three fellowship recipients who shall be assigned to the Department of Energy.

(ii) The Majority Leader of the Senate and the Minority Leader of the Senate, or their designees, shall each select a fellowship recipient who shall be assigned to the Senate.

(iii) The Speaker of the House of Representatives and the Minority Leader of the House of Representatives, or their designees, shall each select a fellowship recipient who shall be assigned to the House of Representatives.

(iv) Each of the following individuals, or their designees, shall select one fellowship recipient who shall be assigned within the department, office, agency, or institute such individual administers:

(I) The Secretary of Education.

(II) The Director of the National Institutes of Health.

(III) The Director of the National Science Foundation.

(IV) The Administrator of the National Aeronautics and Space Administration.

(V) The Director of the Office of Science and Technology Policy.

SEC. ___06. FELLOWSHIP AWARDS.

(a) FELLOWSHIP RECIPIENT COMPENSATION.—Each recipient of a fellowship under this title shall be paid during the fellowship period at a rate of pay that shall not exceed the minimum annual rate payable for a position under GS-13 of the General Schedule.

(b) LOCAL EDUCATIONAL AGENCY.—The Secretary shall seek to ensure that no local educational agency penalizes a teacher who elects to participate in the Program.

SEC. ___07. WASTE MANAGEMENT EDUCATION RESEARCH CONSORTIUM (WERC).

The Secretary is authorized to establish a partnership of Department of Energy laboratories, academic institutions, and private sector industries to conduct environmentally related education programs, including programs involving environmentally conscious manufacturing and waste management activities that have undergraduate and graduate educational training as a component.

SEC. ___08. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Program $700,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 2001.

(b) WERC PROGRAM.— There are authorized to be appropriated for the WERC program under section ___07 such sums as may be necessary for each of the fiscal years 1996 through 2001.

On page 1137, beginning with line 9, strike all through page 1138, line 2, and insert the following:

"SEC. 10204. ADMINISTRATIVE FUNDS STUDY.

"(a) STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

"(2) RESULTS.—Based on the results of the study described in paragraph (1), the Secretary shall, within one year of the completion of such study, promulgate final regulations regarding the use of funds for administration under all covered programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration.

"(b) REPORT.—The Secretary shall complete the study conducted under this section not later than 1 year after the date of enactment of the Improving America's Schools Act of 1994 and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

On page ___, between lines ___ and ___, insert the following:

"SEC. 9302. FINDINGS.

"The Congress finds and declares as follows:

"(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as such by the United States, Britain, France and Japan, as evidence by treaties governing friends, commerce, and navigation.

"(2) At the time of the arrival of the first non-indigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

"(3) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

"(4) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, the Congress, on behalf of the people of the United States, apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103-150 (107 Stat. 1510).

"(5) In 1898, the joint resolution entitled 'A Joint Resolution to provide for annexing the Hawaiian Islands to the United States', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from these lands be used 'solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes'.

"(6) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, the Congress in 1921 enacted the Hawaiian Homes Commission Act, 1920, which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

"(7) Through the enactment of the Hawaiian Homes Commission Act, 1920, the Congress affirmed the special relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane, who was quoted in the committee report for the Hawaiian Homes Commission Act, 1920, as saying: 'One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'.

"(8) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration

of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under such Act.

"(9) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4), the United States ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State 'in public trust' and reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

"(10) The United States assumed special responsibilities for Native Hawaiian lands and resources at the time of the annexation of the Territory in 1898, upon adoption of the Hawaiian Homes Commission Act, 1920, and upon admission of the State of Hawai'i into the Union in 1959, and has retained certain of those responsibilities.

"(11) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities under the Native American Programs Act of 1974, the American Indian Religious Freedom Act, the National Museum of the American Indian Act, the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, and the Native American Languages Act.

"(12) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has enacted numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing.

"(13) In 1981, the Senate instructed the Office of Education to submit to the Congress a comprehensive report on Native Hawaiian education. The report, entitled the 'Native Hawaiian Educational Assessment Project', was released in 1983 and documented that Native Hawaiians scored below parity with national norms on standardized achievement tests were disproportionately represented in many negative social and physical statistics, indicative of special educational needs, and has educational needs which were related to their unique cultural situation, such as different learning styles and low self-image.

"(14) In recognition of the educational needs of Native Hawaiians, in 1988, the Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental educational programs to benefit Native Hawaiians.

"(15) In 1993, the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still exist for Native Hawaiians. For example—

"(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

"(i) late or no prenatal care;

"(ii) half of Native Hawaiian women who give birth are unmarried; and

"(iii) high rates of births to teenage parents;

"(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

"(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

"(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

"(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

"(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

"(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics, indicative of special educational needs, for example—

"(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

"(ii) Native Hawaiian students are the highest users of drugs and alcohol; and

"(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

"(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai'i Department of Education and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

"(16) The findings described in paragraphs (1) through (15) are contrary to the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

"(17) After the overthrow of the Kingdom of Hawai'i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period, and until 1986, use of Hawaiian as a medium of education in public schools was declared unlawful, thereby causing incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: 'I ka 'ōlelo no ke ola; I ka 'ōlelo no ka make. In the language rests life; In the language rests death.'.

"(18) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

"(19) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

"(A) acknowledges the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust;

"(B) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language; and

"(C) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system.

"(20) It continues to be the policy of the Federal Government to encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

Page 608 between line 16 and 17 insert:

(3) the term "stop-over center" means a migrant project site which provides educational services approved by the State educational agency, advance notification to States where migrant children are traveling, and coordination with providers of other services to migrant children, to eligible migrant children who intend to stay 5 days or less while they or others in their family are moving from one location to another seeking migratory agricultural work, including migratory dairy work, or migratory fishing work.

Page 612, line 7 after "periods" insert: "or special programs that operate at or through stop-over centers"

At the end of part D of title III, insert the following:

SEC. ___. RURAL COMMUNITY SERVICE.

Title XI of the Higher Education Act of 1965 (20 U.S.C. 1136 et seq.) is amended by adding at the end the following new part:

"PART C—RURAL COMMUNITY SERVICE

"SEC. 1171. FINDINGS; PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) the Nation's rural 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 rural 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 rural 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 rural problems.

"(b) PURPOSE.—It is the purpose of this part to provide incentives to rural academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

"SEC. 1172. PROGRAM.

"The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the authorized activities described in section 1174 in accordance with the provisions of this part.

"SEC. 1173. APPLICATIONS FOR RURAL COMMUNITY SERVICE GRANTS.

"(a) APPLICATION.—

"(1) IN GENERAL.—Each eligible institution desiring a grant under this part 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.—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 eligible institution will enter into a consortium to carry out the provisions of this part that includes, in addition to the eligible institution, one or more of the following entities:

"(i) A community college.

"(ii) A rural local educational agency.

"(iii) A local government.

"(iv) A business or other employer.

"(v) 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 part.

"(c) SELECTION PROCEDURES.—The Secretary, by regulation, shall develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

"SEC. 1174. AUTHORIZED ACTIVITIES.

"Grant funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist rural communities to meet and address their pressing and severe problems, such as any of the following:

"(1) Work force preparation.

"(2) Rural poverty and the alleviation of such poverty.

"(3) Health care, including health care delivery and access as well as health education, prevention and wellness.

"(4) Underperforming school systems and students.

"(5) Problems faced by the elderly and individuals with disabilities in rural 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) Rural housing.

"(9) Rural infrastructure.

"(10) Economic development.

"(11) Rural farming and environmental concerns.

"(12) Other problem areas which participants in the consortium described in section 1173(a)(2)(B) concur are of high priority in rural areas.

"(13)(A) Problems faced by individuals with disabilities and economically disadvantaged individuals regarding accessibility to institutions of higher education and other public and private community facilities.

"(B) Amelioration of existing attitudinal barriers that prevent full inclusion of individuals with disabilities in their community.

"SEC. 1175. 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 may consult with other appropriate Cabinet-level Federal officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, and State and local government, who have expertise in rural community service or in education.

"SEC. 1176. DISBURSEMENT OF FUNDS.

"(a) MULTIYEAR AVAILABILITY.—Subject to the availability of appropriations, grants under this part may be awarded on a multiyear basis, except that no institution, individually or as a participant in a consortium, may receive a grant under this part for more than 5 years.

"(b) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this part in a manner that achieves an equitable geographic distribution of such grants.

"(c) MATCHING REQUIREMENT.—An applicant under this part and the local governments associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount grant, which contribution may be in cash or in kind, fairly evaluated.

(d) The Secretary shall, to the maximum extent possible, coordinate this program with the Corporation for National and Community Service.

"SEC. 1177. DESIGNATION OF RURAL GRANT INSTITUTIONS.

"The Secretary shall publish a list of eligible institutions and shall designate such institutions of higher education as 'Rural Grant Institutions'. The Secretary shall establish a national network of Rural Grant Institutions so that the results of individual projects achieved in 1 rural area can be generalized, disseminated, replicated and applied throughout the Nation.

"SEC. 1178. DEFINITIONS.

"As used in this part:

"(1) RURAL AREA.—The term 'rural area' means any area that—

"(A) is outside an urban area, as such term is defined by the Bureau of the Census; and

"(B) contains a population of 75,000 or less.

"(2) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education, or a consortium of such institutions any one of which meets all the requirements of this paragraph, which—

"(A) draws a substantial portion of its undergraduate students from the rural area served by such institution or consortium, or from contiguous areas;

"(B) carries out programs to make postsecondary educational opportunities more accessible to residents of such rural areas, or contiguous areas;

"(C) has the present capacity to provide resources responsive to the needs and priorities of such rural areas and contiguous areas;

"(D) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

"(E) has demonstrated and sustained a sense of responsibility to such rural area and contiguous areas and the people of such areas.

"SEC. 1179. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

"There are authorized to be appropriated $5,000,000 for fiscal year 1995 and such sums as may be necessary in each of the 4 succeeding fiscal years to carry out the provisions of this part.".

On p. 1202 strike "and" on line 2.

On p. 1202 at the end of line 4 strike the "." and insert "and"

On p. 1202 add the following sentence between lines 4 and 5

"(8) effects to implement school uniform policies to ensure the health and safety of students and the school environment."

"PART —ALASKA NATIVE EDUCATION

"SEC. . SHORT TITLE.

"This part may be cited as the 'Alaska Native Educational Equity, Support and Assistance Act'.

"SEC. . FINDINGS.

"The Congress finds and declares:

"(1) The attainment of educational success is critical to the betterment of the conditions, long term well being and preservation of the culture of Alaska Natives.

"(2) It is the policy of the Federal government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs;

"(3) Alaska Native children enter and exit school with serious educational handicaps.

"(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student drop out rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

"(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

"(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural and village Alaska should be addressed through the development and implementation of innovative, model programs in a variety of areas.

"(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

"SEC. . PURPOSE.

"It is the purpose of this part to—

"(1) recognize the unique educational needs of Alaska Natives;

"(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

"(3) supplement existing programs and authorities in the area of education to further the purposes of this part; and

"(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

"SEC. . ALASKA NATIVE EDUCATIONAL PLANNING, CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or to partnerships involving Alaska Native organizations, for the following purposes:

"(1) EDUCATIONAL PLANNING.—The consolidation of existing educational plans, recommendations and research into implementation methods and strategies to improve schooling for Alaska Natives.

"(2) IMPLEMENTATION OF EDUCATIONAL PLANS.—The adoption and implementation of

specific educational plans developed under subsection (1) above.

"(3) CURRICULA.—The development of curricula to address the needs of Alaska Native students, particularly elementary and secondary school students, which may include innovative programs and pilot and demonstration programs to develop and introduce curriculum materials that reflect cultural diversities or the contributions of Alaska Native people, programs of instruction conducted in Native languages, and the development of networks to introduce successful techniques, programs and curriculum materials to rural and urban schools, including:

"(A) multimedia social studies curricula which fully and accurately portray the role of Native Americans historically and contemporarily; and

"(B) curricula and teaching materials for instructions in Native languages.

"(4) PRETEACHER TRAINING.—The development and implementation of preteacher training program in order to ensure that student teachers within the State of Alaska, particularly student teachers who are likely to be employed in schools with a high concentration of Alaska Native students, are prepared to better address the cultural diversity and unique needs of Alaska Native students;

"(5) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

"(A) increasing the numbers of teachers who are Alaska Natives;

"(B) enhancing teacher recruitment within communities with a high concentration of Alaska Native students; and

"(C) improving the teacher selection process in order to recruit teachers who are more positively responsive to rural conditions and who are suited for effective cross-cultural instruction.

"(6) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs in order to ensure that teachers are prepared to better address the unique needs of Alaska Native students.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. . ALASKA NATIVE HOME BASED EDUCATION FOR PRESCHOOL CHILDREN.

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships involving Alaska Native organizations, to implement home instruction programs for Alaska Native preschool youngsters. The objective of such programs shall be to develop parents as educators for their children and to assure the active involvement of parents in the education of their children from the earliest ages.

"(b) PROGRAM ELEMENTS.—Home based education programs for Alaska Native children shall include

"(1) parent-infant programs for prenatal through three-year olds;

"(2) preschool programs for four- and five-year olds;

"(3) training, education and support programs to teach parents skills in observation, reading readiness, story telling and critical thinking;

"(4) continued research and development; and

"(5) a long term followup and assessment program.

"(c) ELIGIBILITY OF HIPPY PROGRAMS.—Programs based on the HIPPY (Home Instruction Program for Preschool Youngsters) model shall be eligible for funding under this section.

"(d) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

SEC. . ALASKA NATIVE STUDENT ENRICHMENT PROGRAMS.

"(a) GENERAL AUTHORITY.—The Secretary shall make a grant or grants to Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships including Alaska Native organizations, for enrichment programs for Alaska Native students in the areas of science and mathematics education. The programs shall be designed to—

"(1) prepare qualified students from rural areas who are preparing to enter village high schools to excel in science and mathematics; and

"(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

"(b) USES OF FUNDS.—The program funded under this section may include—

"(1) the identification of the students eligible to participate in the program;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial enrichment of the educational performance of the participating students;

"(3) leadership programs designed to provide for the replication of the program in other subject matter areas and the dissemination of information derived from the program; and

"(4) appropriate research, evaluation and related activities pertaining to the benefits of such enrichment programs.

"(c) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. . ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION REQUIRED.—No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

"(b) APPLICATIONS BY LOCAL SCHOOL DISTRICTS OR STATE EDUCATIONAL ENTITIES.—Local school districts or state educational entities shall apply for funding under this part in partnership with Alaska Native organizations.

"(c) CONSULTATION REQUIRED.—Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

"(d) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each local educational agency serving students who will participate in the program for which assistance is sought shall be informed regarding each application submitted under this part, Provided, that approval by or concurrence from such local educational agency shall not be required.

"(e) IMPLEMENTATION OF AUTHORITIES.—The Secretary shall expeditiously obligate funds appropriated as provided in this part.

"SEC. . DEFINITIONS.

"For purposes of this part—

"(1) the term 'Alaska Native' has the same meaning as the term 'Native' has in section 3(b) of the Alaska Native Claims Settlement Act.

"(2) the term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that:

"(A) has or commits to acquire expertise in the education of Alaska Natives; and

"(B) has Alaska Natives in substantive and policy-making positions within the organization."

On page 608, line 17 insert a new (3):

"(3) The term 'fishing activity' means any activity directly related to the catching or processing of fish or shellfish—

"(a) for initial commercial sale, whether a fisher is self-employed or employed by others, or

"(b) as a principal means of personal subsistence."

At the appropriate place, insert the following new section:

SEC. ___. THERAPEUTIC MODEL DEMONSTRATION SCHOOLS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, is authorized to establish demonstration schools based on the therapeutic model described in this section, to provide services necessary to achieve positive changes in the attitudes, behavior, and academic performance of Indian youth attending off-reservation boarding schools.

(2) PURPOSE.—The purpose of the therapeutic model demonstration schools shall be—

(A) to provide a program, based on an annual written plan, linking clinicians, counselors, and mental health professionals with academic program personnel in a culturally sensitive residential program tailored to the particular needs of Indian students;

(B) to provide for a continued evaluation of the planning and implementation of the therapeutic model in the designated schools; and

(C) to determine what steps the Bureau of Indian Affairs must take and what resources are required to transform existing off-reservation boarding schools to meet the needs of chemically dependent, emotionally disturbed, socially troubled, or other at-risk Indian youth who attend such schools.

(b) LOCATION.—The Secretary shall initiate the therapeutic model at two schools in school years 1994 through 1996, and shall give priority to—

(1) one school that is the recipient of a grant under section 5204 of the August F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 during the 1994–1995 school year; and

(2) one school operated by the Bureau of Indian Affairs during the 1995–1996 school year.

(c) SERVICES.—The demonstration schools shall provide an integrated residential environment that may include—

(1) mental health services;

(2) education;

(3) recreation therapy;

(4) social service programs;

(5) substance abuse education and prevention; and

(6) other support services for aftercare.

(d) STAFFING.—The demonstration schools shall be staffed with health and social service professionals, and educators, and may include, but not be limited to—

(1) clinical psychologists;

(2) child psychologists;

(3) substance abuse counselors;

(4) social workers; and

(5) health educators.

(e) ENROLLMENT.—Notwithstanding any other provision of law, the Secretary of the Interior may limit the enrollment at the demonstration schools.

(f) ASSISTANCE.—The Secretary is authorized to enter into agreements with other organizations and agencies, including the Indian Health Service, to carry out this section.

(g) REPORT.—Not later than July 31 of each year, the Secretary of the Interior shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor of the House of Representatives on the progress of the Department of the Interior in the development of the demonstration schools.

On page 521, after line 13, insert the following after "centers and providing opportunities for parents to learn about child development and child rearing issues beginning at the birth of a child";

On page 521, line 1, strike "(3)" and insert "(4)".

On page 521, line 8, strike "(4)" and insert "(5)".

On page 521, line 10, insert Home Instruction Programs for Preschool, Kindergarten "and Parents as Teachers," after "Start,".

On page 521, line 12, strike "(5)" and insert "(6)".

On page 521, line 16, strike "(6)" and insert "(7)".

On page 1333 between lines 8 and 9, insert the following new section:

SEC. 314. FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

(a) SHORT TITLE.—This section may be cited as the "Support for Families of Children With Disabilities Act of 1994".

(b) FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.—

The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by adding at the end the following new part:

"PART I—FAMILY SUPPORT

"SEC. 701. SHORT TITLE.

"This part may be cited as the 'Families of Children With Disabilities Support Act of 1994'.

"SEC. 702. FINDINGS, PURPOSES, AND POLICY.

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

"(1) It is in the best interest of our Nation to preserve, strengthen, and maintain the family.

"(2) Families are the greatest natural resource available to their children and are the major providers of support, care, and training of their children.

"(3) Families of children with disabilities enrich the lives of all citizens through the contributions of such families to the economic, health, and social fabric of their community, State, and Nation.

"(4) A growing number of families are searching for ways to empower themselves to raise their children with disabilities at home and in their communities. Supporting such families to enable them to care for their children with disabilities at home is efficient and can be cost-effective.

"(5) Children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment.

"(6) Many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities.

"(7) There are financial disincentives for families to care for their children with disabilities at home.

"(8) Most families of children with disabilities do not have access to family-centered and family-directed services to support such families in their efforts to care for their children with disabilities at home.

"(9) There is a need in each State for a comprehensive, coordinated, interagency system of family support for families of children with disabilities that is family-centered and family-directed, is easily accessible, avoids duplication, uses existing resources more efficiently, and prevents gaps in services to families in all areas of the State.

"(10) The goals of the Nation properly include the goal of providing families of children with disabilities the family support necessary to accomplish the following:

"(A) To support the family.

"(B) To enable families of children with disabilities to nurture and enjoy their children at home.

"(C) To enable families of children with disabilities to make informed choices and decisions regarding the nature of services, supports, and resources made available to such families.

"(b) PURPOSES.—The purposes of this part are as follows:

"(1) To provide financial assistance to the States to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities that is designed to—

"(A) ensure the full participation, choice and control of families of children with disabilities in decisions related to the provision of such family support for their family;

"(B) ensure the active involvement of families of children with disabilities in the planning, development, implementation, and evaluation of such a statewide system;

"(C) increase the availability of, funding for, access to, and provision of family support for families of children with disabilities;

"(D) promote training activities that are family-centered and family-directed and that enhance the ability of family members of children with disabilities to increase participation, choice, and control in the provision of family support for families of children with disabilities;

"(E) increase and promote interagency coordination among State agencies, and between State agencies and private entities that are involved in carrying out activities under section 708; and

"(F) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, which facilitate or impede the availability or provision of family support for families of children with disabilities.

"(2) To enhance the ability of the Federal Government to—

"(A) identify Federal policies that facilitate or impede family support for families of children with disabilities, and that are consistent with the principles in subsection (c);

"(B) provide States with technical assistance and information relating to the provision of family support for families of children with disabilities;

"(C) conduct an evaluation of the program of grants to States; and

"(D) provide funding for model demonstration and innovation projects.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this part shall be family-centered and family-directed and shall be carried out in a manner consistent with the following principles:

"(1) Family support for families of children with disabilities must focus on the needs of the entire family.

"(2) Families of children with disabilities should be supported in determining their needs and in making decisions concerning necessary, desirable, and appropriate services.

"(3) Families should play decisionmaking roles in policies and programs that affect the lives of such families.

"(4) Family needs change over time and family support for families of children with disabilities must offer options that are flexible and responsive to the unique needs and strengths and cultural values of individual families.

"(5) Family support for families of children with disabilities is proactive and not solely in response to a crisis.

"(6) Families must be supported in their efforts to promote the integration and inclusion of their children with disabilities into all aspects of community life.

"(7) Family support for families of children with disabilities should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources and services.

"(8) Youth with disabilities should be involved in decisionmaking about their own lives, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each such youth.

"(9) Services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences, and cultural differences of families.

"(d) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

"SEC. 703. DEFINITIONS.

"For the purposes of this part, only the following definitions shall apply:

"(1) CHILD WITH A DISABILITY.—The term 'child with a disability' means an individual who from birth through 21 years of age meets the definition of disability under paragraph (4).

"(2) COUNCIL.—The term 'Council' means a State Policy Council for Families of Children with Disabilities established by a State under section 707.

"(3) CULTURALLY COMPETENT.—The term 'culturally competent' means services, supports, or other assistance that is conducted or provided in a manner that—

"(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of those individuals receiving services; and

"(B) has the greatest likelihood of ensuring maximum participation of such individuals.

"(4) DISABILITY.—The term 'disability' means—

"(A) in the case of an individual 6 years of age or older, a significant physical or mental impairment as defined pursuant to State policy to the extent that such policy is established without regard to type of disability; and

"(B) in the case of infants and young children, birth to age 5, inclusive, a substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in a disability if services are not provided.

"(5) EXISTING COUNCIL.—The term 'existing Council' means an entity or a committee of an entity that—

"(A) is established by a State prior to the date on which the State submits an application for funding under this part;

"(B) has authority to advise the State with respect to family support for families of children with disabilities; and

"(C) may have the authority to carry out other responsibilities and duties.

"(6) FAMILY.—The term 'family' means a group of interdependent persons residing in the same household that consists of a child with a disability and one or more of the following:

"(A) A mother, father, brother, sister or any combination.

"(B) Extended blood relatives, such as a grandparent, aunt, or uncle.

"(C) An adoptive parent.

"(D) One or more persons to whom legal custody of a child with a disability has been given by a court.

"(E) A person providing short-term foster care that includes a family reunification plan with the biological family.

"(F) A person providing long-term foster care for a child with a disability.

The term does not include employees who, acting in their paid employment capacity, provide services to children with disabilities in out-of-home settings such as hospitals, nursing homes, personal care homes, board and care homes, group homes, or other facilities.

"(7) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term 'family-centered and family-directed' means, with respect to a service or program, that the service or program—

"(A) facilitates the full participation, choice, and control by families of children with disabilities in—

"(i) decisions relating to the supports that will meet the priorities of the family; and

"(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families of children with disabilities;

"(B) responds to the needs of the entire family of a child with a disability in a timely and appropriate manner; and

"(C) is easily accessible to and usable by families of children with disabilities.

"(8) FAMILY SATISFACTION.—The term 'family satisfaction' means the extent to which a service or support meets a need, solves a problem, or adds value for a family, as determined by the individual family.

"(9) FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.—The term 'family support for families of children with disabilities'—

"(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

"(i) support families in the efforts of such families to raise their children with disabilities in the family home;

"(ii) strengthen the role of the family as primary caregiver;

"(iii) prevent inappropriate and unwanted out-of-the-home placement and maintain family unity; and

"(iv) reunite families with children with disabilities who have been placed out of the home, whenever possible; and

"(B) includes—

"(i) service coordination that includes individualized planning and brokering for services with families in control of decisionmaking;

"(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanency or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, specialized nutrition and clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care and child care for a child with a disability, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids; and

"(iii) financial assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

"(10) INTEGRATION AND INCLUSION.—The term 'integration and inclusion' with respect to children with disabilities and their families means—

"(A) the use of the same community resources that are used by and available to other individuals and families;

"(B) the full and active participation in the same community activities and utilization of the same community resources as individuals without disabilities, living, learning, working, and enjoying life in regular contact with individuals without disabilities; and

"(C) having friendships and relationships with individuals and families of their own choosing.

"(11) LEAD ENTITY.—The term 'lead entity' means an office or entity described in section 706.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(13) SERVICE COORDINATION.—The term 'service coordination'—

"(A) means those family-centered and family-directed activities that assist and enable families to receive rights and procedural safeguards and to gain access to social, medical, legal, educational, and other supports and services; and

"(B) includes—

"(i) follow-along services that assure, through a continuing relationship between a family of a child with a disability and an individual or entity, that the changing needs of the child and family are recognized and appropriately met;

"(ii) the coordination and monitoring of services provided to children with disabilities and their families;

"(iii) the provision of information to children with disabilities and their families about the availability of services and assistance to such children and their families in obtaining appropriate services; and

"(iv) the facilitation and organization of existing social networks, and natural sources of support, and community resources and services.

"(14) STATEWIDE SYSTEM OF FAMILY SUPPORT.—The term 'statewide system of family support for families of children with disabilities' means a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities developed and implemented by a State under this part that—

"(A) addresses the needs of all families of children with disabilities, including unserved and underserved populations; and

"(B) addresses such needs without regard to the age, type of disability, race, ethnicity, or gender of such children or the particular major life activity for which such children need the assistance.

"(15) SYSTEMS CHANGE ACTIVITIES.—The term 'systems change activities' means efforts that result in laws, regulations, policies, practices, or organizational structures—

"(A) that are family-centered and family-directed;

"(B) that facilitate and increase access to, provision of, and funding for, family support services for families of children with disabilities; and

"(C) that otherwise accomplish the purposes of this part.

"(16) UNSERVED AND UNDERSERVED POPULATIONS.—The term 'unserved and underserved populations' includes populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with disabilities, including individuals with disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"SEC. 704. GRANTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make grants to States on a competitive basis, in accordance with the provisions of this part, to support systems change activities designed to assist States to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities that accomplishes the purposes described in section 702.

"(b) AWARD PERIOD AND GRANT LIMITATION.—No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant.

"(c) AMOUNT OF GRANTS.—

"(1) GRANTS TO STATES.—From amounts appropriated under section 716(a), the Secretary shall pay to each State that has an application approved under section 705, for each year of the grant period, an amount that is not less than $200,000 and not more than $500,000.

"(2) GRANTS TO TERRITORIES.—From amounts appropriated under section 716(a) for any fiscal year, the Secretary shall pay to each territory that has an application approved under section 705 not more than $100,000.

"(3) CALCULATION OF AMOUNTS.—The Secretary shall calculate a grant amount described in paragraph (1) or (2) on the basis of the following:

"(A) The amounts available for making grants under this section.

"(B) The child population of the State or territory concerned.

"(4) DEFINITIONS.—As used in this subsection:

"(A) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(B) TERRITORY.—The term 'territory' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (upon the entry into force and effect of the Compact of Free Association between the United States and the Republic of Palau).

"(d) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to a State that—

"(1) received a grant under this section during the fiscal year preceding the fiscal year concerned; and

"(2) is making significant progress in accordance with section 710.

"(e) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

"(1) is geographically equitable; and

"(2) distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

"SEC. 705. APPLICATION.

"A State that desires to receive a grant under this part shall submit an application to the Secretary that contains the following information and assurances:

"(1) FAMILY-CENTERED AND FAMILY-DIRECTED APPROACH.—An assurance that the State will use funds made available under this part to accomplish the purposes described in section 702 and the goals, objectives, and family-centered outcomes described in section 709(b) by carrying out systems change activities in partnership with families and in a manner that is family-centered and family-directed.

"(2) DESIGNATION OF THE LEAD ENTITY.—Information identifying the lead entity, and evidence documenting the abilities of such entity.

"(3) STATE POLICY COUNCIL FOR FAMILIES OF CHILDREN WITH DISABILITIES.—An assurance of the following:

"(A) The State has established a Council that meets the criteria set forth in section 707.

"(B) The lead entity will seek and consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the strategic plan under section 709, and other policies and procedures of general applicability pertaining to the provision of family support for families of children with disabilities in the State.

"(C) The lead entity will include, in its annual progress reports, a summary of advice provided by the Council, including recommendations from the annual report of the Council and the response of the lead entity to such advice and recommendations.

"(D) The lead entity will transmit to the Council any other plans, reports, and other information required under this part.

"(4) FAMILY INVOLVEMENT.—A description of the following:

"(A) The nature and extent of the involvement of families of children with disabilities and individuals with disabilities in the development of the application.

"(B) Strategies for actively involving families of children with disabilities and individuals with disabilities in the development, implementation, and evaluation of the statewide system of family support for families of children with disabilities.

"(C) Strategies for actively involving families of children with disabilities who use family support services in decisions relating to such services.

"(5) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies or units within State agencies in the preparation of the application and the continuing role of each agency in the statewide system of family support for families of children with disabilities.

"(6) STATE RESOURCES.—A description of the State resources and other resources that are available to commit to the statewide system of family support for families of children with disabilities.

"(7) UNMET NEEDS.—A description of unmet needs for family support for families of children with disabilities within the State.

"(8) PRELIMINARY PLAN.—A preliminary plan that contains information on the program to be carried out under the grant with respect to the goals and objectives of the State for the program and the activities that the State plans to carry out under the program (including the process for appointing individuals to the Council) and that is consistent with the purposes of this part.

"(9) ACTIVITIES.—An assurance that, except for the first year of the grant, the State shall expend not less than 65 percent of the funds made available to a State under this part for grants and contracts to conduct the activities described in section 708.

"(10) LIMIT ON ADMINISTRATIVE COSTS.—An assurance that the lead entity that receives funding under this part in any fiscal year shall use not more than 5 percent of such funds in such year for administrative expenses. Such administrative expenses shall not include expenses related to the activities of the Council.

"(11) STRATEGIC PLAN.—A description of the measures that will be taken by the State to develop a strategic plan in accordance with section 709.

"(12) EVALUATION.—An assurance that the State will conduct an annual evaluation of the statewide system of family support for families of children with disabilities in accordance with section 710.

"(13) COORDINATION WITH STATE AND LOCAL COUNCILS.—An assurance that the lead entity will coordinate the activities funded through a grant made under this part with the activities carried out by other relevant councils within the State.

"(14) SUPPLEMENT OTHER FUNDS.—An assurance, with respect to amounts received under a grant, of the following:

"(A) Such grant will be used to supplement and not supplant amounts available from other sources that are expended for programs of family support for families of children with disabilities, including the provision of family support.

"(B) Such grant will not be used to pay a financial obligation for family support for families of children with disabilities that would have been paid with amounts available from other sources if amounts under such grant had not been available.

"(15) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the Secretary may reasonably require.

"SEC. 706. DESIGNATION OF THE LEAD ENTITY.

"(a) DESIGNATION.—The Chief Executive Officer of a State that desires to receive a grant under section 704, shall designate the office or entity (referred to in this part as the "lead entity ") responsible for—

"(1) submitting the application under section 705 on behalf of the State;

"(2) administering and supervising the use of the amounts made available under the grant;

"(3) coordinating efforts related to and supervising the preparation of the application;

"(4) coordinating the planning, development, implementation (or expansion and enhancement), and evaluation of a statewide system of family support services for families of children with disabilities among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements; and

"(5) coordinating efforts related to the meaningful participation by families in activities carried out under a grant awarded under this part.

"(b) QUALIFICATIONS.—In designating the lead entity, the Chief Executive Officer may designate—

"(1) an office of the Chief Executive Officer;

"(2) a commission appointed by the Chief Executive Officer;

"(3) a public agency;

"(4) a council established under Federal or State law; or

"(5) another appropriate office, agency, or entity.

"(c) CAPABILITIES OF THE LEAD ENTITY.—The State shall provide, in accordance with the requirements of section 705, evidence that the lead entity has the capacity—

"(1) to promote a statewide system of family support for families of children with disabilities throughout the State;

"(2) to promote and implement systems change activities;

"(3) to maximize access to public and private funds for family support services for families of children with disabilities;

"(4) to implement effective strategies for capacity building, family and professional training, and access to and funding for family support services for families of children with disabilities across agencies;

"(5) to promote and facilitate the implementation of family support services for families of children with disabilities that are family-centered and family-directed, and flexible, and that provide families with the greatest possible decisionmaking authority and control regarding the nature and use of services and supports;

"(6) to promote leadership by families in planning, policy development, implementation, and evaluation of family support services for families of children with disabilities, and parent-professional partnerships; and

"(7) to promote and develop interagency coordination and collaboration.

"SEC. 707. STATE POLICY COUNCIL FOR FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

"(a) ESTABLISHMENT.—A State that desires to receive financial assistance under this

part shall, prior to the receipt of funds under this part, establish a State Policy Council for Families of Children with Disabilities.

"(b) APPOINTMENTS.—

"(1) MEMBERS.—Members of the Council shall be appointed by the Chief Executive Officer of the State or the appropriate official within the State responsible for making appointments in accordance with subsection (c). The appointing authority shall select members after soliciting recommendations from the State Developmental Disabilities Council, parent or family organizations, and other organizations representing the full range of disabilities covered under this part. The appointing authority shall ensure that the membership of the Council reasonably represents the population of the State and shall establish guidelines for terms of Council members.

"(2) CHAIRPERSON.—The Council shall elect a member of the Council to serve as the Chairperson of the Council. The Chairperson shall be a family member, as described in subsection (c)(1).

"(c) COMPOSITION.—The Council shall be composed of—

"(1) a majority of members who are—

"(A) individuals who are family members of children with disabilities, are eligible for family support, and represent the diversity of families within the State; and

"(B) children with disabilities, from age 18 to 21, and are representative of the demographics of the State;

"(2) members—

"(A) who are from State agencies with significant responsibility for the provision of, or payment for, family support services to families of children with disabilities, and who have sufficient authority to engage in policy planning and implementation on behalf of such agencies; and

"(B) who are from the office of the Chief Executive Officer of the State with responsibility with respect to budget and finance; and

"(3) such additional members as the appointing authority considers appropriate.

"(d) FUNCTIONS.—The Council shall—

"(1) establish formal policies regarding the operation of the Council;

"(2) advise and assist the lead entity in the performance of responsibilities described in section 706(a), particularly the promotion of interagency agreements and the promotion of meaningful participation by families in all aspects of the statewide system of family support for families of children with disabilities;

"(3) advise and assist State agencies in the development of policies and procedures relating to the provision of family support for families of children with disabilities in the State;

"(4) advise and assist the lead entity in the development of all aspects of a strategic plan under section 709, including—

"(A) the mission, purpose, and principles of the statewide system of family support for families of children with disabilities;

"(B) the statement of family-centered outcomes;

"(C) the goals, objectives, and activities;

"(D) the quality improvement or quality enhancement system;

"(E) the appeals process;

"(F) the eligibility criteria to be used for all programs, projects, and activities carried out under this part;

"(G) the analysis of the extent to which family support for families of children with disabilities is defined as a benefit and not as income; and

"(H) the approach to the evaluation of the statewide system of family support for families of children with disabilities;

"(5) advise and assist the lead entity in the implementation of systems change activities;

"(6) advise and assist the lead entity in assessing family satisfaction with the statewide system of family support for families of children with disabilities;

"(7) review, analyze, and comment on the strategic plan and updates to the plan, progress reports, and annual budgets;

"(8) advise and assist the lead entity in the identification of Federal and State barriers that impede the development of a statewide system of family support for families of children with disabilities; and

"(9) prepare and submit to the Chief Executive Officer of the State, the State legislature, and to the Secretary an annual report on the status of family support services for families of children with disabilities, and make such report available to the public.

"(e) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(f) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to such member or otherwise give the appearance of a conflict of interest under applicable State law.

"(g) COMPENSATION AND EXPENSES.—The Council may, consistent with State law, use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"(h) USE OF EXISTING COUNCIL.—

"(1) IN GENERAL.—To the extent that a State has an existing Council, the existing Council shall be considered in compliance with this section if the existing Council meets the requirements under paragraph (2).

"(2) REQUIREMENTS.—An existing Council shall—

"(A) include a majority of members who are family members of children with disabilities and who are children with disabilities (from age 18 to 21);

"(B) in the case in which the existing Council does not represent the full range of families and individuals described in subsection (c)(1), adopt strategies that will ensure the full participation of such families and individuals in all activities carried out by the Council; and

"(C) carry out functions and authorities that are comparable to the functions and authorities described in subsections (d) through (g).

"(3) DOCUMENTATION OF COMPLIANCE.—Any State that has an existing Council shall include in a grant application submitted under section 705 and in subsequent annual progress reports submitted to the Secretary under section 710, a description of the measures that are being taken or that are planned, to ensure that the existing Council of the State complies with this section.

"SEC. 708. AUTHORIZED ACTIVITIES.

"A State that receives a grant under section 704 may use the funds made available through the grant to carry out systems change activities, which accomplish the purposes described in section 702, such as the following activities:

"(1) TRAINING AND TECHNICAL ASSISTANCE.—The State may support training and technical assistance activities for family members, service providers, community members, professionals, members of the Council, students and others that will do the following:

"(A) Increase family participation, choice, and control in the provision of family support for families of children with disabilities.

"(B) Promote partnerships with families of children with disabilities at all levels of the service system.

"(C) Develop or strengthen family-centered and family-directed approaches to services, including service coordination services, service planning services, and respite care services.

"(D) Assist families of children with disabilities in accessing natural and community supports and in obtaining benefits and services.

"(2) INTERAGENCY COORDINATION.—The State may support activities that conduct the following:

"(A) Identification and coordination of Federal and State policies, resources, and services, relating to the provision of family support services for families of children with disabilities, including entering into interagency agreements.

"(B) Interagency work groups to enhance public funding options and coordinate access to funding for family support services for families of children with disabilities, with special attention to the issues of family involvement in the identification, planning, use, delivery, and evaluation of such services.

"(C) Documentation and dissemination of information about interagency activities that promote coordination with respect to family support services for families of children with disabilities, including evidence of increased participation of State and local health, maternal and child health, social service, mental health, mental retardation and developmental disabilities, child protection, education, early intervention, developmental disabilities councils, agencies, and departments.

"(3) LOCAL OR REGIONAL COUNCILS.—The State may support the development or enhancement of local or regional councils to review the status of family support for families of children with disabilities in the local or regional area, to advise and assist with the planning, development, implementation, and evaluation of family support for families of children with disabilities in such local or regional area, and to provide recommendations to the State regarding improvements and plans.

"(4) OUTREACH.—The State may conduct outreach activities to locate families who are eligible for family support for families of children with disabilities and to identify groups who are unserved or underserved. Such activities may involve the creation or maintenance of, support of, or provision of, assistance to statewide and community parent organizations, and organizations that provide family support to families of children with disabilities.

"(5) POLICY STUDIES.—The State may support policy studies that relate to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. Such studies may address issues regarding eligibility and access to services.

"(6) HEARINGS AND FORUMS.—The State may conduct hearings and forums to solicit

input from families of children with disabilities regarding family support programs, policies, and plans for such families. Such hearings and forums may be conducted in collaboration with other statewide councils.

"(7) PUBLIC AWARENESS AND EDUCATION.—The State may develop and disseminate information relating to family support for families of children with disabilities designed to provide information to such families, parent groups and organizations, public and private agencies that are in contact with children with disabilities and families of such children, students, policymakers, and the public. Such information may relate to the nature, cost, and availability of, and accessibility to, family support for families of children with disabilities, the impact of family support for families of children with disabilities on other benefits, and the efficacy of family support for families of children with disabilities with respect to enhancing the quality of family life.

"(8) NEEDS ASSESSMENT.—The State may conduct a needs assessment, which may, in part, be based on existing State data.

"(9) PROGRAM DATA.—The State may support the compilation and evaluation of appropriate data related to the statewide system of family support for families of children with disabilities.

"(10) PILOT DEMONSTRATION PROJECTS.—The State may support pilot demonstration projects to demonstrate new approaches to the provision of family support for families of children with disabilities. Such projects may include the demonstration of family-centered and family-directed service coordination, approaches to improve access to services, including independent service coordination, peer support networks, and voucher programs.

"(11) OTHER ACTIVITIES.—The State may support other systems change activities that accomplish the purposes described in section 702.

"SEC. 709. STRATEGIC PLAN.

"(a) IN GENERAL.—Not later than 6 months after the date on which assistance is received by a State under this part, the lead entity of the State, in conjunction with the Council, shall prepare and submit to the Secretary a strategic plan designed to achieve the purposes and policy of this part.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, purpose, and principles of the statewide system of family support for families of children with disabilities in the State;

"(2) a statement of family-centered outcomes to be achieved by the statewide system of family support for families of children with disabilities;

"(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support services for families of children with disabilities, and for achieving the family-centered outcomes;

"(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation, that builds upon state-of-the-art practices and research findings;

"(5) a description of the specific programs, projects, and activities funded under this part and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

"(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system;

"(7) a description of an appeals process that will be used in resolving any disputes families of children with disabilities may have regarding the determination of eligibility or the provision of family support services to the family or to the child with a disability;

"(8) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this part that includes all eligible families;

"(9) an analysis of the extent to which family support for a family of a child with a disability is defined as a benefit and not as income; and

"(10) a description of the plan to conduct an annual evaluation of the statewide system of family support for families of children with disabilities, in conjunction with the Council, to improve such statewide system and to document progress as required by section 710.

"(c) PERIOD AND UPDATES.—The strategic plan shall cover the period of the grant and shall be reviewed and updated on an annual basis to reflect actual experience and family satisfaction information over the preceding year and input from the Council, families of children with disabilities, and other interested parties.

"(d) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall solicit input and recommendations from interested members of the public, either by holding public hearings or through an alternative method or methods determined by the lead entity in consultation with the Council. The lead entity shall also obtain the comments and recommendations of the Council. The lead entity, in conjunction with the Council, shall consider the recommendations and attempt to reach a consensus with respect to such recommendations. If the lead entity and the Council are unable to reach a consensus, the lead entity shall include a written explanation of the reason a consensus was not reached in the strategic plan.

"(e) COMMENT.—The State shall develop a procedure for ensuring ongoing comment from the Council.

"(f) DISSEMINATION.—The State shall widely disseminate the strategic plan to families of children with disabilities, parent organizations, and other interested persons.

"(g) CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from using an existing statewide strategic plan or parts thereof to meet the requirements of this section as long as such plan or the applicable parts thereof are comparable to the specifications of this section.

"SEC. 710. PROGRESS CRITERIA AND REPORTS.

"(a) GUIDELINES.—The Secretary shall develop guidelines to be used in assessing the extent to which a State that received a grant under section 704 is making significant progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with the purposes of this part.

"(b) PROGRESS REPORTS.—A State that receives a grant under section 704 shall submit annually to the Secretary a report that documents progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with this part. Such report shall include—

"(1) the results of the annual evaluation of the statewide system of family support for families of children with disabilities;

"(2) a description of the unanticipated problems with the achievement of the goals, objectives, and family-centered outcomes described in the application or strategic plan and the measures the State has taken to rectify such problems;

"(3) for the annual progress report concerning the first year of the grant period, the strategic plan developed by the State during the first year; and

"(4) for the annual progress report concerning subsequent years of the grant period, the updated strategic plan.

"SEC. 711. ADMINISTRATIVE PROVISIONS.

"(a) EVALUATION OF GRANT APPLICATIONS.—

"(1) PANELS.—The Secretary shall convene panels of experts who are competent, by virtue of their training or experience, to evaluate grant applications under this part.

"(2) COMPOSITION OF PANELS.—Panels shall be composed of a majority of family members of children with disabilities and individuals with disabilities, and may include service providers, State administrative personnel, and professionals. Panels shall include a majority of individuals who are not Federal employees.

"(3) EXPENSES AND FEES OF THE PANEL.—A member of the Panel who is not a Federal employee shall receive travel, per diem and consultant fees not to exceed the rate provided to other consultants used by the Secretary. The Secretary may use funds available under section 716 to pay expenses and fees of a member of a Panel who is not a Federal employee.

"(b) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including recommendations and relevant reports of the Council.

"(c) APPEALS.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this part as the result of failure to supply information required under section 705 or 710. The Secretary shall take into consideration the comments of the Council.

"(d) EFFECT ON OTHER ASSISTANCE.—This part may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility, under any Federal law.

"(e) UNOBLIGATED FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

"SEC. 712. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity, for the purpose of providing technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities.

"(b) PURPOSE.—With respect to States receiving assistance under this part, the technical assistance and information described under subsection (a) shall be provided to the State agency designated as the lead entity, the Council, family members of children with disabilities, organizations, service providers, and policymakers involved with children with disabilities and their families. Such technical assistance shall also be available to States that do not receive assistance

under this part. Such technical assistance and information shall—

"(1) facilitate effective systems change activities;

"(2) promote effective approaches to the development and implementation, or expansion and enhancement of, the statewide systems of family support for families of children with disabilities that increase access to, funding for, and awareness of family support for families of children with disabilities;

"(3) promote partnerships with families at all levels of the service system;

"(4) foster awareness and understanding of Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to family support for families of children with disabilities;

"(5) foster the development and replication of effective approaches to strategic plan development, interagency coordination, training, outreach to underserved groups, and public awareness activities;

"(6) facilitate service delivery capacity, training, and the improvement of data collection and evaluation systems;

"(7) promote effective approaches to the development of family-centered and family-directed services, including approaches to the development and measurement of family-centered outcomes described in section 709(b)(2), and the assessment of family satisfaction; and

"(8) coordinate and facilitate an annual meeting of the chairpersons of the Councils.

"(c) REQUEST FOR TECHNICAL ASSISTANCE.—A request for technical assistance by a lead entity in a State receiving assistance under this part shall be made in conjunction with the Council.

"(d) REPORTS TO THE SECRETARY.—An entity providing the technical assistance under this section shall submit periodic reports to the Secretary regarding Federal policies and procedures identified within the States that facilitate or impede the delivery of family support to families of children with disabilities. The report shall include recommendations to the Secretary regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in section 702 in other Federal legislation.

"SEC. 713. EVALUATION.

"(a) IN GENERAL.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity for the purpose of conducting a national evaluation of the program of grants to States authorized by this part.

"(b) PURPOSE.—The purpose of an evaluation under subsection (a) shall be to assess the status and effects of State efforts to develop and implement, or expand and enhance, statewide systems of family support for families of children with disabilities in a manner consistent with the provisions of this part, particularly in terms of the impact of such efforts on families of children with disabilities, and to recommend amendments to this part that are necessary to assist States to fully accomplish the purposes of this part. The Secretary or recipient of assistance under this section shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, including the Council, a qualitative and quantitative description of the impact of the program of grants to States authorized by this part on—

"(1) families of children with disabilities, including families from ethnic and racial minority backgrounds;

"(2) access to and funding for family support for families of children with disabilities; and

"(3) the involvement of families at all levels of the service system.

"(c) REPORT TO CONGRESS.—Not later than 2½ years after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under this section.

"(d) CONFLICT OF INTEREST.—The Secretary shall assure that a recipient of a grant, contract, or cooperative agreement under this section is independent from, and free from, any financial or personal relationships with the recipient of a grant, contract, or cooperative agreement selected to provide technical assistance under section 712.

"SEC. 714. PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) STUDY BY THE SECRETARY.—The Secretary shall review Federal programs to determine the extent to which such programs facilitate or impede access to, provision of, and funding for family support for families of children with disabilities, consistent with the policies described in section 702.

"(b) DEMONSTRATION AND INNOVATION PROJECTS.—The Secretary shall make grants or enter into contracts for projects of national significance to support the development of national and State policies and practices related to the development and implementation, or expansion and enhancement, of family-centered and family-directed systems of family support for families of children with disabilities.

"SEC. 715. CONSTRUCTION.

"Notwithstanding any other provision of this title, nothing in parts A through H of this title shall be construed to apply to this part.

"SEC. 716. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(b) RESERVATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall reserve for each fiscal year 10 percent, or $600,000 (whichever is greater), of the amount appropriated pursuant to the authority of subsection (a) to carry out—

"(A) section 712, with respect to the provision of technical assistance and information to States;

"(B) section 713, with respect to the conduct of the evaluations;

"(C) section 711(a), with respect to the evaluation of grant applications; and

"(D) section 714, with respect to the conduct of projects of national significance.

"(2) SPECIAL RULE.—The Secretary shall only use funds reserved under paragraph (1) for a fiscal year to carry out section 714 for such year if the amount of funds reserved under such paragraph for such fiscal year is $700,000 or greater.".

On page 496, after line 15, insert a new subparagraph as follows:

"(e) OPTIONAL ASSIGNMENT.—A local educational agency with a total enrollment of greater than 90C,000 children may, to the extent feasible, use funds received under this part to serve children from low-income families who reside in school attendance areas having high concentrations of children from low-income families, who otherwise meet the eligibility requirements of this part, and who attend schools in noneligible attendance areas."

On page 853, beginning on line 1, strike all through line 4, and insert the following:

"(4) DEFINITIONS.—For the purpose of this subsection—

"(A) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(B) the term 'local educational agency' includes intermediate school districts and consortia.

On page 869, line 23, insert "comprehensive health" after "and".

At the appropriate place, insert the following new title:

TITLE ___—MULTIETHNIC PLACEMENT

SEC. ___01. SHORT TITLE.

This Act may be cited as the "Multiethnic Placement Act of 1994".

SEC. ___02. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) nearly 500,000 children are in foster care in the United States;

(2) tens of thousands of children in foster care are waiting for adoption;

(3) 2 years and 8 months is the median length of time that children wait to be adopted;

(4) child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures; and

(5) active, creative, and diligent efforts are needed to recruit parents, from every race and culture, for children needing foster care or adoptive parents.

(b) PURPOSE.—It is the purpose of this Act to decrease the length of time that children wait to be adopted and to prevent discrimination in the placement of children on the basis of race, color, or national origin.

SEC. ___03. MULTIETHNIC PLACEMENTS.

(a) ACTIVITIES.—

(1) PROHIBITION.—An agency, or entity, that receives Federal assistance and is involved in adoption or foster care placements may not—

(A) categorically deny to any person the opportunity to become an adoptive or a foster parent, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) PERMISSIBLE CONSIDERATION.—An agency or entity to which paragraph (1) applies may consider the race, color, or national origin of a child as a factor in making a placement decision if such factor is relevant to the best interests of the child involved and is considered in conjunction with other factors.

(3) DEFINITION.—As used in this subsection, the term "placement decision" means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

(b) LIMITATION.—The Secretary of Health and Human Services shall not provide placement and administrative funds under section 474(a)(3) of the Social Security Act (42 U.S.C.

674(a)(3)) to an agency or entity described in subsection (a) that is not in compliance with subsection (a).

(c) EQUITABLE RELIEF.—Any individual who is aggrieved by an action in violation of subsection (a), taken by an agency or entity described in subsection (a), shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

(d) CONSTRUCTION.—Nothing in this section shall be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

On page 1092, line 13, insert "**FINDINGS;**" before "**purpose**".

On page 1092, between lines 13 and 14, insert the following:

"(a) FINDINGS.—The Congress finds that—

"(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

"(2) local educational agencies have struggled to fund adequately education services;

"(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status;

"(5) immigration policy is solely a responsibility of the Federal Government; and

On page 1092, line 14, strike "(a)" and insert "(b)".

On page 1093, line 1, strike "(b)" and insert "(c)".

On page 1093, line 7, strike "two" and insert "three".

On page 1094, line 11, strike "(a)" and insert "(b)".

On page 1097, strike lines 1 through 14, and insert the following:

"(e) RESERVATION OF FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

"(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

"(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

On page 1105, line 24, strike "$75,000,000" and insert "$150,000,000".

On page 1106, line 3, insert:

SEC. 9210. COMMUNICATIONS BETWEEN FEDERALLY FUNDED GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of law, no Federal, State, or local government entity receiving Federal funds shall be prohibited or in any way restricted from communicating with the Immigration and Naturalization Service regarding the immigration status, legal or illegal, of an alien in the United States.

On page 1357, after line 25, insert the following:

SEC. ___. REHABILITATION ACT.

(a) Notwithstanding any other provision of the Rehabilitation Act of 1973, the amount otherwise payable to a State under section 111 of such Act shall be reduced—

(1) for fiscal years 1987 and 1988, by the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for such year are less than the total of such expenditures for fiscal year 1972; and

(2) for fiscal year 1989, the lesser of—

(A) the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for fiscal year 1989 are less than average of the total of such expenditures for fiscal years 1986, 1987, and 1988; or

(B) the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for fiscal year 1988 are less than the average of the total of such expenditures for fiscal years 1985, 1986, and 1987.

On page 1357, line 13, insert the following:

(c) LOCAL AGENCY PLAN APPROVAL.—Paragraph 4 of section 309 (a) of the Goals 2000: Educate America Act is amended by inserting the words "made by the local educational agency" after the word "modifications".

On page 1079, between lines 21 and 22, insert the following:

"(c) SPECIAL RULES.—

"(1) CERTAIN CHILDREN ELIGIBLE UNDER SUBSECTION (a) OR (b) OF SECTION 3 OF PUBLIC LAW 81–874.—Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection.

"(2) CERTAIN CHILDREN ELIGIBLE UNDER SUBPARAGRAPHS (A) AND (G)(ii) OF SECTION 9004(a)(1).—(A) The Secretary shall treat as eligible under subparagraph (A) of section 9004(a)(1) any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (3) of this subsection.

"(B) The Secretary shall treat as eligible under subparagraph (G) of section 9004(a)(1) any child who would be eligible under such subparagraph except that such child does not meet the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (3) of this subsection.

"(3) REQUIREMENTS.—A child meets the requirements of this paragraph if on the day preceding the date of enactment—

"(A) such child resides—

"(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

"(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

"(B) the schools of such agency are within a more reasonable commuting distance of such child's home than the schools of the local educational agency that serves the school attendance area where such child resides;

"(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child; and

"(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) or section 9010(b) of this part.".

On page 563, line 12, strike "For" and insert "Notwithstanding subsections (a)(2)(A)(iv) and (e), for".

On page 563, line 17, strike "A State" and insert "Notwithstanding subsections (a)(2)(A)(iv) and (e), a State".

On page 563, line 18, strike "more than" and insert "less than".

Subsection (e) of section 1123 of the Elementary and Secondary Education Act of 1965 (as amended by section 101) is amended by striking "Notwithstanding subsection (d)(1), no State" and inserting "No State".

On page 646, line 9, strike "or (C);" and insert "; or".

On page 646, strike lines 10 through 22, and insert the following:

"(B) not more than 1.5 percent and not less than 1 percent of the funds appropriated to carry out such subsections for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation;

On page 647, line 1, strike "$375,000" and insert "$425,000".

On page 647, line 3, strike "or (C);" and insert "; or".

On page 647, strike lines 4 through 14, and insert the following:

"(B) not more than $565,000 and not less than $425,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation; or

On page 647, line 18, strike "or (C);" and insert "; or".

On page 647, beginning with line 19, strike all through page 648, line 5, and insert the following:

"(B) not more than $80,000 and not less than $50,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation.

On page 648, strike lines 10 through 14 and insert the following:

"(1)(A) .65 percent of the funds appropriated to carry out subsections (a), (c), (d), and (e) of section 1002 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B); or

"(B) not more than .75 percent and not less than .65 percent of the funds appropriated to carry out such subsections for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation; or

"(2) except as provided in paragraph (3)—

"(A) $210,000 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B); or

"(B) not more than $245,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation; or

"(3) in the case of an outlying area—

"(A) $35,000 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B); or

"(B) not more than $40,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation.

"(d) REPORT.—Beginning in fiscal year 1995 and each succeeding fiscal year thereafter, each State educational agency which receives funds under this title shall submit to the Secretary a report on the use of funds for the State administration of activities assisted under this title. Such report shall include the proportion of State administrative funds provided under this section that are expended for—

"(1) basic program operation and compliance monitoring;

"(2) statewide program services, such as development of standards and assessments, curriculum development, and program evaluation; and

"(3) technical assistance and other direct support to local educational agencies and schools.

On page 648, line 15, strike "(d)" and insert "(e)"

On page 1221, line 18, strike "and" and insert a comma.

On page 1221, line 19, strike "levels" and insert the following: ", and State educational agency levels, which system shall be completed by January 1, 1997".

On page 1221, line 26, strike "and" and insert a comma.

On page 1222, line 1, insert ", and State educational agency" after "agency".

On page 1222, line 2, strike "six months after such date" and insert "July 1, 1997,".

On page 1222, line 5, strike "and" and insert a comma.

On page 1222, line 6, insert ", and State educational agency" after "agency".

On page 1035, between lines 11 and 12, insert the following:

"PART P—COMMUNITY SCHOOL PARTNERSHIPS

"SEC. 8901. SHORT TITLE.

"This part may be cited as the 'Community School Partnership Act'.

"SEC. 8902. FINDINGS.

"The Congress finds that—

"(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

"(2) local communities, working to complement or augment services currently being offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized financial assistance;

"(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of area program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

"(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

"SEC. 8903. DEFINITIONS.

"As used in this part:

"(1) AREA PROGRAM CENTER.—The term 'area program center' means an organization that—

"(A) is part of, responsible to, and overseen by, the national organization; and

"(B) is staffed by professionals trained to create, develop, and sustain local affiliated chapters in towns, cities, and neighborhoods.

"(2) LOCAL AFFILIATED CHAPTER.—The term 'local affiliated chapter' means an organization that—

"(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization described in paragraph (3));

"(B) is formed for the purpose of providing educational scholarships and academic support for residents of the local community served by such organization;

"(C) solicits broad-based community support in its academic support and fund-raising activities;

"(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, and representatives of the business community;

"(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or the presence of any mental, sensory, or physical disability; and

"(F) gives priority in awarding scholarships to students from low-income families in the local community.

"(3) NATIONAL ORGANIZATION.—The term 'national organization' means an organization that—

"(A) has the capacity to create, develop and sustain local affiliated chapters;

"(B) has the capacity to sustain newly created local affiliated chapters in towns, cities, and neighborhoods through ongoing training and support programs;

"(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

"(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(vi) of such Code;

"(F) ensures that each of its local affiliated chapters meet the criteria described in subparagraphs (C) and (D);

"(G) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out its scholarship and academic support activities.

"(4) HIGH-POVERTY AREA.—The term 'high-poverty area' means a community with a higher percentage of children in poverty than the national average of such percentage.

"(5) STUDENTS FROM LOW-INCOME FAMILIES.—The term 'students from low-income families' means students determined, pursuant to part F of title IV of the Higher Education Act of 1965, to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act.

"SEC. 8904. PURPOSE; ENDOWMENT GRANT AUTHORITY.

"(a) PURPOSE.—It is the purpose of this title to establish and support area program centers to enable such centers to foster the development of local affiliated chapters in high-poverty areas that promote higher education goals for students from low-income families by—

"(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

"(2) providing scholarship assistance for the pursuit of postsecondary education.

"(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 8907, the Secretary competitively awards an endowment grant to a national organization to enable such organization to support the establishment or ongoing work of area program centers that foster the development of local affiliated chapters in high-poverty areas to improve high school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the pursuit of postsecondary education.

"SEC. 8905. GRANT AGREEMENT AND REQUIREMENTS.

"(a) IN GENERAL.—The Secretary shall award the endowment grant described in section 8904(b) pursuant to an agreement between the Secretary and the national organization. Such agreement shall—

"(1) require the national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

"(2) require the national organization to use 25 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by local affiliated chapters;

"(3) require the national organization to use 75 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of area program centers to enable such centers to work with local communities to establish local affiliated chapters in high-poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local affiliated chapters;

"(4) require the area program centers supported by the national organization to give priority to establishing local affiliated chapters that serve high-poverty areas;

"(5) require the national organization to submit, in each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

"(A) a description of the programs and activities supported by the interest on the endowment fund;

"(B) the audited financial statement of the national organization for the preceding fiscal year;

"(C) a plan for the programs and activities to be supported from the interest on the endowment fund during the 5 succeeding fiscal years;

"(D) or is accompanied by such evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

"(E) data indicating the number of students from low-income families who received scholarships from local affiliated chapters, and the amounts of such scholarships;

"(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund;

"(7) require that, in order to continue using the interest from the endowment fund, the national organization will meet the continuing eligibility requirements described in section 8906; and

"(8) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this title, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

"(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(8) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965.

"SEC. 8906. CONTINUING ELIGIBILITY.

"The national organization shall be eligible to continue to use the interest from the endowment fund in accordance with the provisions of this title—

"(1) in the third and each such succeeding fiscal year in which such organization uses such interest only if the local affiliated chapters associated with all area program centers supported under this part distribute to students from low-income families 80 percent of the total amount of funds raised by all such chapters in such year;

"SEC. 8907. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1995 to carry out this title.

On page 1357, immediately after section 343, insert the following:

SEC. ___. HIGHER EDUCATION AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

(a) AMENDMENT.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in paragraph (2) of section 232(d)—

(A) by inserting ", notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the semicolon; and

(2) in subparagraph (B) of section 404(a)(4)—

(A) by inserting ", notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the period.

(b) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on the date of enactment of this Act, except that a State that, prior to such date, distributed funds under section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act from funds appropriated for fiscal year 1994 for such program to proprietary institutions of higher education, as such term is defined in section 481(b) of the Higher Education Act of 1965, may continue to distribute such funds to such institutions until July 1, 1995.

SEC. ___. TECHNICAL AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 101A—

(A) in paragraph (2) of subsection (a), by striking "and Palau" and all that follows through the end of the subsection, and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau."; and

(B) in the matter preceding paragraph (1) of subsection (b), by inserting "the Republic of" immediately before "Palau";

(2) in clause (ii) of section 112(f)(1)(B), by striking "Palau" and all that follows through "99-658)", and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau"; and

(3) in paragraph (33) of section 521, by striking "and Palau" and all that follows through the end of the paragraph, and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.".

SEC. ___. TECHNICAL AMENDMENT TO THE SECOND MORRILL ACT.

Section 5 the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) (commonly known as the "Second Morrill Act") is amended by striking "and the Trust Territory of the Pacific Islands or its successor governments" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau".

SEC. ___. DEFINITIONS FOR PART A OF TITLE III.

Section 312 of the Higher Education Act of 1965 (20 U.S.C. 1058) is amended—

(1) in paragraph (1) of subsection (b)—

(A) in subparagraph (D), by striking "and" after the semicolon; and

(B) by adding after subparagraph (E) the following new subparagraph:

"(F) located in a State; and";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection:

"(f) STATE.—For the purpose 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 Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.".

SEC. ___. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAM.

Section 404G of the Higher Education Act of 1965 (20 U.S.C. 1070a-27) is amended by striking the second sentence thereof.

SEC. ___. LENDER-OF-LAST-RESORT PROGRAMS.

(a) AMENDMENT.—Paragraph (1) of subsection (c) of section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(1)) is amended by adding at the end the following new subparagraph:

"(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).".

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (a) shall take effect on August 10, 1993.

SEC. ___. FEDERAL CONSOLIDATION LOANS.

Paragraph (4) of section 428C(a) of the Higher Education Act of 1965 (20 U.S.C. 1078-3(a)(4)) is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) made under subpart II of part B of title VIII of the Public Health Service Act.".

SEC. ___. FACILITIES AUTHORITY OF THE STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087-2) is amended—

(1) in subparagraph (C) of subsection (d)(1)—

(A) in the matter preceding clause (i), by inserting "(including related equipment, instrumentation, and furnishings)" after "materials";

(B) in clause (ii), by striking the semicolon and inserting ", athletic facilities, dining halls, and student unions; and";

(C) in clause (iii), by striking "and" after the semicolon;

(D) in the matter following clause (iv)—

(i) by striking "15 percent" and inserting "30 percent"; and

(ii) by striking "type" and inserting "types"; and

(E) by striking clause (iv); and

(2) in subsection (n), by striking "a report of its operations and activities during each year" and inserting "a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year".

SEC. ___. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.

(a) AMENDMENT.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 481 the following new section:

"SEC. 481A. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.

"Notwithstanding any other provision of this Act, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this title, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.".

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (a) shall take effect on July 1, 1994.

SEC. ___. ELIGIBILITY FOR STUDENTS FROM PALAU.

Subsection (j) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091(j)) is amended to read as follows:

"(j) ASSISTANCE UNDER SUBPARTS 1, 2, 3, 4, AND 6 OF PART A AND PART C.—Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 2, 3, 4, and 6 of part A, and part C, of this title, if the student—

"(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

"(2) meets the requirements of subsection (a)(5) and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.".

SEC. ___. FEDERAL INSURANCE FOR BONDS.

Subsection (b) of section 723 of the Higher Education Act of 1965 (20 U.S.C. 1132-c(b)) is amended—

(1) in paragraph (8)—

(A) in clause (i), by striking "and" after the semicolon;

(B) by amending clause (ii) to read as follows:

"(ii) shall be maintained in an amount not less than 10 percent of the outstanding principal of all loans under this part, with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part; and"; and

(C) by adding at the end the following new clause:

"(iii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 10 percent deposit of loan proceeds following scheduled repayment of such institution's loan;"; and

(2) in paragraph (11), by striking "regulations" and inserting "conditions".

SEC. ___. DEFINITION OF ECONOMIC HARDSHIP.

Paragraph (1) of section 435(o) of the Higher Education Act of 1965 (20 U.S.C. 1085(o)(1)) is amended—

(1) in clause (ii) of subparagraph (A), by striking "or" after the semicolon;

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) such borrower does not have disposable income that is more than four times the amount specified in subparagraph (A) for a borrower who is working full-time and such borrower's Federal educational debt burden equals or exceeds 20 percent of such borrower's disposable income; or"; and

(4) in paragraph (2), by striking "(1)(B)" and inserting "(1)(C)".

SEC. ___. AUTHORITY TO AWARD NEED-BASED AID.

Section 1544 of the Higher Education Amendments of 1992 (20 U.S.C. 1088, note) is amended to read as follows:

"SEC. 1544. AUTHORITY TO AWARD NEED-BASED AID.

"(a) EFFECT ON PENDING CASES PROHIBITED.—Nothing in this section shall in any way be construed to affect any antitrust litigation pending on the date of enactment of this Act.

"(b) IN GENERAL.—Except as provided in subsection (c), an institution of higher education that practice need-blind admissions may—

"(1) voluntarily agree with any other institution or institutions of higher education to award financial aid not awarded under the Higher Education Act of 1965 to students attending those institutions only on the basis of demonstrated financial need for such aid;

"(2) jointly discuss and voluntarily agree upon principles of need analysis for determining student financial need for aid not awarded under the Higher Education Act of 1965, provided that individual financial aid officers may exercise professional judgment with regard to individual applicants for financial aid;

"(3) use common aid application forms for aid not awarded under the Higher Education Act of 1965, provided that each such institution of higher education shall be free to request and use additional or different data from such institution's applicants; and

"(4) exchange through an independent third-party data on commonly admitted applicants regarding family and student assets, income, allowances against assets and income, number of family members, and the number of siblings in college, provided that each participating institution may retrieve such data only once for each commonly admitted applicant.

"(c) EXCEPTION.—Institutions of higher education shall not discuss or agree with each other on the prospective financial aid award to a specific applicant for financial aid.

"(d) RELATIONSHIP TO HIGHER EDUCATION ACT.—Nothing in this section shall be construed to affect the rights or obligations of an institution of higher education under sections 479A and 483.

"(e) RELATED MATTER.—No inference of unlawful conduct, combination or conspiracy shall be drawn from the fact that an institution of higher education engages in conduct authorized by this section.

"(f) DEFINITION.—For the purpose of this section the term 'institution of higher education that practices need-blind admissions' means an institution of higher education that admits as full-time students all United States citizens or aliens lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act) to the undergraduate programs of such institution without regard to family financial circumstances, other than such citizens or aliens admitted from a waiting list.

"(g) SUNSET PROVISION.—This section shall expire on September 30, 1999.

SEC. ___. DEFERMENT ELIGIBILITY.

Subsection (f) of section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)) is amended by adding at the end the following new paragraphs:

"(2) DEFINITION OF BORROWER.—For the purpose of this paragraph, the term "borrower" means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

"(3) DEFERMENTS FOR PREVIOUS PART B LOAN BORROWERS.—A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of Title IV of the Act prior to July 1, 1993, shall be eligible for a deferment under section 427(a)(2)(C) or section 428(b)(1)(M) as such sections were in effect on July 22, 1992.".

At the end of the bill, insert the following new title:

TITLE ___—1994 INSTITUTIONS

SEC. ___01. SHORT TITLE.

This title may be cited as the "Equity in Educational Land-Grant Status Act of 1994".

SEC. ___02. DEFINITION.

As used in this title, the term "1994 Institutions" means any one of the following colleges:

(1) Bay Mills Community College.
(2) Blackfeet Community College.
(3) Cheyenne River Community College.
(4) D-Q University.
(5) Dullknife Memorial College.
(6) Fond Du Lac Community College.
(7) Fort Belknap Community College.
(8) Fort Berthold Community College.
(9) Fort Peck Community College.
(10) LacCourte Orielles Ojibwa Community College.
(11) Little Big Horn Community College.
(12) Little Hoop Community College.
(13) Nebraska Indian Community College.
(14) Northwest Indian College.
(15) Oglala Lakota College.
(16) Salish Kootenai College.
(17) Sinte Gleska University.
(18) Sisseton Wahpeton Community College.
(19) Standing Rock College.
(20) Stonechild Community College.
(21) Turtle Mountain Community College.
(22) Navajo Community College.
(23) United Tribes Technical College.
(24) Southwest Indian Polytechnic Institute.
(25) Institute of American Indian and Alaska Native Culture and Arts Development.
(26) Crownpoint Institute of Technology.
(27) Haskell Indian Junior College.
(28) Leech Lake Tribal College.
(29) College of the Menominee Nation.

SEC. ___03. LAND-GRANT STATUS FOR 1994 INSTITUTIONS.

(a) IN GENERAL.—

(1) STATUS OF 1994 INSTITUTIONS.—Except as provided in paragraph (2), 1994 Institutions shall be considered land-grant colleges established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.).

(2) 1994 INSTITUTIONS.—(A) 1994 Institutions shall not be considered as land-grant colleges that are eligible to receive funding under—

(i) the Act of March 2, 1887 (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.);

(ii) the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343), except as provided under section 3(b)(3) of such Act (as added by section ___04(b)(1) of this title); or

(iii) the Act of August 3, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322 et seq.).

(B) In lieu of receiving donations under the provisions of the Act of July 2, 1862, relating to the donations of public land or scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, 1994 Institutions shall receive funding pursuant to the authorization under subsection (b).

(b) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 1996 through 2000, there are authorized to be appropriated $4,600,000. Amounts appropriated pursuant to this section shall be held and considered to have been granted to 1994 Institutions to establish an endowment pursuant to subsection (c).

(c) ENDOWMENT.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary of the Treasury shall establish a 1994 Institutions Endowment Fund (referred to in this subsection as the "endowment fund"). The Secretary may enter into such agreements as are necessary to carry out this subsection.

(2) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary shall deposit in the endowment fund any—

(A) amounts made available by appropriations pursuant to subsection (b) (referred to in this subsection as the "endowment fund corpus"); and

(B) interest earned on the endowment fund corpus.

(3) INVESTMENTS.—The Secretary shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

(4) WITHDRAWALS AND EXPENDITURES.—The Secretary may not make a withdrawal or expenditure from the endowment fund corpus. On the termination of each fiscal year, the Secretary shall withdraw the amount of income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the endowment fund, distribute the adjusted income as follows:

(A) 60 percent of the adjusted income shall be distributed among the 1994 Institutions on a pro rata basis. The proportionate share of the adjusted income received by a 1994 Institution under this subparagraph shall be based on the Indian student count (as defined in section 390(3) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2397h(3)) for each Institution for the fiscal year.

(B) 40 percent of the adjusted income shall be distributed in equal shares to the 1994 Institutions.

SEC. ___04. APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For fiscal year 1996, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury an amount equal to—

(A) $50,000; multiplied by

(B) the number of 1994 Institutions.

(2) PAYMENTS.—For each fiscal year, the Secretary of the Treasury shall pay to the treasurer of each 1994 Institution an amount equal to—

(A) the total amount made available by appropriations pursuant to paragraph (1); divided by

(B) the number of 1994 Institutions.

(3) USE OF FUNDS; REQUIREMENTS.—The amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322 et seq.), and, except as otherwise provided in this subsection, the requirements of such Act shall apply to 1994 Institutions.

(b) FUNDING.—Section 3 of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(3) There are authorized to be appropriated for the fiscal year ending June 30, 1996, and for each fiscal year thereafter, for payment on behalf of the 1994 Institutions (as defined in section ___02 of the Equity in Educational Land-Grant Status Act of 1994), $5,000,000 for the purposes set forth in section 2. Such sums shall be in addition to the sums appropriated for the several States and Puerto Rico, the Virgin Islands, and Guam under the provisions of this section. Such sums shall be distributed on the basis of a competitive application process to be developed and implemented by the Secretary and paid by the Secretary to State institutions established in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.) (other than 1994 Institutions) and administered by such institutions through cooperative agreements with 1994 Institutions in the States of the 1994 Institutions in accordance with regulations that the Secretary shall adopt.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection:

"(f) There shall be no matching requirement for funds made available pursuant to subsection (b)(3).".

SEC. ___05. INSTITUTIONAL CAPACITY BUILDING GRANTS.

(a) DEFINITIONS.—As used in this section:

(1) FEDERAL SHARE.—The term "Federal share" means, with respect to a grant awarded under subsection (b), the share of the grant that is provided from Federal funds.

(2) NON-FEDERAL SHARE.—The term "non-Federal share" means, with respect to a grant awarded under subsection (b), the matching funds paid with funds other than funds referred to in paragraph (1), as determined by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) IN GENERAL.—

(1) INSTITUTIONAL CAPACITY BUILDING GRANTS.—For each of fiscal years 1996 through 2000, the Secretary shall make two or more institutional capacity building grants to assist 1994 Institutions with constructing, acquiring, and remodeling buildings, laboratories, and other capital facilities (including fixtures and equipment) necessary to conduct research more effectively in agriculture and sciences.

(2) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this section—

(A) on the basis of a competitive application process under which appropriate officials of 1994 Institutions may submit applications to the Secretary in such form and manner as the Secretary may prescribe; and

(B) in such manner as to ensure geographic diversity with respect to the 1994 Institutions that are the subject of the grants.

(3) DEMONSTRATION OF NEED.—The Secretary shall require, as part of an application for a grant under this subsection, a demonstration of need. The Secretary may only award a grant under this subsection to an applicant that demonstrates a failure to obtain funding for a project after making a reasonable effort to otherwise obtain the funding.

(4) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made on the condition that the recipient of the grant pay a non-Federal share in an amount specified by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Agriculture to carry out this section, $1,700,000 for each of fiscal years 1996 through 2000.

At the end of Title IV, insert the following:

"RATE OF PAY FOR THE DEPUTY DIRECTOR OF THE NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH"

"SEC. . Notwithstanding section 202(c)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 761a(c)(2)), the Secretary of Education is authorized to compensate anyone appointed during calendar year 1994 to be the Deputy Director of the National Institute on Disability and Rehabilitation Research at the rate of pay for level 5 of the Senior Executive Service Schedule."

Amendment No. 2421 is modified as follows:

(T) demonstrations that are designed to test whether prenatal education and counseling provided to pregnant students could have a positive effect on pregnancy outcomes, with such education and counseling emphasizing the importance of prenatal care; the value of sound diet and nutrition habits; and the harmful effects of smoking, alcohol and substance abuse on fetal development.

At the appropriate place, insert the following new section:

SEC. ___. FAMILY SUPPORT CENTER PROGRAM.

(a) ADMINISTRATIVE PROVISIONS.—Section 772(f) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11482(f)) is amended—

(1) in paragraph (1), to read as follows:

"(1) ADMINISTRATIVE COSTS.—Two percent of the amounts appropriated under this title may be used by the Secretary to administer the programs established under this title and three percent of the amounts appropriated under this title may be used by the Secretary to evaluate such program and to provide technical assistance to entities for the development and submission of applications for grants under this section.";

(2) in paragraph (3), by striking "2 years" and inserting "3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(4) MINIMUM AMOUNT.—No grant made under subsection (a) may be less than $200,000 per year.".

(b) REPORT.—Section 777 of such Act (42 U.S.C. 11487) is amended by striking "1992" and inserting "1995".

(c) AUTHORIZATION FOR APPROPRIATIONS.—Section 779 of such Act (42 U.S.C. 11489) is amended by striking "for fiscal year 1993" and inserting "for each of the fiscal years 1993 through 1998".

(d) TECHNICAL AMENDMENT.—Section 774(a) of such Act (42 U.S.C. 11484(a)) is amended by striking "subsection (e)" and inserting "subsection (d)".

At the end of part D of title III, insert the following:

SEC. ___. THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965.

Subsection (c) of section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "$50,000" and inserting "$100,000"; and

(2) in the second sentence of paragraph (2)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "$50,000" and inserting "$100,000".

On page 1358, between lines 9 and 10, insert the following:

SEC. 402. CRIMINAL HISTORY INVESTIGATIONS OF SCHOOL BUS DRIVERS.

(a) REQUIREMENT FOR INVESTIGATIONS.—(1) Notwithstanding any other provision of law, a local educational agency may not employ a person as a driver of a school bus of or on behalf of the agency until the agency conducts a background check under procedures that meet the guidelines set forth in section 3(b) of the National Child Protection Act of 1993 (Public Law 103-209; 107 Stat. 2491; 42 U.S.C. 5119a(b)).

(2) Subject to paragraph (3), the prohibition set forth in paragraph (1) shall take effect on the date of the enactment of this Act.

(b) INTERIM REQUIREMENT.—Prior to the establishment of the procedures referred to in subsection (a)(1), or a State's participation in the procedures referred to in subsection (a)(1), local educational agencies shall conduct a fingerprint based check through the criminal history files maintained by the Criminal Justice Information Services Division of the Federal Bureau of Investigation.

(c) DEFINITION.—In this section, the term "local educational agency" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act.

"S. 1513 as reported is amended as follows—

Section 1602(a)(1) is amended by striking "and" at the end of line 19, by adding "and" to the end of line 23, and by adding the following new paragraph (G)—

"(G) programs that are built upon partnerships developed between elementary and middle schools, employers, and the community which emphasize the integration of high quality academic and vocational learning, stress excellence and high expectations for success in core academic subjects, instill responsibility, decisionmaking, problem solving, interpersonal skills, and other competencies in students, and make school relevant to the workplace and the community, through applied and interactive teaching methodologies, team teaching strategies, learning opportunities connecting school, the workplace, and the community, and career exploration, awareness, and career guidance opportunities."

Page 1038, line 18, strike "(A) The amount" and insert "(A)(i) The amount".

Page 1038, after line 25, insert the following new clause:

"(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

"(I) the operation of a domestic dependent elementary or secondary school; or

"(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

On page 650, between lines 3 and 4, insert the following:

"PART H—EDUCATIONAL OPPORTUNITY DEMONSTRATION PROGRAM

"SEC. 1801. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) while low-income students have made significant gains with respect to educational achievement and attainment, considerable gaps still persist for these students in comparison to those from more affluent socioeconomic backgrounds;

"(2) our Nation has a compelling interest in assuring that all children receive a high quality education;

"(3) new methods and experiments to revitalize educational achievement and opportunities of low-income individuals must be a part of any comprehensive solution to the problems in our Nation's educational system;

"(4) preliminary research shows that same gender classes and schools may produce promising academic and behavioral improvements in both sexes for low-income, educationally disadvantaged students;

"(5) extensive data on same gender classes and schools are needed to determine whether same gender classes and schools are closely tailored to achieving the compelling government interest in assuring that all children are educated to the best of their ability;

"(6) in recent years efforts to experiment with same gender classes and schools have been inhibited by lawsuits and threats of lawsuits by private groups as well as governmental entities; and

"(7) there is a compelling government interest in granting the Secretary authority to insulate a limited number of local educational agencies and schools which are experimenting with same gender classes for a limited period of time from certain law suits under title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), or any other law prohibiting discrimination on the basis of sex, in order to collect data on the effectiveness of such classes in educating children from low-income, educationally disadvantaged backgrounds.

"(b) PURPOSES.—It is the purpose of this part—

"(1) to give the Secretary discretion to allow experimentation with same gender classes for low-income, educationally disadvantaged students;

"(2) to determine whether same gender classes make a difference in the educational achievement and opportunities of low-income, educationally disadvantaged individuals; and

"(3) to involve parents in the educational options and choices of their children.

"SEC. 1802. DEFINITIONS.

"As used in this part—

"(1) the term 'educational opportunity school' means a public elementary, middle, or secondary school, or a consortium of such schools all of which receive funds under this title, that—

"(A) establishes a plan for voluntary, same gender classes at one or more than one school in the community;

"(B) provides same gender classes for both boys and girls, as well as a co-educational option for any parent that chooses that option;

"(C) gives parents the option of choosing to send their child to a same gender class or to a co-educational class;

"(D) admits students on the basis of a lottery, if more students apply for admission to the same gender classes than can be accommodated;

"(E) has a program in which a member of the community is asked to volunteer such member's time in classes of children of the same gender as the member; and

"(F) operates in pursuit of improving achievement among all children based on a specific set of educational objectives determined by the local educational agency applying for a grant under this part, in conjunction with the educational opportunity advisory board established under section 1803(e) and agreed to by the Secretary; and

"(2) the term 'educational opportunity advisory board' means an advisory board established in accordance with section 1803(e).

"SEC. 1803. PROGRAM AUTHORIZED.

The Secretary may grant waivers to ten local education agencies for the design and operation of one or more educational opportunity schools.

"(a) INAPPLICABILITY.—Title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), and any other law prohibiting discrimination on the basis of sex, shall not apply to a local educational agency or an educational opportunity school for a five year period following the Secretary's grant of the waiver only to the extent the Secretary determines necessary to ensure the development and operation of same gender classes in accordance with this part.

"(b) EDUCATIONAL OPPORTUNITY ADVISORY BOARD.—Each local educational agency receiving a waiver under this part shall establish an educational opportunity advisory board. Such advisory board shall be composed of school administrators, parents, teachers, local government officials and volunteers involved with an educational opportunity school. Such advisory board shall assist the local educational agency in developing the application for assistance under section 1804 and serve as an advisory board in the functioning of the educational opportunity school.

"SEC. 1804. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each local educational agency desiring a waiver under this part shall submit, within 180 days of the date of enactment of the Improving America's Schools Act of 1994, an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) SCOPE OF APPLICATION.—Each application described in subsection (a) may request a waiver for a single educational opportunity school or for a consortium of such schools.

"(c) APPLICATION CONTENTS.—Each application described in subsection (a) shall include—

"(1) a description of the educational program to be implemented by the proposed educational opportunity school, including—

"(A) the grade levels or ages of children to be served; and

"(B) the curriculum and instructional practices to be used;

"(2) a description of the objectives of the local educational agency and a description of how such agency intends to monitor and study the progress of children participating in the educational opportunity school;

"(3) a description of how the local educational agency intends to include in the educational opportunity school administrators, teaching personnel, and role models from the private sector;

"(4) a description of how school administrators, parents, teachers, local government and volunteers will be involved in the design and implementation of the educational opportunity school;

"(5) a description of how the local educational agency or the State, as appropriate, will provide for continued operation of the educational opportunity school once the Federal waiver has expired, if such agency determines that such school is successful;

"(6) a justification for the waiver or inapplicability of any Federal statutory or regulatory requirements that the local educational agency believes are necessary for the successful operation of the educational opportunity school and a description of any State or local statutory or regulatory requirements, that will be waived for, or will not apply to, the educational opportunity school, if necessary;

"(7) a description of how students in attendance at the educational opportunity school, or in the community, will be—

"(A) informed about such school; and

"(B) informed about the fact that admission to same gender classes is completely voluntary;

"(8) an assurance that the local educational agency will annually provide the Secretary such information as the Secretary may require to determine if the educational opportunity school is making satisfactory progress toward achieving the objectives described in paragraph (2);

"(9) an assurance that the local educational agency will cooperate with the Secretary in evaluating the program authorized by this part;

"(10) assurances that resources shall be used equally for same gender classes for boys and for girls;

"(11) assurances that the activities assisted under this part will not have an adverse affect, on either sex, that is caused by—

"(A) the distribution of teachers between same gender classes for boys and for girls;

"(B) the quality of facilities for boys and for girls;

"(C) the nature of the curriculum for boys and for girls;

"(D) program activities for boys and for girls; and

"(E) instruction for boys and for girls; and

Page 605, lines 3-4, strike "a second subgrant period" and insert "for additional subgrants, a subgrantee may receive funds under this part for a period not to exceed eight years."

Title X:

Page 1128, line 13, strike "and 2115".

On page 1133, line 13, insert ", including interactive forms of such products and services," after "tapes,".

On page 8, line 16, of the committee modification, strike "640" and insert "650".

On page 1042, line 11 insert:

(f) Special rule.

Beginning with fiscal year 1994, and notwithstanding any other provision of law limiting the period during which fiscal year 1994

funds may be obligated, the Secretary of Education shall treat the local educational agency serving the Wheatland R-II School District, Wheatland, Missouri, as meeting the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (20 U.S.C. 237(a)(1)(C)) or section 9003(a)(1)(C) of the Elementary and Secondary Education Act of 1965.

On page 1073, line 8 insert:

(d) Special rule.

In carrying out section 14(c) of the Act of September 23, 1950 (Public Law 815, 81st Congress) (20 U.S.C. 644(c)) or any successor authority, the Secretary of Education shall waive any amount of local effort in excess of $200,000 that would otherwise be required under paragraphs (3) and (4) of such section, or any successor authority, respectively, and any regulations issued thereunder, in awarding funds to the Winona R-III School District, Missouri, with respect to its application #MO-86-C-3601A36.

VETERANS AFFAIRS-HUD APPROPRIATIONS ACT FOR FISCAL YEAR 1995

BUMPERS (AND OTHERS) AMENDMENT NO. 2444

Mr. BUMPERS (for himself, Mr. WARNER, Mr. COHEN, Mr. BAUCUS, Mr. KERRY, Mr. SIMON, Mr. BRYAN, Mr. FEINGOLD, Mr. KOHL, Mr. LAUTENBERG, Mr. DECONCINI, Mr. CHAFEE, and Mr. WOFFORD) proposed an amendment to the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes; as follows:

Strike the figure on line 6 on page 70 and insert in lieu thereof the following: "$3,634,200,000, to remain available until September 30, 1996. Provided, that of the funds provided under this heading, no funds shall be expended on the space station program, except for termination costs."

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the nominations of Jose Amador of Texas to be Assistant Secretary of Agriculture for Science and Education and Roger Viadero of Virginia to be the Inspector General for the Department of Agriculture. The hearing will be held on Friday, August 5, 1994 at 8:30 a.m. in SR-332. Senator TOM DASCHLE will preside.

For further information contact Christine Sarcone at 42035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, August 2, 1994, at 11:45 a.m. in executive session, to discuss matters related to the conference with the House on the Fiscal Year 1995 National Defense Authorization Act.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, August 2, beginning at 9:30 a.m. to conduct a hearing pursuant to Senate Resolution 229.

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

COMMITTEE ON FINANCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, August 2, 1994 at 10:00 a.m., to continue considering its recommendations for legislation to implement the Uruguay round of Multilateral Trade Negotiations.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, August 2, 1994, at 10 a.m. for a markup.

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

COMMITTEE ON THE JUDICIARY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Tuesday, August 2, 1994.

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, August 2, 1994, at 4 p.m. to hold a closed briefing on intelligence matters.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., August 2, 1994.

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

ADDITIONAL STATEMENTS

THE NATIONAL ASSOCIATION OF TOWN WATCH'S 11TH ANNUAL NATIONAL NIGHT OUT

• Mr. WOFFORD. Mr. President, today, I want to call attention to a citizen effort to fight crime.

This evening the National Association of Town Watch will sponsor the 11th Annual National Night Out. This is a night for communities to take up the mantle of active duty citizenship, a night in which thousands of Americans will come together to say that they have had enough of crime and they want to work in cooperation with local law enforcement to restore civility to their communities.

It is significant that this day arises in the week in which we in the Senate move an important step closer to final passage of the largest anticrime legislation ever. By placing more police on the streets, building more prisons, investing in crime prevention programs, and requiring stiffer sentences for violent, repeat offenders, our crime bill represents a smart and tough attack on crime.

The theme of the National Night Out—mobilizing neighbors in the fight against crime—is more important than ever before. As I have traveled throughout Pennsylvania, I have heard from many people whose lives have been indelibly marked by crime. We have lost too many lives and too many communities to crime. And we—citizens, law enforcement, and other public officials—must work together to restore a sense of safety to our streets and neighborhoods.

My legislation, the citizens police academy bill, will encourage communities to work more cooperatively with local law enforcement in fighting crime. This bill, which has been incorporated into the crime bill, will provide important funding and institutional framework for community watch groups to access the training, information and know-how of law enforcement through citizens police academy programs. My legislation represents an important opportunity to expand efforts like those of the National Association of Town Watch and crime watch groups across the Nation.

I salute the National Association of Town Watch and its 11th Annual National Night Out and I am proud to join my distinguished colleague from Michigan, Senator RIEGLE, as a cosponsor of Senate Joint Resolution 212, which designates today, August 2, 1994, as "National Neighborhood Crime Watch Day."•

THE F-22 TEST PLAN

• Mr. D'AMATO. Mr. President, Senators DECONCINI, MACK, and I recently wrote Air Force Secretary Widnall

raising serious questions over the fact that the F-22 test and evaluation master plan [TEMP] by-passes the real-time electromagnetic digitally controlled analyzer and processor [REDCAP] and Air Force electronic warfare evaluation simulator [AFEWES] facilities. As a result, no electronic combat [EC] effectiveness testing confirming whether the F-22's combination of stealth, speed, and integrated avionics actually exploit and degrade air defenses, improve mission effectiveness, and increase survivability will be conducted prior to production. And, as recent events have shown, it is extremely difficult to kill a system, no matter how deeply flawed, once it is in production.

The response by the Air Force, while swift, was very disappointing.

AFEWES, according to the Air Force, will be included in the F-22 test plan "contingent on completion and validation of planned upgrades to existing capabilities." In fact, the Air Force has taken steps to cripple modernization at AFEWES. It has not escaped our notice that fiscal year 1994 AFEWES funds are being reprogrammed, that the facility was nickel and dimed in the fiscal year 1995 request, and that no provision has been made to budget for a real-time data link or a phase control for the RF environment generator, upgrades that are vital if proper testing of the F-22 is contemplated.

As for REDCAP, it will be used in "validating [radar cross section] RCS modeling and simulation of the F-22 enemy integrated Air Defense System [IADS] penetration capabilities." There is no doubt that this test should be done, and that it can be done at REDCAP. But RCS work is a sop. Our concern focused on the lack of appropriate testing to confirm that the F-22's combination of stealth, speed, and sophisticated electronics will allow it to maintain the superior situational awareness against enemy IADS necessary to achieve the first-look, first-shot, first-kill capability for which we are paying such an enormous cost. The RCS testing proposed by the Air Force will only address a single aspect of F-22 effectiveness.

The bottom line is that the Air Force has no intention of seriously testing prior to production a pioneering fourth generation stealth aircraft with supercruise capability and an integrated avionics package driven by 1.4 million lines of software code. We have been down this road before with the Air Force, and we will not be fooled again.

I ask that the letter from Robert Stuart, Air Force Deputy for Budget, be printed in the RECORD.

The letter follows:

DEPARTMENT OF THE AIR FORCE,
Washington, DC, July 27, 1994.

Hon. AL D'AMATO,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: In response to your July 13, 1994 letter, the Air Force has reviewed the electronic warfare test concepts planned for the F-22 program. We have taken this action to eliminate any perception the Air Force is intentionally bypassing test facilities with the ability to accurately assess the F-22's inherent capabilities to exploit or degrade enemy air defenses. We are committed to full testing of F-22 electronic warfare effectiveness.

The Air Force has planned an extensive, robust F-22 test program and continuously reviews test facility capabilities. In fact, one of the greatest F-22 test planning challenges is identifying facilities capable of fully testing the aircraft. We recognize the importance of Hardware-in-the-Loop (HITL) facilities for electronic warfare testing. In fact, the current test program includes HITL testing at four DoD facilities that meet particular F-22 test requirements. Additionally, the Air Force is planning to use the Air Force Electronic Warfare Evaluation Simulator (AFEWES) facility contingent on completion and validation of planned upgrades to existing capabilities. Development testing of F-22 integrated avionics is not limited to ground testing. A Boeing 757 Flying Test Bed will conduct development flight testing on the integrated avionics.

While the Real-time Electromagnetic Digitally Controlled Analyzer & Processor (REDCAP) is not presently capable of fully testing the F-22's systems, the Air Force has determined that it will provide an early, incremental benefit by validating RCS modeling and simulation of the F-22 enemy Integrated Air Defense Systems penetration capabilities. This test will be incorporated in the F-22 program.

The F-22 test program, as documented in the Test Evaluation Master Plan (TEMP), continues to evolve as test requirements and facility changes occur over the course of the program. The next revision of the TEMP is scheduled for the Spring of 1995.

I trust this letter has resolved your concerns regarding the F-22 test program. We will continue to review DoD test facility capabilities and adjust the F-22 test effort to ensure cost effective, robust RCS and system effectiveness testing.

Sincerely,
ROBERT D. STUART,
Deputy for Budget.•

THE WASHINGTON POST'S EXAMINATION OF SUB-SAHARAN AFRICA

• Mr. SIMON. Mr. President, for several years, I have publicly lamented about the lack of a strong constituency for Africa in the United States.

Just 10 days ago in an interview with National Public Radio, I suggested that if every Member of the House and Senate had received 100 letters from people back home saying we had to do something about Rwanda, when the crisis was first developing then the response would have been different.

Whether you ask me about what it was like to rally support for United States aid to Somalia before the pictures of the hundreds of thousands of starving men, women, and children reached the front pages of our newspapers and our living rooms through television, or getting involved in the conflicts in Liberia or Angola or the Sudan or many other African states, it has nearly always been a struggle to captivate the eye of America. The news media has not reported as much about the tribulations that face African peoples as much as the conflict in Bosnia or the Middle East.

I am pleased to rise today and commend the Washington Post for their efforts to change this course. Their continuing series "Continental Drift," has been exceptional. The editors of the Washington Post have noted that with the end of the cold war, sub-Saharan Africa ceased to be the prize for which the East and West had vied over decades. In the 1990's, sub-Saharan Africa's 45 governments have been trying to make their way in a changing world, grappling with new political and economic systems that are often at odds with centuries-old traditions and decades-old practices. This series, which has run occasionally over the last few months, focuses on the continent of Africa, with its successes and failures and their causes.

I understand that future stories will examine environmental degradation, economics, health, religion, population growth, and Africa's role in the world.

Mr. President, in case my colleagues have missed this substantial effort, I ask unanimous consent that the series published to date be printed in its entirety in the CONGRESSIONAL RECORD.

If all news organizations would make as strong a commitment we could alleviate many future crises before they start.

The articles follow:

[From the Washington Post]

MOZAMBIQUE AT PEACE AS ANGOLA FIGHTS ON; EX-PORTUGUESE COLONIES TAKE DIFFERENT ROADS

(By Paul Taylor)

MAPUTO, MOZAMBIQUE.—For centuries, former Portuguese colonies Mozambique and Angola have stood like bookends along the southern base of Africa, sharing a hauntingly similar history, especially over the course of the past generation. But today, one is at war and the other is at peace.

The most compelling explanation is also the most ironic: Mozambique is too poor to keep fighting.

"We don't have Angola's oil and diamonds, so there's no way we can sustain a civil war here without outside help," said Carlos Cardoso, an independent publisher in the capital of what is generally regarded as the world's poorest country.

There's another "advantage" that Mozambique enjoys: the cautionary tale of Angola. Both countries won their independence from Portugal in 1975, both immediately became Marxist states, and both were plunged into civil wars financed by outsiders. But Mozambicans did not sign a peace accord until October 1992, nearly two years after Angolans did—and just as Angola's fragile peace was falling apart. It has left a deep impression.

"Angola is everyone's negative point of reference here," said Aldo Ajello, head of the U.N. Operation in Mozambique.

To avoid another peacekeeping fiasco, the United Nations sent some 7,000 troops here,

compared with the 400 it had assigned to oversee military demobilization in Angola.

Everyone now agrees the 400 figure was a bad misjudgment—one that made it too easy for Jonas Savimbi, leader of Angola's UNITA rebels, to flout the demobilization deadlines and keep his best men and materiel hidden away in the bush, so they were ready to return to war when Angola's first democratic election did not go his way.

Not everyone is convinced, however, that a larger peacekeeping force in Angola could have changed the dynamics that much. "If you need 7,000 troops in Mozambique, you probably needed 50,000 in Angola, and you still might not have been able to control the situation," said Philip Clarke, director of the U.N. World Food Program in Mozambique, who held the same job in Angola. "There's not the same hatreds here as in Angola. There, you have a few big tribes with a history of animosity. Here there are 19 different tribes, and they tend to blend into one another."

Even with the larger peacekeeping force here, many of the demobilization deadlines have been missed, just as in Angola, and the new joint army is likely to be just a skeleton force, as it was in Angola.

But Ajello, while frustrated by the delays, doubts that Mozambique's election, set for Oct. 27–28, will lead to a resumption in hostilities, as it did in Angola. Even though the formal demobilization process has gone slowly, the war-weary soldiers of both sides have made it clear—with riots and mutinies at their assembly areas—that they are fed up with their generals and want to grab their demobilization pay and go back to their villages.

"Whoever says, 'We'll go back to war if we don't like the result,' will get laughed at," said Cardoso, "because everyone knows nobody has an army."

Then there's the personality factor, which also seems to be running in Mozambique's favor. Savimbi's opposite number here, rebel leader Afonso Dhlakama of the Mozambique National Resistance, is 42—18 years younger than Savimbi—and seems to understand that even if he loses the coming election, he has a bright future as an opposition political leader.

In the 1980s, when Savimbi and Dhlakama were the two highest-profile anti-communist guerrilla leaders in Africa, Savimbi won the hearts of conservative groups in Europe and the United States, who hailed him as a true democrat. But Dhlakama was rebuffed because his faction was so closely identified with the apartheid regime in South Africa and with brutality against civilians.

Now Savimbi has lost his old friends in the West, while Dhlakama is making new ones among diplomats who have taken not of his generally good record so far in adhering to the peace process.

Dhlakama's commitment to democracy will not really be tested until the returns come in from the October election. But if, like Savimbi, he loses and wants to fight back, it is unlikely he will have any troops to go along with him.

WITH MISCHIEVOUS OUTSIDERS GONE, ANGOLA CREATES ITS OWN SUFFERING; DEVASTATING CIVIL WAR FOLLOWS YEARS AS COLONY AND COLD WAR PAWN

(By Paul Taylor)

DONDO, ANGOLA.—Antonio dos Anjos, a 15-month-old war victim, has sunken eyes, twig-like limbs and a case of cholera that will not kill me, thanks to the kindness of strangers.

His doctor is a Nigerian, his nurse a Minnesotan. An Australian is the supply officer at the therapeutic feeding center at Antonio's displaced persons camp; a Norwegian is the water engineer.

They are part of an international relief effort that has kept Angola from becoming another of this decade's humanitarian catastrophes, on the order of Somalia, Rwanda or Bosnia.

Unfortunately, the kindness of strangers has not rescued Angola from itself. A mineral-rich southwest African nation of 11.2 million, Angola is home to one of Africa's most intractable post-colonial civil wars, now approaching its 20th year and well past the half-million mark in deaths.

Nor have strangers always come in kindness. Over the span of just two decades, this country has been a Portuguese colony, a Soviet client state, a superpower battleground, a failed object of New World Order democracy initiatives and a starving recipient of First World food aid.

It hardly seems to matter anymore if the outsiders come for mischievous purposes or noble ones. Either way, Angolans keep suffering and dying. "If you want to make a case that the industrialized world still doesn't understand how to deal with Africa, Angola is a pretty good example," a Western diplomat said.

In a sense, Angola is the whole post-colonial African tragedy writ small. While most of the rest of the planet moves toward democracy and free markets, this nation is stuck in its own hellish orbit, with a dysfunctional command economy and a civil war fueled by the momentum of greed and power.

It seems beside the point to argue who is most to blame. There is more than enough to spread around—from the Portuguese colonizers who never prepared Angola for independence, to the superpowers who treated it like a plaything, to the Angolan combatants themselves, who have never found the courage or will to make peace.

The war could well get deadlier. Last month, just as U.N.-sponsored peace talks showed glimmers of progress, fighting intensified throughout the country. The formerly Marxist government of President Jose Eduardo dos Santos has launched a major offensive, bombing rebel-controlled areas in the central highlands and the north. The rebel movement, the National Union for the Total Independence of Angola, known as UNITA and led by Jonas Savimbi, is using artillery to pound government-held cities, including one, Cuito, heavily populated by its own supporters.

The flare-up forced curtailment of what for the previous six months had been the U.N. World Food Program's largest airlift. If the relief flights cannot resume soon, up to 2 million Angolans dependent on food aid face the prospect of a war-induced famine. The state-run Angolan News Agency reported last weekend that people in Cuito are eating mice and plant roots to stay alive.

Because Angola's calamity has been spread over two decades, it has rarely found its way onto the world's front pages or television screens. But the cumulative death toll of more than 500,000 here rivals that of any of today's higher-profile tragedies.

It is a disaster for which the United States, Russia and other outsiders clearly bear responsibility. While they come now as relief workers and would-be peacemakers, in the 1970s and 1980s they came with arms, armies and ambitions, making Angola a pawn in the Cold War. The United States armed and supported UNITA, which was also helped by an invasion force from white-ruled South Africa. Moscow backed the Marxist government and enlisted Cuban troops to prop it up.

Since the start of the post-Cold War 1990s, the United States, Russia, Portugal and the United Nations have all tried to coax the combatants here toward a political power-sharing arrangement similar to the one that brought South Africa through its transition from white-minority rule to democracy. Yet they have discovered that formulas imposed by outsiders are ineffective if the parties themselves do not trust one another.

At various stages since 1975, the war here has been waged under the banner of ideology, ethnicity or class animosity. Nowadays, stripped of outside patrons, it seems mainly about power, money and ego.

Since fighting resumed in late 1992, the war has taken an estimated 200,000 lives, on top of 350,000 from 1975 to 1990. Most of the casualties have been civilians. Angola has some 100,000 amputees, possibly the highest number per capita in the world, and an estimated 10 million unexploded land mines.

Despite a nine-month round of U.N.-supervised peace talks in neighboring Zambia that, on paper, has brought the parties close to an agreement on a cease-fire, demobilization and political power-sharing, diplomats here say the conflict's dynamics still tilt toward war, not peace.

For one thing, the dos Santos government appears to have the advantage militarily, and its generals seem determined to cripple UNITA before agreeing to any cease-fire.

Also, the combatants already made peace once, under the prodding of the United States, Portugal and the Soviet Union, only to have the war resume when Savimbi claimed that the U.N.-certified 1992 election he lost had been stolen. Peace will likely prove more elusive the second time around.

But perhaps the most intractable problem is that while most Angolans are impoverished, Angola holds enough mineral wealth to fuel both parties' war machines indefinitely, and there is a deadly equilibrium in the way the spoils are divided.

The government draws revenue from offshore oil wells that produce 550,000 barrels a day, according to official Angolan estimates. UNITA draws at least $100 million a year—perhaps much more—from diamonds it extracts from mines in northeastern Angola, according to a calculation by trade specialists in South Africa. UNITA representatives smuggle the diamonds to Zaire and sell them through middlemen to De Beers, the South African diamond giant.

"This war is between Angola's two main tribes: oil and diamonds," said one disillusioned relief worker.

This all raises a knotty question about humanitarian assistance. By feeding Angola's poor victims, is the world also indirectly fueling its wealthy warriors? According to the United Nations, the government spends 2 percent of its budget on education and 2 percent on health. Nearly all the rest goes for bombs and land mines that create more business for relief workers.

"In a sense, we are blackmailed," said Mike McDonagh, head of Concern, an Ireland-based relief agency. "If we weren't here, there would be a massive famine. But by coming, we may be making it easier for the war to go on."

Manuela Aranda da Silva, the U.N. coordinator for humanitarian aid in Angola, said, "We have prevented a catastrophe here." He noted that about a thousand Angolans a day were dying of starvation and war-related diseases before the U.N. relief effort geared up

late last year, aided by about 50 nongovernmental organizations.

In theory, by providing more than $150 million in food aid this year, the United Nations has acquired a lever to nudge the combatants toward peace. In practice, however, the combatants more often use the aid as a club, refusing military clearance for relief flights whenever they want to punish or pressure the other side. "Neither side seems to give a damn about Angolans," said one relief worker. "You can get pretty cynical here pretty fast."

This week, 11 of the humanitarian organizations working in Angola appealed to dos Santos and Savimbi to stop the killing, respect the neutrality of the relief effort and "reflect on the appalling moral consequences of the current course of events."

But critics say U.N. hands are not entirely clean either. In 1991–92, the United Nations tried to supervise the peace process with 400 unarmed military advisers—"an inadequate force," officials now acknowledge. Both sides failed to demobilize their forces fully, and the United Nations lacked the clout to respond. When Savimbi took issue with the election results, the core of his army was ready to fight again.

If there is a new peace agreement, the United Nations says, it will take at least 5,000 troops to supervise it. But few countries are likely to send troops until the two sides show a commitment to demobilization. And neither side is prepared to disarm until U.N. troops arrive to protect them against an enemy they will never trust.

To break the logjam in peace talks, Alioune Blondin Beye, the U.N. special representative to Angola, has recruited South African President Nelson Mandela as a mediator. Mandela held regional peace talks this month in Pretoria with the presidents of Angola, Zaire and Mozambique and hopes to meet soon with Savimbi, an old foe of Mandela's African National Congress.

Savimbi, 60, a popular figure and gifted general, began in the 1960s as an anti-colonial guerrilla leader influenced by the teachings of Mao Zedong. When a larger rival anti-colonial movement, the Popular Liberation Movement of Angola, known as the MPLA, received support from the Soviet Union, Savimbi cast himself as an anti-communist and sought funding from the CIA, which considered Angola the front line of Soviet expansionism in sub-Saharan Africa.

The MPLA became the government when Portugal pulled out in 1975. American aid to Savimbi stopped soon after but resumed in the Reagan era, during which the United States channeled an estimated $250 million in military aid to UNITA. Military experts estimate the Soviets may have lavished 10 times as much on their clients. The Soviet Union also encouraged Cuba to dispatch troops to Angola to defend the MPLA, while South Africa mounted an invasion to help UNITA uproot the communist government.

Savimbi lost some of his democratic credentials when he was accused by his own supporters of killing high-level dissidents within UNITA. He lost even more when he refused to accept the 1992 election results. His UNITA force is subject to a U.N.-backed embargo that is to be tightened after Sunday if he does not accept the peace proposal worked out in Zambia. UNITA has refused to embrace the peace plan unless it gives the rebels control of the provincial capital of Huambo, a UNITA stronghold.

Savimbi now casts the conflict in ethnic and populist terms. He says it pits his large but poor Ovimbundu tribe of the central highlands against the Mbundu and other relative economic elites who live along the coast. But it is unclear how much ethnicity really matters in this fight. "I talked to the headmistress of a school in Cuito. She lost her husband and six of her seven children when UNITA shelled the city last year, and she lost her seventh child this year," McDonagh said. "And the thing is, she is Ovimbundu and a Savimbi supporter, as are most of the people in Cuito."

The MPLA has killed its own too. Last month a government MiG accidentally bombed a school in the government-controlled town of Waku Kungo, killing 89 children. The aging MiGs fly high to avoid UNITA antiaircraft fire, and their bombs are notoriously scattered. Still, the government's air superiority is one reason it has retaken two of five provincial capitals that UNITA grabbed after the election.

In its current offensive, the government is pushing northward to try to cut off UNITA's access to diamonds and to resupply routes in Zaire.

Meanwhile, displaced persons' camps fill the countryside. In Dondo, 150 miles southeast of Luanda, the World Food Program feeds 83,000 people cut off from their villages and crops by land mines and fighting.

Even with the aid, the camp's therapeutic feeding center loses 15 children a month to malnutrition. A recent cholera outbreak claimed 43 lives in Dondo.

"The thing that gets me is that when the children die, I have yet to see a mother cry," said Karen Easterday, a nurse with World Vision, a relief organization.

"They seem to have lost all hope, and I guess they are afraid to get emotionally involved. I cry, and they wonder why I am crying."

MILITARY RULERS DRAINED NIGERIA, ENRICHED SELVES

(By Steve Coll and Cindy Shiner)

LAGOS, NIGERIA.—During the Cold War, East and West met furtively in the hangars of Makurdi Air Base in central Nigeria, the most populous country in sub-Saharan Africa and a substantial prize in superpower competition for global influence.

Soviet military advisers hovered around two dozen MiG–21 fighter jets supplied by Moscow to Nigeria's long-serving military government.

British advisers watched over 15 Jaguar fighter-bombers sold to balance the Soviet supplies.

Americans ferried supplies for nine C–130 transport planes.

Czechs tended approximately two dozen L–39 jet trainers they had sold.

Italians carried spare parts for eight G–222 aircraft.

"The view as far as the British government and the Americans were concerned was, 'Here we have a large population which has got tremendous potential as a force for stability in West Africa, which could act as a role model for democracy and act as a leader with its oil, minerals and agricultural potential,'" recalled retired British air force wing commander Ken Petrie, who was stationed in Nigeria from 1987 to 1990.

But today Makurdi is a Cold War ghost town and a military shambles, a symbol not only of how Nigeria has lost its strategic interest for the outside world, but of how its military government has failed to take care of the country and even of its own rank and file.

Riddled with corruption, pinched for funds and absorbed by domestic turmoil, the Nigerian military regime now led by Gen. Sani Abacha has largely stopped paying for maintenance of its Cold War-era equipment. The neglect is lethal: In 1992, almost an entire generation of senior Nigerian commanders from the country's military academy—163 people, most of them high-ranking officers—died when their overloaded, poorly maintained C–130 crashed after taking off from Lagos's Murtala Mohammed Airport.

During 24 years of on-again, off-again military rule in Nigeria, "ruling cliques have not seized power on behalf of the military as an institution, but from their own selfish point of view, from greed," said a retired, wealthy Nigerian general, David M. Jemibewon. "If anything, they in fact set out to destroy the institution, because if the military is well equipped, there might be a challenge" to their power.

At a time when militaries are in retreat from politics in many areas of the Third World—from South and Central America to Southeast Asia and the Indian subcontinent—armies in large swaths of sub-Saharan Africa continue to pose a danger not just to democracy and civilian populations, but to themselves.

Overall military spending in sub-Saharan Africa is declining in the aftermath of the Cold War. Some armies loaded up with weapons by outside powers during the Cold War are gradually demobilizing [see accompanying story]. But African armies' crippling impact on politics and development shows little sign of easing, despite a surge of democratic movements in the region.

If military control of government is defined as the absence of credible civilian authority over the army, then about two dozen of sub-Saharan Africa's 45 countries are in such a state today. Some, such as Angola and Sudan, are wracked by devastating wars that claim tens of thousands of lives annually. Others, such as Nigeria and Zaire, are large regional leaders retarded by political repression and economic decline.

The reasons why sub-Saharan African militaries hold such sway when armies elsewhere are moving back to the barracks are many and complex, according to African generals, government officials, defense specialists and democracy activists.

Shrinking economies in the region intensify competition among all interest groups, including militaries, for limited national wealth. State-dominated economic policies encourage African elites, including generals, to believe that the only way to get rich quickly is to get into government. A broad erosion in public institutions enables those with weapons to seize power and enrich themselves.

In oil-endowed Nigeria, the generals have done this in style. Both active and retired, they live in sprawling villas, work in $500-a-night hotel suites, travel frequently to Europe and talk openly with colleagues and diplomats about the homes, apartments, estates and even golf courses they own in Europe and the United States.

"As long as they are in government you have a brand new set of officers coming up who want to taste the spoils of office," said Eluem Emeka Izeze, editor of the African Guardian newspaper. "Their mission is self-preservation."

INSTRUMENT OF ETHNIC STRUGGLE

Equipment rusts and strategic air bases like Makurdi fall into disuse because after the Cold War, and in the absence of credible regional threats, "the military elite recognize quite honestly that the military is irrelevant in any security sense," said Olufemi

Otubanjo, a political scientist at Nigeria's University of Ibadan. "It's only relevant as an instrument of domestic pacification."

But to pacify a typical sub-Saharan African country, an army almost inevitably becomes entangled in the ethnic and tribal conflicts bequeathed by colonial borders.

Thus, Otubanjo added, besides a vehicle for economic and social mobility, "the military in most of Africa tends to be an instrument of ethnic struggle."

In giant Nigeria, in tiny Togo, in Zaire, in Congo, in Liberia, in Sierra Leone and most bloodily of late in Rwanda, fractured armies and militias provide the knife's edge of wider struggles to allocate ethnic and tribal power, as well as material resources, in fragile nation-states.

Liberian rebel Charles Taylor's National Patriotic Front set up its own government in its own capital, ruling over a territory with its own currency. At least six factions vie for control of the country's gold, diamonds, rubber and valuable hardwoods.

This thirst for money, power and ethnic advantage has reached such an exaggerated point in some countries, such as Nigeria, that the military is divided internally among competing, sometimes ethnically based cliques of officers desperate for a piece of the action before they retire.

"In West Africa, it's not so much the military taking over as an institution, but a group of individuals," said L.S. Aminu, a defense specialist at the government-funded Nigerian Institute of International Affairs. "Yes, they come out of the military, but they do not follow military doctrine."

Repetition of this process has produced, among other things, a breakdown in military discipline and a politically volatile schism between greedy senior officers and ambitious lower ranks suffering from neglect. Economic and political strife has prompted three massive looting sprees by Zaire's army in as many years, resulting in hundreds of deaths and the evacuation of at least 15,000 foreigners. Soldiers have now begun demanding their often-delayed monthly salaries in dollars.

As a result of such breakdowns, military intervention in sub-Saharan African politics has become not just horizontal—with a unified army stepping sideways to seize power from civilian politicians—but also vertical, with junior ranks mutinying against senior commanders.

Sierra Leone's head of state, army Capt. Valentine Strasser, who is only 28, seized power in 1992 with a group of junior officers because, while fighting a guerrilla war, the young officers became angered by the lack of medical treatment, food and ammunition available at the front.

The broad complaint many Africans have about this generation of military leaders, young and old, is that they have lost touch with reality.

Nigeria is arguably the most important case in point. With a quarter of Africa's population, a preponderance of the continent's surplus oil and about 100,000 men under arms, the country is both a bellwether of sub-Saharan Africa and a weighty force in regional affairs.

"Having a military regime in Nigeria constitutes a lot of danger for Africa itself," said human rights activist Femi Falana, president of the country's National Association of Democratic Lawyers.

A Nigerian general commands Gambia's small army. About 10,000 Nigerian peacekeepers are stationed in Liberia. Others have served in Somalia and Lebanon. And Nigeria's military has just announced a new program to train Sierra Leone's young army.

A year ago, Nigeria appeared ready to provide a different example. After a decade of stagnant and sometimes repressive military rule, peaceful democratic elections seemed to have brought a civilian businessman, Moshood Abiola, to power.

But the country's ruling military council, led then by Gen. Ibrahim Babangida, annulled the results, charging vote fraud, and reasserted military authority. The military has ruled Nigeria for 24 of its 34 years of independence, assisted by the repeated failures of civilian administrations and civilian politicians.

One year after that aborted election, Nigeria seems possessed by an almost surreal mood of self-disgusted inertia.

It's not just opposition politicians who declare that the military has lost touch with reality; retired generals, senior government officials, even cabinet ministers say the same.

One well-placed government official, after offering a laundry list of corruption allegations and malfeasance by the generals to whom he reports, said in a tone that blended wonderment and disgust, "If you are going to steal money, you have to do it with a view that your children will be able to steal money too."

Foreign Minister Baba Gana Kingibe, speaking of the generals, said: "Their credibility has progressively eroded . . . such that right now people are not exactly enamored of the military and people are anxious to see the back of the military. That is really the position we have reached."

Since Abiola was arrested last month and charged with treason, strikes and protests have spread from Lagos to several other cities. On Monday, 20 people were killed in Lagos during demonstrations demanding Abiola's release and Abacha's resignation.

Yet few of these officials and few outside analysts believe the Nigerian military is in any immediate danger of being pushed from power.

One reason is its elite presidential guard. The guard is a typical feature of undemocratic sub-Saharan African regimes—a coup-deterring force recruited for its personal loyalty to the commander in chief. A 1,500-man brigade of guards in Nigeria's inland capital, Abuja, and a similar-sized elite force in Lagos, the country's commercial capital, are described by military sources as the linchpin of Abacha's internal security apparatus.

As in other undemocratic African countries, Abacha's presidential guard unit is drawn from his own ethnic group in his home town.

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DOWNSIZING ARMIES IS DIFFICULT, COSTLY; WORLD POWERS THAT AIDED COLD WAR BUILDUP OFFER LITTLE FOR DEMOBILIZATION

(By Jennifer Parmelee)

MAKALLE, ETHIOPIA.—By age 26, Khadija Noor Hussein had spent half a lifetime in the trenches of Ethiopia's long civil war. Now she is making up for the youth she lost to the gun.

In a crowded classroom of third-graders learning basic English at the Emperor Johannes School in this northern regional capital, Khadija listened attentively, quietly nursing her 18-month-old baby—named Light of Peace in the Tigrinya language—from a back-row bench. Beside her sat other members of the Tigray People's Liberation Front, the linchpin of a rebel movement that toppled the dictatorial Marxist regime of Mengistu Haile Mariam in May 1991.

They too have traded AK-47s and rocket launchers for schoolbooks in the first stage of a long process to demobilize the rebel force that now doubles as Ethiopia's national army.

"This is the best opportunity of my life," Khadija said with an infectious smile. "I want to continue all the way to university."

On a continent tormented by civil war, Khadija is one of the luckier survivors. Millions of former soldiers and guerrillas throughout Africa face cloudy futures as their countries struggle to switch from decades of high military spending and big armies—largely the fruit of Cold War battles across the continent—to the new tests of peace and reconstruction.

With no battles to fight, the mostly young ex-combatants often find themselves idle, with limited employment prospects in nations that rank among the world's poorest.

"All these young people who know how to use weapons and little else. . . . They are like a time bomb," said Yusuf Abdi Gabobe, formerly a unit commander in a rebel group that defeated Somali dictator Mohammed Siad Barre. "They are the biggest obstacle to successful reconstruction we have today."

In Ethiopia, Khadija, who was on the winning side of the 30-year civil war, has better chances to adapt to peace than the estimated 500,000 men and boys who made up Mengistu's fallen fighting force, once black Africa's largest and best equipped.

While more than 200,000 ex-soldiers are being reintegrated into their home communities, largely with a $5 million U.S. aid grant, thousands more are shiftless, angry, without hope in a country with a devastated economy. Many have turned to banditry or begging at city street corners.

Ethiopia is only one of many African nations confronting the bitter inheritance of war.

While 16 countries still face some form of civil conflict, according to a recent U.N. tally, another nine now at peace are trying to dismantle their war machines and reintegrate the combatants—either into civil society or into slimmer national armies. The nine are Mozambique, Ethiopia, Eritrea, Chad, Uganda, Zimbabwe, Liberia, Namibia and the self-declared but unrecognized Republic of Somaliland in northwestern Somalia.

Yet while Africa's wars have been generously funded in the past, mostly by Cold War sponsors, efforts to defuse the dangerous legacies of these wars have attracted far less international support, aid experts say.

At the fortress-like U.N. headquarters in the Somali capital, Mogadishu, Abdelgedir Sheikh, an economist who has run the U.N. demobilization and disarmament office since it opened last October, said he has no money to spend. Sheikh had to beg and borrow to start up his first humble project for demobilized militia gunmen—a poultry farm in Baidoa. He secured a loan from the U.N. Department of Humanitarian Affairs and rations from the U.N. World Food Program. "I'm just like a looter," he said with a short laugh.

In Angola, the process of demobilization never really got going, with disastrous results.

From 1987 to 1991, as the U.S.-Soviet rivalry in Africa flamed out, Angola was the leading importer of conventional arms in sub-Saharan Africa, spending more than $3.6 billion on weaponry, according to the Stockholm International Peace Research Institute. In 1991, the country ranked 14th in the

world in arms imports, even as the two rival superpowers—Angola's top arms suppliers—were trying to coax the government and rebels into a lasting peace.

Reversing the military buildup was not easy. Demobilization and disarmament attracted few international funds—less than $1,100 a soldier, according to a 1993 World Bank report. The United Nations, without a legal mandate to do more than verify, had only one observer in Angola per 333 soldiers.

Progress was slow and erratic. By the September 1992 election, 40,000 troops had yet to be demobilized, the opposing forces were nearly intact, and the new, integrated national army was still in skeletal form. When hostilities broke out again after the rebels challenged their election defeat, few were surprised.

In a similar case, Rwanda paid a high price for failing to implement terms of peace accords negotiated last fall between its government and the rebel Rwandan Patriotic Front. One of the key provisions of that agreement was to integrate rebels, largely from the Tutsi ethnic minority, into the Hutu-dominated army.

But by the time President Juvenal Habyarimana was killed in a plane crash April 6, igniting the cataclysm of violence, little progress had been made: 600 Tutsi rebels were still camped in the capital's parliament building. Soon, they were on the streets, battling the soldiers with whom they had been intended to integrate—a convenient excuse for the mostly Hutu-inspired butchery.

The tragic lessons of Angola and Rwanda, however, appear not to have been lost on the international community operating in Mozambique since the October 1992 peace accords.

Demobilization has been assigned high priority—and money.

The head of U.N. peacekeeping, Aldo Ajello, vows that the rebel and government armies will be merged in advance of any elections, now scheduled for October. In addition, noting the scarcity of job opportunities for the mostly unskilled combatants—a third of them 18 or younger—the United Nations will pay demobilized soldiers from both sides a monthly salary for two years.

SURGING RWANDAN REBELS VOW TO SHARE POWER; PLEDGE DESIGNED TO FORESTALL FURTHER TRIBAL BLOODSHED, TUTSI-LED INSURGENTS DECLARE

(By Jonathan C. Randal)

KIGALI, RWANDA.—Rwanda's Tutsi-led rebel forces, now in control of this battle-scarred capital and poised for total victory after three months of civil war, have vowed to share power with the Hutu tribal majority to spare this Central African nation further carnage.

Rebel leaders who outlined the pledge say it is intended to halt the cycle of Hutu-Tutsi violence that has convulsed the country periodically in recent decades—culminating this spring and summer in the slaughter of perhaps as many as a half-million Tutsis and sympathetic Hutus at the hands of Hutu government troops and government-backed Hutu gangs.

The tribal rampage—modern Africa's most horrific atrocity and an act characterized by U.N. officials as genocide—was touched off by the death of Rwanda's Hutu president in an unexplained plane crash April 6 and reignited a dormant civil war that negotiations between the Hutu regime and the rebel Rwandan Patriotic Front had failed to resolve.

Rebel spokesmen have pointed out that they proposed Hutu-Tutsi power sharing in a national unity government even before the April massacres began but were rebuffed by a government that claimed to speak for the 85 percent Hutu majority in this country of 7.7 million. Indeed, throughout weeks and months during which their families and neighbors were being butchered by Hutus, rebel leaders seemed determined to portray their movement as a responsible alternative to a savage regime.

Nevertheless, with the rebels just beginning to solidify their hold on the three-quarters of the country they now occupy, it is difficult to assess how their vows of evenhandedness will play out in dozens of towns and villages where wholesale killing took place. Their promises of conciliation have so far failed to sway the mass of Hutu refugees who fled before the rebel assault, leaving the countryside largely empty, crops withering in the fields and an uncanny silence shrouding what once was one of Africa's most densely populated nations.

Kigali's pre-war population of nearly 400,000 fell to about 35,000 as government troops retreated under rebel attack, leaving a shall-pocked ruin of a city reeking of rotting flesh. Many residents are now returning, but most seem to be heeding government radio broadcasts warning that Hutus who come back to the city will be killed by vengeful rebels.

Western sources said they are convinced that any rebel atrocities have been relatively few compared to those of the Hutu gangs, but they added that rebel leader Paul Kagame has expressed fear that his men could be driven to excesses by battle fatigue and the shock of learning that some relative or friend had been killed by Hutus. The rebel leadership is said to have meted out summary punishment among its forces in several instances, including several rapes of Hutu women and the assassination of Rwanda's archbishop.

In detailing their power-sharing proposal, rebel spokesmen here noted that with perhaps as much as half the country's Tutsi minority slain since April they now have little choice but to seek Hutu cooperation in a new government if their movement is to succeed where so many other successful African guerrilla groups have failed. With all but a relative handful of its moderate Hutu allies also slain by the old regime, the rebels believe they must now deal with Hutu leaders who may themselves have been involved in the killing.

Rebels say a national unity government would exclude only two Hutu-led parties—the National Republican Movement of Development and Democracy and the Coalition for the Defense of the Republic—because they apparently were chiefly responsible for organizing and inciting the anti-Tutsi bloodbath. Rebel spokesman Wilson Rutayisure said he believes that no more than "300 to 400" Hutu extremists should be brought to trail for their roles in the slaughter. That number, he said, includes "some politicians, some members of the middle class, some journalists, some army officers, some members of the civil service—those who planned the genocide."

"If this small group can be punished," he said, "it would be a good example that you can no longer wipe out a whole ethnic group and get away with it."

The rebel pledges of forbearance seemed all the more exceptional in light of the unquestioned military triumph of Kagame, 38, who has led the rebel forces to the brink of victory against seemingly insurmountable odds. With about 20,000 men, he has consistently outfought and outmaneuvered a government force twice that size with tactics that have been described as "absolutely brilliant" by a senior Western military analyst here.

Perhaps as compensation for this, rebel leaders acknowledged they want to amend some of their early power-sharing proposals to guarantee them control of more that 40 percent of the amry—the figure set forth in negotiations last August aimed at regulating relations between the Hutu government and the Tutsi minority.

Almost to a man, rank-and-file guerrillas use the same arguments as their leaders in favor of sharing power with the defeated Hutus, yet close observers of the rebel movement are convinced that alongside its purported vision of tribal peace and multi-party democracy thrives a yearning for ethnic hegemony.

Tutsis had ruled Rwanda as a tribal oligarchy for centuries before being driven from power in 1960, and the two peoples have battled sporadically since. Now the rebels make no secret of their demands that 2 million Tutsis they say were driven into exile during tribal turmoil over the last three decades must be allowed to return.

AFRICA: BLOODIED, TORN AT ITS ETHNIC SEAMS

(By Jennifer Parmelee)

ADDIS ABABA, ETHIOPIA.—Africa is living in a season of extremes. Two temblors have shaken the continent: one, South Africa, a triumph of the politics of reconciliation; the other Rwanda, a war of the tribal passions that are Africa's worst political enemy.

In South Africa, the government led by Nelson Mandela of the African National Congress is for the most part cooperating smoothly both with the white-led, formerly ruling National Party and the Inkatha Freedom Party, dominated by the Zulu tribe, nearly three months after the country's historic multiracial elections. Before the elections, more than 13,000 South Africans died in four years of political violence, mostly between supporters of the ANC and Inkatha in feuds motivated in part by ethnic rivalry.

But when Inkatha leader and Zulu chief Mangosuthu Buthelezi bowed to the democratic process on the eve of the polling, nudging along the country's biggest tribe and most formidable political ethnic force, the incidence of violence plummeted. Since April, the spirit of inter-tribal reconciliation kindled by Mandela and former white president Frederik W. de Klerk has guided the new government: de Klerk is a deputy president, and Inkatha's stronghold in KwaZulu/Natal Province has seen a continuing reduction of strife.

Rwanda, a tiny and densely populated central African republic wounded by recurrent tribal pogroms, is still wracked by violence three months after the alleged assassination of its president triggered ethnic carnage on a scale hitherto virtually unknown in Africa. An estimated half-million Rwandans, mostly members of the minority Tutsi tribe, have been slaughtered by militias of the majority and ruling Hutus.

Between the polar extremes of South Africa and Rwanda lie a multitude of African countries wrestling with multiethnic and multi-religious heritages—perhaps the greatest threat to their stability today. Sub-Sahara Africa is divided into 45 states—it is the most Balkanized land mass anywhere. Yet those divisions pale next to the hundreds of unofficial boundaries among tribes and

clans, religions and languages. There are about 50 major languages spoken in Africa, and as many as 2,000 languages less widely spoken.

Clan politics is hardly unique to Africa in today's fractious world. In some ways, according to Ali Mazrui, professor of African studies at Cornell University, African tribes have provided a strong and valuable network of extended family, a system of collective welfare and a refuge from states that often have been rapacious.

However, colonial borders that ignored African realities—haphazardly slicing through tribal territories—combined with the upheavals of post-independence politics, have made Africa uniquely susceptible to tribalism's centrifugal pulls, observers say. Most of the continent's civil wars—at least 20 in three decades—have had a significant ethnic component.

Such forces appeal even more in an era of tremendous anxiety within Africa, already the world's poorest continent and growing poorer. Most countries are faced with huge and mounting debts, their economies and agricultures stagnant—or shrinking. Meanwhile, their populations are skyrocketing, foreign aid is declining and their governments are overwhelmingly incompetent and corrupt. The absence of a significant middle class, the ballast of civil society, also contributes to instability.

Today more than ever, Africa is prey to what historian Basil Davidson calls "the curse of the nation state." African states remain artificial entities still struggling to find legitimacy in the eyes of their citizenry.

Davidson, Mazrui and many other historians and political scientists argue that much of Africa's tribal conflict can be blamed on the inheritance of highly centralized states that, in standard colonial "divide and rule" style, delegated most power to a favored tribe or tribes. After independence, this characteristic evolved into political systems in which the winners—usually the dominant ethnic group—took all and losers got precious little. Many of the dispossessed, from Eritrea to Sierra Leone, took up arms.

This was true in Rwanda and neighboring Burundi. The minority Tutsis—a Nilotic, cattle-rearing tribe that held sway for centuries as feudal overlords of the more numerous, agrarian Hutus—were overwhelmingly favored by their German and Belgian colonizers. Long-limbed and lighter-skinned, the Tutsis won educational and economic privileges; the stockier, darker Hutus were oppressed. This potent dynamic of discrimination fueled three decades of massacres after independence.

Rwanda was bathed in blood from birth, with 100,000 to 200,000 killed in a five-year period following independence, as Hutus avenged their unhappy history. Hutus seized control of government institutions, including the army, while Tutsis fled into exile, ultimately coalescing into an armed opposition group that invaded in 1990, igniting a three-year civil war.

Hutu President Juvenal Habyarimana's April 6 death in an unexplained plane crash—militant Hutus said it was caused by rockets—provided government troops and Hutu gangs with a pretext for a systematic campaign of political killings that swiftly turned into an all-out slaughter of Tutsi civilians, and reignited the civil war after a year of truce.

In Burundi, the minority Tutsis managed to retain their grip on power until multiparty elections last year brought a Hutu to the presidency for the first time. His assassination four months later, apparently by the Tutsi-run security forces, ignited a four-week tribal bloodbath last fall that claimed at least 100,000 lives.

His successor, Cyprien Ntaryamira, also a Hutu, was killed in the plane crash with Habyarimana, but Burundi avoided Rwanda's violent reaction. Diplomats, aid workers and U.N. officials have suggested that the memory of Burundi's most recent experience in ethnic bloodletting was fresh enough to stay any impulse to commit tribal slaughter again any time soon.

Many African countries have been similarly hamstrung by their colonial legacies.

In Nigeria, home to at least 250 ethnic groups, British colonialists catered to the large Fulani and Hausa tribes in the Muslim north. Northern groups have maintained hegemony in Nigerian politics ever since, a reality that sparked the secessionist war of southern Biafra in 1967-70 and continues today with the northern-dominated military's denial of power to Moshood Abiola, a southerner who was the apparent victor of civilian presidential elections last year that the military government annulled before results were announced. The Baganda in Uganda were granted similarly preferential treatment.

In Sudan, British treated north and south as separate but unequal entities, and the two halves have been at war for 28 of the 38 years since independence.

And in Liberia, U.S. governments bolstered the rule of Americo-Liberians, descendants of freed American slaves, at the expense of indigenous tribes. Conflict between those groups persist to this day.

Unscrupulous African governments also have played one group against another for their own ends.

In South Africa, the white-minority government fanned hostilities among black opposition groups to forestall a joint frontal assault on their white rulers. Pretoria divided black South Africans into 10 tribally based homelands, a classic divide-and-rule tactic in a country where blacks outnumber white by a 5 to 1 ratio.

Over time, however, the strategy backfired. Not only did the common experience of racial oppression unite blacks from different tribes, but the fact that the engineers of the apartheid system of racial separation had tried to manipulate ethnicity so shamelessly wound up tainting the concept as a force in black liberation politics. Buthelezi tried to play the ethnic card earlier this year, but it took him only so far.

In Kenya, human rights groups have accused President Daniel arap Moi's government of inciting clashes between Moi's minority Kalenjin ethnic group and the larger Kikuyu and Luo tribes in the country's most fertile farm country. The escalating violence, which has displaced thousands of people and disrupted agriculture in a drought year, threatens to boil over into civil war, according to the human rights organization Africa Watch.

Ethnicity also has often exacerbated other divisions in Africa, between landed and landless, farmers and herders, haves and have-nots. Competition among regions or religions—Muslim, Christian, animist—is another sectarian flashpoint.

Some of the continent's tensions, if they were between blacks and whites, would be called racism. In Somalia and Ethiopia, for example, the gracile, dominant people of mixed Semitic and African heritage have often looked down on their "purely African" compatriots in southern regions, whom they have used in the past as slave labor.

In spite of the profusion of actual and potential fault lines across the continent, many states in Africa have managed to forge a national identity, expressed in symbols such as sports teams, popular music, national languages and dress.

Virtually every African state that drew up post-independence constitutions—Nigeria was an exception—avoided federalism on grounds that it would encourage groups or regions to go their own way. The Organization of African Unity, in its 1963 charter, reflected this concern when it enshrined the sanctity of colonial borders, and it regularly denounces the bogeyman of secession.

Multi-party politics also was widely regarded as a recipe for disintegration—and this view frequently became an excuse for leaders to maintain an iron, one-party grip on their people in the name of "nation building." In a host of post-independence countries—including Nigeria, Somalia, Uganda and Sudan—the introduction of a multiparty system saw dozens of small parties spring up overnight, mostly along sectarian lines; all mentioned wound up under military rule, often seen as an antidote to chaos.

The preponderance of states swung between anarchy and tyranny: authoritarian in nature, they lacked the moral authority to do anything but hold their disparate constituencies in am embrace of force; they had yet to learn the South African lesson that legitimacy—and thus stability—is created when opponents are given a stake in the system.

"Focusing on ethnic tensions misses the point," argued I. William Zartman, director of African studies at the Johns Hopkins University's School of Advanced International Studies in Washington. "It is the collapse of authority structures that opens the ways for ethnic conflict, not the reverse, because a strong state can handle ethnic strife and maintain law and order."

Such was the case in Somalia, where U.S.-supported dictator Mohamed Siad Barre diverted the spoils of power to his own small clan, thus destroying any advantage flowing from a nation blessed with a single language, religion and people. Upon his overthrow in 1991, Somalis angrily set upon any outpost of the government that had failed to serve them—schools, hospitals, even power lines.

Today, as the ethos of democracy is preached from one corner of the continent to another, many leaders are looking to new or re-tooled constitutions to unite their fractured constituencies.

African leaders must work quickly, however, especially given the economic free fall that heightens political tensions. Secession is on the lips of many groups—from the Barotse of Zambia to the Tuaregs in Mali, the southerners in Sudan and Somali-speakers in Ethiopia's Ogaden region.

In Malawi, whose first-ever multi-party elections in May dislodged Africa's longest-serving liberation leader, H. Kamuzu Banda, political parties already reflect regional antagonisms. In Zambia, democratically elected President Frederick Chiluba, who disdained the tribal balancing act of predecessor Kenneth Kaunda by installing a predominantly Bemba-speaking government, faces rising dissent in the former Kingdom of Barotseland.

In Ethiopia, which is attempting to negotiate the leap from military dictatorship to democracy, most parties mirror ethnic divisions.

South Africa, while on the multi-party trail, also favors decentralization, although the relationship between the central government and regional authorities remains to be

worked out. In what is generally perceived as an astute political compromise, the charter gives largely ceremonial powers to the Zulu King, while any party that wins at least 5 percent of the vote gets a cabinet seat.

"The South African model is one way of stabilizing ethnic tensions because everyone will get part of the cake," said Benyamin Neuberger, a political scientist at the Open University of Tel Aviv.

Today, Ethiopia is trying an experiment in ethnically based democracy that it acknowledges is a high-stakes enterprise. Most parties are tribally based, and a new draft constitution is intended to devolve power to nine regions drawn largely along tribal lines. Its most controversial clause allows for self-determination up to and including secession. Many Ethiopians say such language will erode the bonds that the country's various nationalities share and invite a Soviet-style breakup into ethnic fiefdoms.

Ethiopian President Meles Zenawi says his government has no choice but to recognize the diversity that was so long suppressed. Some of the experts, but not all, agree.

Filip Reyntjens, an African law specialist at the University of Antwerp, acknowledges "a big risk" in codifying recognition of ethnic diversity and the "right" to secession. But he added: "Africans have paid a higher price for ignoring or suppressing ethnicity, rather than accommodating it * * *. What's happening in Ethiopia constitutes a dramatic departure from what's happened in Africa over the past 30 years."

Kifle Wadajo, a foreign minister in the government of Haile Selassie who heads the constitutional commission, agrees.

"The dangers of ethnic disintegration have been used as an argument to destroy democracy in Africa, again and again * * *. It's been an uncomfortable topic, especially among the elites, "Kifle said. "The challenge we have is to promote the well-being and rights of groups, enriching all of us, while at the same time promoting our common interest."

Correspondent Paul Taylor in Johannesburg contributed to this report.

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AN AFRICAN GIANT FALLS UNDER ITS OWN WEIGHT; YEARS OF GREED MAKE ZAIRE CHAOTIC STATE

(By Keith B. Richburg)

KINSHASA, ZAIRE.—The once elegant, European-style boulevards of this capital are overrun with debris. Largely abandoned government buildings are obscured behind elephant grass and overgrown trees. In a perverse reversal of the usual development maxim, an opulent colonial capital is being overtaken by the bush. Kinshasa was carved out of the jungle. Now the jungle is coming to claim the land back.

As sub-Saharan Africa struggles to find stability in the 1990s, Zaire offers a poignant—and ominous—lesson. Unlike Somalia and Liberia, this big, rich country has not collapsed into civil war. It has not, like tiny Rwanda, imploded after a brutal campaign of tribal slaughter. But Zaire, the region's second-largest country and one of its potentially wealthiest, is equally desperate: It has crumbled from official corruption and greed, incompetence, neglect and decay.

The institutions that once defined the Zairian state have all ceased to function. Civil servants and teachers are not paid, roads and bridges are left in disrepair, public hospitals are not supplied, the public telephone system has disintegrated. Child malnutrition is on the rise, and the country is ravaged by AIDS and a rebirth of sleeping sickness that has caused entire villages simply to lie down and die.

"Precolonial" is how one Western resident described Zaire. "It's like Europe in the Dark Ages," said another Westerner, a diplomat with long experience here. "Zaire just proves that societies don't depend on the existence of a state. Societies can function on their own."

While the cause of Zaire's crisis may be distinct—and the extent of its free fall extreme—this country in many ways stands as a microcosm of what many Africans and others say is a continent-wide phenomenon.

Since the United States and the Soviet Union ended a rivalry that shaped the politics of sub-Saharan Africa through much of the last 30 years, the region has struggled to find a new basis for stability and development free of foreign tutelage. Some progress has been made. But government, economies and even whole countries artificially forged by European colonizers in the 19th century, and propped up since achieving independence a generation ago by the patronage of outside powers, are beginning to fragment.

Like most countries of the developing world, and in the former communist bloc of Eastern Europe, African states have tried to adopt the non-communist world's formula for success. Most have pledged to open their economies and adopt free-market policies, and many have begun talking about giving up autocracy or one-party rule for democracy and pluralism. A few—most famously South Africa—have succeeded.

Yet as much of the rest of the Third World appears poised to enter a new era of rapid economic growth and stability, Africa is still struggling to shake off the burdens of the past, ranging from the borders drawn by the European powers to the corruption and economic mismanagement engendered by post-colonial dictators backed by Moscow, Washington, Paris or Beijing.

In many places, the old order is crumbling but nothing is taking its place. "There's too much talk about development and not enough about decay," said Peter Lyon at London's Institute for Commonwealth Studies. Zaire, he said, "may be the classic case."

OBSTACLES OLD AND NEW

For two years, Zaire for all practical purposes has had no working government. Its longtime president, Mobutu Sese Seko, has been abandoned by the United States, his backer during the Cold War, and no longer can impose order on his sprawling country. But his political opponents have been too weak to remove him. There are two competing prime ministers, neither of whose authority is accepted by the army or the bureaucracy. Soldiers have destroyed much of the infrastructure of the capital in riots over pay, and whole regions populated by distinct ethnic groups have simply taken over their own affairs.

For some Africans, the crisis reflects fundamental problems of statehood that have lingered in African countries since they gained independence in the 1960s. "It raises profound questions about the nature of these governments and the nature of these states," said Rakiya Omaar, a Somali who is co-director of African Rights, a London-based human rights group. "The problem in Africa has been these predatory, strong central governments that never cared about their own people."

Similar political breakdowns are happening around the region. Somalia has not had a government since its U.S.-backed dictator, Mohamed Siad Barre, was chased out of power in January 1991. Liberia is still in the throes of an on-again, off-again civil war over who, and what, should replace the late

Samuel Doe's dictatorship. Angola and Sudan both seem hopelessly locked in civil wars that have effectively divided those countries along geographic lines.

And Rwanda, Zaire's neighbor, has been in a state of anarchy and civil war since April 6, with no effective government in place, since President Juvenal Habyarimana was killed in an unexplained plane crash.

Other countries, from Sierra Leone to Uganda, from Ethiopia to Mali, are waging small-scale wars against guerrillas, ethnic separatists or armed bandits that have made large chunks of territory impassable and lawless.

One key cause of this turmoil is Africa's loss of what was arguably its most important resource; its relevance. During the Cold War, the continent was a playground for the proxy conflicts. The Americans, the Soviets, the Chinese, the Israelis, the Arabs, white South Africans, white Rhodesians, even the Taiwanese searched for allies and brought in aid, arms and advice. Much of the attention lavished on Africa proved destructive—fueling civil wars, as in Angola, or backing dictators, as in Somalia, Liberia and Zaire.

But the outside attention also meant that highways were built, hospitals were kept supplied and a generation of Africa's elite were given access to education at home and abroad. African autocrats were able to play East against West, Arabs against Israelis, Chinese against Taiwanese in a bid for foreign largesse. The game was always to find who would give the most aid, and some despots played it deftly.

With the end of the East-West conflict, the dismantling of South Africa's racist policies of apartheid and the move toward peace in the Middle East, Africa has become more marginalized than at any time since Europeans first set foot here 500 years ago. Zaire tells the story: After years in which the United States, France and Belgium lavished aid on Mobutu, almost all foreign assistance has been cut since 1990, and most expatriate workers have departed. In June, Zaire was expelled from the International Monetary Fund.

The lack of foreign interest and investment, combined with the difficulty of implementing new economic and political models, means that even outside war zones, Africans are struggling to come to terms with longstanding social and economic ailments:

According to the World Bank, the four poorest countries in the world, in terms of gross national product, are in Africa; seven of the world's 10 poorest countries are in Africa. From 1980 until 1991, African economies actually shrank an average of 1.2 percent each year, meaning Africans have gotten poorer over the last decade.

African countries have the world's highest illiteracy rates, and they put the least public money per pupil into their education systems.

Agricultural production has declined in most African countries over the last two decades, leaving Africa less able to feed itself and more dependent on foreign food aid. The World Bank estimates it will take 40 years for some African countries just to climb back to their pre-independence level.

Africa is ravaged by disease. AIDS has become the most common cause of death for Africans, and in a dozen African cities, 20 to 30 percent of the adult population is infected with the virus that causes AIDS. More than 10 million of the world's 15 million people infected with the AIDS virus are in Africa.

Not all African countries are in a downward spiral. While Angola is in the grip of full-scale civil war, Malawi recently conducted a peaceful election that ousted an entrenched autocrat. The death of the president of Rwanda sparked an explosion of tribal massacres, but the death of the president of Ivory Coast caused barely a political ripple. There are many economic problem areas, but some countries, like Ghana, are on the mend.

Still, it is the absence of outright conflict in most African countries that makes their social and economic decline so remarkable. In state after state, public institutions have collapsed, health care has diminished, infrastructure has fallen into disrepair and poverty has deepened—not because of civil war, but simply because poorly supported, inefficient and sometimes corrupt governments have been unable to manage their countries' daunting problems.

In other words, the pattern in Zaire may not be the exception but the rule. "In Somalia and Liberia, it was violent," said a European diplomat in Zaire. "Here, it's a slow implosion. But the result in the same. Here, it's just crumbled."

THE ROAD TO ANARCHY

Although its descent into near-anarchy was touched off by the end of the Cold War, Zaire's deterioration as a state began shortly after the country gained independence from Belgium in June 1960. An early secessionist movement in the region of Katanga, which provoked U.N. troops to intervene, underscored the fragility—and artificiality—of the new nation of 200 separate tribes.

Still, in the late 1950s and early 1960s, Zaire—then known as the Congo—provided Western countries with 69 percent of their industrial diamonds, 49 percent of their cobalt, and other strategic minerals, making it "a very important piece of real estate," according to American University's Sanford J. Ungar in his book, "Africa." From that commanding position as a wealthy and strategically important Western supplier, the country entered a long era of Western-backed autocratic rule—and slow decline. In 1965, army strongman Joseph Desire Mobutu seized power, changing his name and that of his country in an "Africanization" campaign.

Mobutu personifies the African Big Man, the old-style and outdated autocrat who rules more like a traditional tribal chieftain. Over almost three decades with Mobutu at the helm, Zaire suffered from extraordinary mismanagement and corruption. Hundreds of millions of dollars of export earnings from state-run mining corporations literally disappeared—presumably into the overseas bank accounts of Mobutu and his family members, and also to support the lavish but unaccounted-for spending projects of the office of the presidency.

Mobutu's well-documented corruption and his heavy-handedness with opponents brought frequent rebukes from Washington and his European patrons. But from the first Congo crisis of the Kennedy administration, which saw Africa becoming a battleground between East and West, Mobutu proved a valuable Cold War ally to the United States. And Washington's financial and political support kept Mobutu in power.

With the collapse of the Soviet Union and the withdrawal of Cuban troops from neighboring Angola, however, the United States no longer had a strategic interest in propping up Zaire's dictator. And like Zambia's Kenneth Kaunda, Kenya's Daniel arap Moi and Malawi's H. Kamuzu Banda, Mobutu was forced to relent to mounting pressure for change.

Zaire for a time looked as if it might be on the path to pluralism. In 1992, a national conference stripped Mobutu of much of his power, appointed staunch Mobutu opponent Etienne Tshisekedi as prime minister and even changed the country's name back to Congo in a direct slap at Mobutu. The conference—made up of politicians, civic leaders, intellectuals and clerics—voted to make all of its decisions binding and replaced the old Mobutu-dominated parliament as the supreme lawmaking body.

What the conferees apparently never counted on was that Mobutu would simply ignore their edicts and continue to govern as he pleased, keeping personal control of the nation's money supply through the central bank and using freshly minted cash to keep his elite presidential guard paid and loyal.

What has developed over the last two years has been a kind of bizarre shadow play. Mobutu "fired" Tshisekedi as prime minister, then concocted a new convention to choose a replacement, Faustin Birindwa, a Mobutu ally. But Tshisekedi refused to relinquish his title, giving the country two claimants to the position, neither of whom has any resources or real power. Government offices shut their doors, unable to function without cash. Cabinet ministers stayed home. The country ground slowly to a halt.

With the country sinking into ruin, weary national conference delegates—their numbers now swollen with Mobutu supporters—voted in June for yet another prime minister, Kengo wa Dondo, who had more legitimate anti-Mobutu credentials but still was rejected by some elements of the opposition. Various Western embassies tried to persuade Tshisekedi and his rivals to unify, but to no avail.

The latest convention has promised presidential elections next year. Many Zairians and Western diplomats predict that, with the opposition divided and squabbling, Mobutu will likely win, whether he rigs the elections or not. And that, they say, is a likely formula for continued national stagnation and disintegration.

"Things are getting worse and worse," said Eugene Nzila, a physician whose AIDS research project has crumbled to virtually nothing because the country's continuing paralysis forced foreign donors to withdraw funding. "It's basically a political situation," he said, reflecting the frustration of many Zairians. "There's nothing we can do but wait."

SURVIVING BY SKIMMING

If Zaire can be seen as a microcosm of Africa, then Ndili International Airport might be seen as a microcosm of Zaire.

Upon arriving at the airport, a passenger is immediately greeted by a dizzying array of soldiers and police, hustlers, deal makers, facilitators, money changers, customs inspectors, health inspectors, drivers, shoeshine boys, baggage handlers and just plain hangers-on. Each claims to have some official service to perform—checking your vaccination card, searching your luggage—and each demands to be paid "service"—a price that can range anywhere from a few pennies in local currency to $20.

Official services at the airport have broken down; no one has gotten a paycheck in at least six months. But working at the airport can still prove lucrative for the amount of money that can be extorted or raked off from incoming passengers. There is much jostling, shouting and occasional shoving as everyone takes a turn to perform his task and demand his fee.

To cut more easily through the crowd, there are "facilitators." Most are uniformed

soldiers—ostensibly, assigned to airport security, in reality soldiers-for-hire. One will attach himself to a passenger, according VIP status; help push through to the front of lines; find the passenger a taxi; even accompany the passenger for the 20-mile trip into town "for security." The price: $100 all -inclusive, including cab fare.

"You can pay the colonel, you can pay the soldiers," said a European diplomat. "And it's a good thing. Those guys are being fed. They sleep well, they eat well, their families are fed."

That kind of chaotic, anything-goes corruption is more evident the farther one ventures from Kinshasa, as the "privatization" of government services and the irrelevance of the central government become even more pronounced.

The small border outpost of Uvira, on Zaire's eastern border with Burundi, is about as far from Kinshasa as possible, in every way. The border post still has immigration controls, customs controls, police controls and every other conceivable type of government authority. But the corruption—if it can still be called that in a place with no official rules—has become a means of survival for public servants with no other means of income except whatever can be extorted from travelers.

Thus, there is the $20 fee for each person crossing the border, plus an extra $20 for each car. There is a Transportation Ministry desk that charges a $10 "tax" for use of the road. The Health Ministry charges $20—or whatever can be negotiated—as its price of entrance. And there are the police manning roadblocks along the way out of town, also demanding "service" to allow passage.

By becoming more or less financially self-sufficient, such isolated east Zairian towns have maintained some semblance of public order—while at the same time becoming less tied to Kinshasa. In Goma, for example, local merchants have joined together to make sure the military is kept paid, preventing the kind of bloody soldier riots that wracked Kinshasa in 1991 and 1993.

"It's all localized," said a diplomat, using the analogy of Europe's Dark Ages. "Think of it as castles along the Rhine in the year 900, where everyone exacted a tax or toll."

This kind of de facto decentralization—growing regional autonomy and independence—is in evidence elsewhere, an outgrowth not of any planned attempts to disperse power but rather the natural evolution of weak central governments that can no longer provide needed services to their outlying areas.

In war-torn Angola, Somalia and Liberia, central governments can no longer claim to control much beyond their capitals. In large countries such as Nigeria and Ethiopia, government edicts are becoming less relevant. Even relatively stable Tanzania is now having to deal with growing calls for independence from the island of Zanzibar, which is finding union with the mainland irrelevant.

"These countries are artificial," said Michael Chege, a Kenyan scholar at Harvard University. "They have to be. What else do you do, with all these tribes and linguistic groups and so on? * * * We might have to consider adjusting boundaries—or at least put it on the agenda."

LOOKING BACK TO COLONIAL PAST FOR CLUES TO FUTURE

(By Keith B. Richburg)

KINSHASA, ZAIRE.—With Africa in crisis and facing the collapse of some of its nation-states, some Africans are tentatively raising an idea once considered so outrageous as to be unspeakable here: They are debating the merits of recolonization.

In April, renowned African scholar Ali Mazrui raised the idea in an article in the Sunday Nation, a Kenyan newspaper. "As the whole state machinery collapses in one African country after another, is Africa in need of recolonization?" Mazrui asked.

He was not talking about the European-style colonization of the last century, but rather a new kind of international trusteeship system, through which functioning African states might be granted a mandate by the international community to administer states that have fallen apart. "For example," he asked, "might Ethiopia in the 21st century be called upon to run Somalia on behalf of the U.N.?" Or, he said, a stable, black-ruled South Africa might be called upon to intervene to stop the carnage in Angola.

"We may yet learn to distinguish benevolent intervention and malignant invasion in the years ahead," Mazrui wrote. "Self-colonization is better than colonization by outsiders."

Few take the idea seriously, other than as an academic exercise. But there are examples of African countries intervening in the affairs of others: Nigeria and other West Africans provided peacekeeping troops in Liberia; Botswana, Nigeria and other African countries operated with the United Nations in Somalia; Senegal sent troops along with the French intervention force in Rwanda.

But to many Africans, raising the question of recolonization seems indicative of the continent's woes and the near-complete absence of any good solutions. "It is a poignant, eloquent statement on the extent to which Africa has self-destructed that elder statesmen [like Mazrui] are even proposing that," said Rakiya Omaar of African Rights, a human rights group.

"Colonialism killed millions of Africans and stifled development of civil society," Omaar said. Talk of recolonization, under any form, she said, "reflects a sense of frustration that you should be experiencing these same problems at the hands of your own people."•

PENSACOLA ANTIABORTION MURDER AND RELIGIOUS FANATICISM

• Mr. KERRY. Mr. President, I rise today to discuss the events of last Friday in Pensacola, FL, and their broader implications on our civilization as a whole.

At 8 a.m. Friday morning, Paul Hill, a former Presbyterian Minister, shot and killed Dr. John Britton and James Barrett. Mr. Barrett was escorting Dr. Britton to his job at an abortion clinic.

Dr. Britton was 69. He had started working at the clinic a year previously, knowing full well the dangers of the occupation. The last doctor for this clinic was Dr. Gunn, who was killed by an antiabortion activist last year in front of the city's other clinic. Dr. Britton was extremely brave, but he was also cautious; however, the bulletproof vest he wore Friday morning was ineffective in stopping the shotgun spray Paul Hill aimed at his face.

James Barrett, a retired Air Force lieutenant colonel, was 74. Mr. Barrett was shot in the head right in front of his 68-year-old wife June, who was also injured.

This was the third shooting by antiabortionists within the last year and a half, and the second—and third—fatality.

Paul Hill's reasons for murder were chillingly simple. He has stated that "the bible teaches us to do unto others as you would have them do unto you. Therefore, killing a man who is about to kill an unborn child constitutes killing in self defense." To Paul Hill, the murder was a justifiable homicide.

Mr. President, this syllogism lies at the heart of one of the most corrosive dangers the world faces today.

Many religious teachings and texts offer justifiable reasons for killing. Even so, mainstream religions systematically guide their populations away from these arguments and in the direction of tolerance. The only individuals who employ religious justifications in order to commit cold-blooded murder are religious fanatics. But we cannot dismiss these fringe elements. We cannot pretend that they do not read from the same bibles from which many of us read and say the same prayers which many of us recite. We cannot cast a blind eye to the horrible dangers they represent. And we need to be brave enough to bring the public's attention to the problem posed by religious fanaticism.

This problem grows in severity every passing year. In the dawn of human civilization, there was only so much damage a single human being could execute. However, our technology has developed, and each new weapon has increased the power every individual represents. The classic example of this truth is the gun. During the 19th century, in the western-most frontiers of this country, guns were nicknamed "equalizers" because in effect they gave every individual the same power as any other. Anyone with a gun had the power to eliminate one if not several human lives. The defensive structures of our Nation and every nation have been recreated in order to cope with this capacity.

Mr. President, from dynamite to plastic explosives to nuclear bombs, the power of individuals has increased and will continue to increase. Consequently, we cannot let people slip through the cracks and fall into the well of fanaticism. The Paul Hills of this world are willing to dedicate if not sacrifice their lives for the sole purpose of advancing their world view by hurting or destroying others. Education and leadership must come now before it is too late.

In light of the importance of responding to the threat posed by fanaticism, the most significant event that occurred in the world last week received little of the attention it deserved.

One of the most tense places in the world right now is the Middle East.

Many countries and religions in the Middle East are fighting over possession of the same pieces of land, interpretations of the same texts, versions of the same myths. However, last week we saw a moment of peace between two countries in that region that have long been adversaries. Perhaps most importantly, we saw two leaders speak to their respective people, not only as political heads of state, but as religious individuals, and preach tolerance and call for peace.

Mr. President, King Hussein's and Prime Minister Rabin's lead must be followed by every religious and political leader to every constituent and every worshipper in the world. We must take responsibility for affirmatively leading our constituents and our congregations down the path of tolerance.

It is with this goal in mind that I return to the subject of Pensacola.

One of the things that made me especially upset this weekend when I watched television news coverage of the incident was the sign that hung over the abortion clinic. The name of the clinic was "The Ladies Center," and the typeface on the sign was as blatantly euphemistic as this title. The fact that an abortion clinic needs to be disguised and to be separated from the hospitals, HMO's, and community health centers where such medical procedures should be performed is as upsetting as the fact that abortion clinics need to be under 24-hour guard.

The wrong response to the Pensacola shootings is to segregate abortions even further from those seeking the procedure. The right thing to do is to treat abortions as exactly what they are—a medical procedure that any doctor is free to provide and any pregnant woman free to obtain. Consequently, abortions should not have to be performed in tightly guarded clinics on the edge of town; they should be performed and obtained in the same locations as any other medical procedure. How can we as political leaders teach tolerance to the public when we still treat women who seek abortions as poorly as less civilized societies treated lepers?

Mr. President, if this Constitutionally protected right is to be preserved, and if women are to be treated decently and with respect, abortions need to be moved out of the fringes of medicine and into the mainstream of medical practice.

And by the same token, if our children are to be safe from the danger of fanaticism, tolerance needs to spread out of the mainstream churches, mosques, and synagogues, and into the religious fringes.

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

THE RIGHT START FOR ARIZONA'S WELFARE MOTHERS

● Mr. DECONCINI. Mr. President, I would like to recognize Arizona Women's Education and Employment [AWEE] and Time Systems for sponsoring a free "Organizing Your Job Search" seminar for women who want to get off welfare and secure employment.

The day-long seminar, held in Phoenix on July 12, sought to provide the 50 participating welfare mothers with the necessary tools and training to conduct an effective job search. These women learned how to establish goals; track achievements; and plan, schedule, and prioritize activities in order to develop a productive job search.

The seminar proved to be an overwhelming success. Not only did the women gain practical job-seeking skills, but they gained a sense of confidence in their ability to secure employment. With this newfound self-confidence, the women left the seminar highly motivated to leave welfare and ultimately support themselves and their families.

This seminar was very timely and relevant to the current concerns of the Nation. Welfare reform, together with health care reform, are two of the most important issues presently facing Congress.

More seminars like Organizing Your Job Search are needed for reform of our welfare system to truly succeed. Programs which combine self-esteem building with practical skills are invaluable in helping women leave welfare. Statistics show that around 30 percent of welfare recipients have basic skills below the minimum skill level of women in the lowest occupational levels. We cannot hope for these recipients to become self-sufficient without first teaching them some basic occupational skills. Organizing Your Job Search has given 50 women from Phoenix the tools to begin their job search, and should be a model for future welfare reform.●

FALSE CONVICTIONS AND THE DEATH PENALTY

● Mr. SIMON. The criminal justice system is only as reliable as the men and women who make up its ranks. And just as human beings are fallible, so are the courts of this Nation. The problem is that, when police officers, prosecutors, and judges make mistakes or act improperly, society commits a crime against justice: An innocent human being may be sentenced to prison or even to death.

A recent article in USA Today suggests that such miscarriages of justice are more common than we might like to believe. Take the case of John Spencer, convicted of a double murder in 1987 largely based on a fingerprint said to be found at the crime scene. Spencer's conviction was reversed when police officers conceded that the fingerprint introduced at trial was not actually found at the crime scene, but taken from a cabinet frame Spencer leaned against when he was at the police station being booked.

And then there is the case of Gary Nelson, who lived on death row for 11 years for the rape and murder of a 6-year-old girl, largely on the testimony from a crime lab director who said a hair found on the girl's body and Nelson's arm hair have the same origin. Appeals lawyers later discovered that the crime lab had never examined the hair found at the murder. The FBI lab that did had determined that "it could have come from any black person, including, but not limited to, other suspects in this case or the victim."

Admittedly, these are egregious cases of police and prosecutorial misconduct. But even without this kind of willful violation of the law, human beings will act carelessly or recklessly. And those mistakes are all the more likely because so many defendants are the neglected and alienated in our society.

Ultimately, the fallibility of the criminal justice system is one of strongest reasons I know to oppose the death penalty. People make mistakes. But when the cost of a mistake is the life of an innocent person, we must reexamine the need to impose this awful and irrevocable punishment. The point is simply this: So long as human beings are fallible, the death penalty has no place in the courts of a civilized society.

I ask that the full text of the USA Today article be published in full after my remarks.

The article follows:

[From the USA Today, July 19, 1994]

FALSE SCIENCE OFTEN SWAYS JURIES, JUDGES

(By Laura Frank and John Hanchette)

No one knows how many innocent people have been sent to prison with false evidence.

But there have been at least 85 instances in the past 20 years in which prosecutors—knowingly or unknowingly—relied on fabricated, mishandled or tampered evidence to convict the innocent or free the guilty, a Gannett News Service analysis of legal and media databases finds.

Often, the wrongful prosecutions hid behind science.

"In the U.S., we take science as gospel," says Ray Taylor, a San Antonio lawyer and forensic pathology expert. "The public perception is that (faking science) is rare. The truth is, it happens all the time."

If science is gospel, then the scientists are its preachers. And when the scientists work for the police, critics say, the gospel can take a certain slant.

"It just boggles the mind," says Glen Woodall, a Huntington, W. Va., man who spent five years behind bars for a crime he did not commit.

Woodall was convicted of two rapes in 1987, after a state police forensic expert named Fred Zain said hair and semen from the crime scene matched his.

But Zain faked the evidence—in this case and many others, West Virginia's state Supreme Court later found.

FORENSIC TESTS OFTEN CANNOT SHOW WHAT EXPERTS TESTIFIED THEY FOUND

The "science" in the wrongful convictions studied by GNS ranges from the absurd—an evidence-sniffing dog that could solve decade-old crimes—to the advanced, such as DNA tests touted as fail-safe genetic fingerprints.

Most of it involves fingerprints, blood typing, semen analysis and hair samples—the same kind of evidence that each side will try to use to its advantage in the upcoming O.J. Simpson murder trial.

And in each case in the analysis, the jury or the judge believed the science, sometimes despite reams of evidence to the contrary.

"Faking or lying about evidence is not out of the ordinary at all," says James Starrs, a George Washington University law professor who specializes in forensic science. "There are so many things of this kind, I'm horrified."

Although there are dozens of examples, probably no case study is more shocking than that of Zain.

Taylor calls it the "largest case of evidence-fixing in U.S. history."

Zain's "fraud on the judicial system may be the worst we've ever seen documented," says John Hingson, president of the National Association of Criminal Defense Lawyers.

More than 1,000 convictions now are in question because Zain who worked in both West Virginia and Texas, is accused by courts and colleagues of faking evidence for 18 years.

Yet a year after such accusations first were made, Zain has not been charged. Eight months after the West Virginia Supreme Court ordered charges be sought against Zain, none has been filed.

Zain has denied any wrongdoing; neither he nor his lawyers will comment.

Zain was hired as a chemist at the West Virginia police crime lab in 1979, though he failed chemistry in college.

While testifying as an expert in dozens of rape and murder cases, he reported results of tests that he had not performed, Zain's co-workers told the court.

They had complained to Zain's superiors as early as 1985. Nothing was done. In frustration, co-workers taped a magician's wand to one of Zain's lab machines.

"Magic was the only way he could have been coming up with the answers he got," says Gayle Midkiff, Zain's former lab assistant and a West Virginia state trooper.

In 1989, Zain took his "pro-prosecution" reputation and a letter of recommendation from the governor and headed to Texas.

There he was named head of serology at the Bexar County Medical Examiner's office in San Antonio.

Zain kept that job until last year, when allegations of wrongdoing finally reached Texas. The San Antonio medical examiner asked Dallas forensic specialist I.C. Stone to review some of Zain's cases.

Choosing randomly, Stone found something wrong in each of the 14 cases he studied.

Zain reported things the tests weren't capable of showing. He testified about blood on evidence when lab notes showed no blood had been found. He reported doing tests his lab wasn't capable of.

"I've never seen anything like it," Stone says.

But there are many other cases that hinge upon false and hidden evidence:

John Spencer was sentenced in 1987 to 50 years to life for a double murder in a rural area of New York state.

Spencer was convicted largely on a fingerprint lifted by New York State Police investigator Lt. Craig Harvey, who testified he found it on a Formica counter at the murder scene.

Harvey, one of three troopers found guilty of criminal misconduct in a burgeoning New York State Police fingerprint scandal, later conceded no fingerprints were found at the scene. He said he obtained Spencer's print from a cabinet frame Spencer leaned against when he was booked.

Spencer's conviction was vacated, with a new trial slated for September.

Ed Honaker was convicted in February 1985 of abducting and raping a woman at gunpoint in the Blue Ridge Mountains of Virginia.

She identified him from a photo lineup. A police forensic expert found sperm in the seminal fluid found at the scene. But Honaker had undergone a vasectomy years earlier and did not produce sperm.

The forensic expert, Elmer Gist of the Virginia Bureau of Forensic Science, testified a hair found at the scene was "consistent" with Honaker's. No forensic test can positively identify hair as coming from any particular individual.

Centurion Ministries, a nonprofit organization that has helped free at least six men wrongly imprisoned, arranged for a DNA test of the evidence. Honaker's genetic traits did not match those of the rapist.

Now, even the prosecutor says Honaker should be freed. So far, Virginia Governor George Allen has not acted.

Gary Nelson lived on Georgia's death row for 11 years after his 1980 conviction for raping and killing a 6-year-old girl, largely on testimony from a crime lab director who said a hair found on the girl's body and Nelson's arm hair "have the same origin."

Appeals lawyers discovered the Savannah crime lab had never examined the hair found on the body. It had been sent to the FBI crime lab in Washington, which had determined it "could have come from any black person, including, but not limited to, other suspects in this case or the victim."

Nelson was freed in 1991.

Juan Ramos was sentenced to Florida's electric chair a decade ago for stabbing to death a Cocoa housewife.

No forensic evidence tied Ramos, who said he was innocent, to the victim. Pennsylvania dog handler John Preston claimed his super-nosed German shepherd could pick up criminals' scents after any time interval and had identified Ramos' scent on both the murder weapon and the victim's blouse.

A judge made Preston submit his dog to tests on another scent five days old. The dog didn't have a clue.

The unmasking of Preston's dogs caused an uproar. Cases were overturned in Virginia, Ohio, Florida, Arizona and other states. The Florida Supreme Court threw out the dog testimony and ordered a new trial. Ramos was quickly acquitted.

These cases are nothing less than human rights violations, says William Lee Miller, constitutional author and political thought professor at the University of Virginia.

"Americans fought from the beginning for a society that respects fundamental human rights," Miller says. "What this is bringing out is the moral failure of the United States."

And most the abuses go unpunished, he says, because the victims often are minorities and the poor—people like West Virginia's Glen Woodall, a former grave digger imprisoned by false evidence.

Woodall is now free, and a lot richer because of a $1 million settlement given to him by the state. But he is angry.

"To me, lying about evidence is worst than the crime that might have been committed," says Woodall. "What kind of justice is that?"•

HOW NOT TO FIGHT CRIME IN GEORGIA

• Mr. DeCONCINI. Mr. President, people who are even a little familiar with the country of Georgia speak of its striking physical beauty, legendary hospitality, and cultural achievements. Americans may not know, however, that in the Soviet Union, Georgian films always enjoyed a special reputation for artistry, both in drama and absurdist, surrealist comedy. I would like to share with my colleagues information about a recent development in Georgia that matches anything the most "far out" Georgian cinematographer could conceive.

Georgia has, of course, fallen on hard days, living through coups and civil war since the collapse of the U.S.S.R. It has suffered virtual dismemberment at the hands of Russian forces allied with Abkhazia, its economy is shattered, some 200,000 refugees from Abkhazia are enduring very difficult conditions, and, as in other former Soviet republics, crime has ravaged the entire country.

In June, Russian President Boris Yeltsin issued a controversial decree on fighting crime, with some neighboring states, like Ukraine, has used as a model for their own edicts. Georgian leader Eduard Shevardnadze on July 14 also followed suit, developing a series of measures to address a "criminal situation in the republic [that] still remains serious. Corruption, terrorist acts, banditry, other manifestations of organized crime * * * and the drug business are creating a serious danger for the state * * *."

One of the anticrime measures in Georgia is the formation of a coordinating emergency commission under the chairmanship of Shevardnadze. A list of commission members printed in Sakartvelos Republika on July 14 revealed that one of the two deputy chairman is Jaba Ioseliani.

Americans not familiar with this name, and the man behind it, should read an informative article on Mr. Ioseliani published in the British newspaper Mail on Sunday Review [April 3, 1994]. Georgia's chief negotiator with Abkhazia, he is a member of Georgia's parliament, a warlord, and the leader of Georgia's most notorious paramilitary group, the Mkhedrioni [Knights on Horseback], which looted the country and now controls many businesses. The author, who interviewed Ioseliani, calls him "a notorious bank robber with a passion for killing. And Italian suits." Furthermore, his army "appears to be involved in

every business and racket in Georgia." In his younger days, Ioseliani was "one of the 20 most powerful men in the Soviet underworld," one of the bosses of bosses, as he himself acknowledged to the interviewer.

The author concedes Ioseliani's roguish charm, notes that he has his admirers in Georgia, and that some people consider him a brave man and a patriot. Not knowing Mr. Ioseliani, I am not in a position to confirm or deny his allure. But I do know that making Jaba Ioseliani the deputy chairman of an emergency commission to fight crime is not only putting the fox in the chicken coop, Georgian-style, it simply makes a mockery of the very concepts of government and law enforcement. And it is a slap in the face of a warweary Georgian people who live in fear of criminals.

Even more worrisome is the extent of Ioseliani's power and influence over Georgia's politics. His interviewer concluded that "It isn't hype to suggest that the destiny of this fragile, boisterous nation pretty much rests in his hands." If so, Mr. President, then we ought to be considering more carefully than we evidently have up to now our support for the regime of Eduard Shevardnadze. He may have no choice but to ally himself with Mr. Ioseliani. But should the United States support such a government?●

ORDERS FOR TOMORROW

Ms. MIKULSKI. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, August 3; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; and that immediately thereafter, the Senate resume consideration of H.R. 4624, the VA–HUD appropriations bill, with the Bumpers amendment No. 2444 as the pending question, to be considered under the conditions and limitations of a previous unanimous consent agreement.

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

RECESS UNTIL TOMORROW AT 9 A.M.

Ms. MIKULSKI. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 9:16 p.m., recessed until Wednesday, August 3, 1994, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, August 2, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker.

MORNING BUSINESS

The SPEAKER. Pursuant to the order of the House of February 11, 1994, and June 10, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member other than the majority and minority leaders limited to 5 minutes.

The Chair recognizes the gentleman from New York [Mr. HINCHEY] for 2 minutes.

PASS THE REEMPLOYMENT ACT

Mr. HINCHEY. Mr. Speaker, a few years ago, the biggest and best employer in my home county was the IBM plant in Kingston, NY. Over 7,000 people worked there, and thousands more wished they could. They were highly skilled people who made a good product, the world standard in mainframe computers, and the company rewarded them with secure jobs and good pay. Then the computer market shifted away from mainframes, and the layoffs began. Last week IBM announced it was closing the plant, and shifting the 1,200 people who still work there to another facility.

The shift away from mainframes has left thousands of people out of work in my district alone. They built the machines all our programs and systems depend on, the machines that brought us into the computer age. They want to work, and they can work. They are highly skilled, but ironically, the rapid advances that their own industry helped to generate has made their skills obsolete.

The Reemployment Act is made for them, and for hundreds of thousands of other working people around the country who are in similar situations, hard-working, highly skilled people who have been left behind by change. It is the rational, sensible answer to their problem, an answer that fits today's world. It does not seek to blame them or their employers or anyone else for what has happened. It does not try to train them for jobs that do not exist. It does not try to shoehorn them into a system that will not help them just because it would be easy for the Government. And it does not set up a huge new program of training schools.

Instead, it makes use of training programs we already have, especially of community colleges. It customizes the services it offers. It eliminates the bureaucracy associated with past training programs. People will not have to learn how to negotiate a maze before they can start learning new job skills.

We all know the old Depression-era song of the displaced worker that begins with memories of past accomplishments:

Once I built a railroad, made it run
Made it race against time

That worker knew he was skilled, knew he had done a lot for us all in his own way, but was reduced to asking us only to "spare a dime" for him. We can do better than that for the workers who built the railroads and towers of our time, those who built the computers and highways of our age. We can give them the opportunity to learn new skills, and find new jobs. We will be helping ourselves if we do, because we can use their energy and their skills.

MEANINGFUL HEALTH CARE REFORM, NOT POLITICAL EXPEDIENCY

The SPEAKER pro tempore (Mr. DEUTSCH). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Wyoming [Mr. THOMAS] is recognized during morning business for 4 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, I rise to urge the Congress to undertake to adopt a health care plan based on good policy, not based simply on political expediency, not based on political theater, not based on the fact that the Clinton care has basically been rejected, and now we just have a couple of weeks to do something and, therefore, we have to do whatever is expedient politically. Instead we ought to be doing those kinds of things that have general agreement that will move our health delivery system toward a more complete one by doing the things that we know we can do.

There are fundamental changes that need to be made in the health care system. We need to take advantage of this opportunity to do it. I admire very much the fact that Mr. and Mrs. Clinton have brought the health care debate to a very high level, and it has been going on for some time, and I think we have had a pretty thorough discussion of alternatives for health care, all the way from single payer, Canadian kinds through the government-run Clinton care program, through extensive changes in universal care and the private sector to doing some fundamental things of reforming insurance to tax reform.

We have had a pretty good discussion of that. We have not come to a conclusion other than the fact that at least in my State of Wyoming there has been very little support for the idea of taking one-seventh of the American economy that has to do with health care and converting it to a Government delivery kind of health care program.

Having had that kind of reaction, it seems to me that we need to do the things that we fundamentally can agree to do here, and there are a number of principles that ought to be considered, it seems to me. One of them is we ought to accept the fact that Government is too big and spends too much. If we incorporate the kind of single payer plan, the kind of Clinton care program we will have the largest entitlement program this country has ever seen brought to us with 2 weeks of debate. Certainly that is a policy that we should not accept.

Second, we ought to do no harm. I think many have not recognized that much of the governmental program that is talked about is financed by reductions in spending in Medicare and Medicaid, $140 million over a period of time for Medicare. I think this is a policy that we should not accept.

We should also understand the impacts that this kind of change would have on business. These are some of the principles.

If we believe in those kinds of things, then there are a number of things that we can indeed do. We can keep the delivery system in the private sector. We can make fundamental changes, we can make changes in insurance so people are not canceled because of utilization, so they are not denied because of previous experiences, that is portable, we can do that, and that is the system to finance. I think it should be those kinds of changes that we should make.

We can make changes in liability, tort reform, a change that has been needed for a very long time. If our hope and our aspiration is to control the cost, the growth, tort reform is an essential element in that. We can do something about administrative costs. We have been studying that now for 3 years. We can do it. Electronic billing, many things we can do. We can preserve the security of medical records. These are things we can do.

I come from a rural State. We can do a number of things there. We can

change the definition of hospital so that something less than a full hospital can be reimbursed from Medicare and Medicaid for a stabilizing facility or an emergency facility in small towns where you cannot have a hospital.

We can do something with telemedicine in rural areas so that we can have the expertise of specialists in small towns like Basin, WY.

So I suggest to my colleagues that we do those things we can do, we make some fundamental changes and stay out of the area of political expediency when it comes to health care.

IMPROVING HEALTH CARE DELIVERY IN RURAL AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning business for 1 minute.

Mrs. CLAYTON. Mr. Speaker, I want to speak today in favor of health care reform and of the benefits it should provide rural communities across America.

In rural America we have been struggling to improve our economic foundation and have been fighting persistently with unemployment and underemployment. This high level of unemployment means we have a high number of uninsured or underinsured families and individuals.

Therefore the cost for the uninsured is passed on to those with insurance. Universal coverage will improve the cost situation and guarantee families access to health care.

Also in rural communities, especially in the First District of North Carolina, we have a large number of senior citizens and therefore a growing number of rural hospitals that are Medicare dependent.

To improve the delivery of health care in rural America we need to ensure that more physicians will be available to meet the needs of the population. We also need desperately to provide for increased funding for rural community health centers and provide for the enhancement of health care infrastructure.

This Congress must provide for health care reform that addresses the concerns of rural America. Our rural underserved areas, which are the backbone of America, need our attention desperately.

□ 1040

DIPLOMATIC AND PEACEFUL SOLUTION NEEDED IN HAITI

The SPEAKER pro tempore (Mr. DEUTSCH). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New York [Mr. GILMAN] is recognized during morning business for 5 minutes.

Mr. GILMAN. Mr. Speaker, the Clinton administration has succeeded in obtaining from the U.N. Security Council a resolution authorizing the use of all necessary means to oust the military rulers in Haiti.

Administration representatives lobbied intensively with those of other nations at U.N. headquarters to gain this approval that could mean the commitment of American troops to military action.

All the more regrettable that the President has yet to seek any authorization from the Congress, and the American people, before sending troops into an action that could cost the lives of their sons and daughters.

Last month, along with 102 of my colleagues in the House, I wrote the President urging him to seek such approval.

Last week, when Secretary of State Warren Christopher appeared before our Committee on Foreign Affairs, I asked him whether the President would seek approval from Congress before taking military action in Haiti.

He replied that consultations on the matter would be, in his words, "as full as can be permitted by the circumstances in which we find ourselves."

Absent a genuine emergency that threatens the safety of American citizens, I believe that response falls far short of seeking the kind of approval the President should have in this situation.

In coming to the Congress for this approval, the President needs to fully explain the following to the American people:

First, what U.S. national security interests are at stake that compel an invasion; second, what the objectives are of such an invasion; third, what the costs will be; and fourth, when and under what circumstances will the United States withdraw its military forces.

Mr. Speaker, the administration seems to be driving up a blind alley toward a military confrontation with Haiti that could leave a long and bitter legacy.

Before deciding to play the military card, the President should exhaust every possible diplomatic option. One which deserves review is to send a bipartisan congressional group to Haiti to assess the humanitarian, political, and diplomatic conditions there and to report back.

Forty-eight of the eighty members of Haiti's Chamber of Deputies have written to Congress urging that a congressional delegation be appointed to meet with such a broad cross-section of Haitian society.

Many of those Haitian parliamentarians who signed the letter opposed the coup against President Aristide. All were freely elected in the same election as President Aristide.

It would be an affront to disregard a request from 60 percent of the duly elected members of Haiti's Chamber of Deputies.

Before reaching a point of no return on military action, I recommend that the administration should take advantage of what could be a final opportunity to achieve a diplomatic and peaceful solution to this desperate tragedy.

THE CRIME BILL: A HISTORIC AND GREAT NEW BEGINNING

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 1½ minutes.

Mrs. SCHROEDER. Mr. Speaker, today there is going to be a lot of talk about the crime bill that came out of conference last week.

I just wanted to tell people that my city has been a real laboratory this summer for trying out some of the principles in the crime bill. You see, this crime bill is unique, because for the first time it is half prevention; half punishment.

If you look at a State like mine, we have been spending like $300 to $400 million a year on prisons and only about $3 million a year on prevention. If you look at the Federal Government, we have had about that same 1 percent of prevention to 99-percent incarceration and punishment.

Well, this is a half and half, and many people say that is too soft, that will not work, oh, do not do that. We had all sorts of gang problems, all sorts of trouble in Colorado, and we were really fearing this summer, and I must say so far, knock on wood, this has been a summer of safety, because we have gotten all sorts of preventive grants into community organizations who want to work with these young people and give them hope.

You know what, when you give them hope, you get them off the street, and you get them out of trouble. We have put in a tough curfew, yes. That is the punishment part, but we have also told them, "We want you in here. We want you doing things. We want you bettering your lives. We will give you money to help plant trees or do whatever it is that happens to keep you busy through the summer," and that has begun a summer of safety in Denver, CO.

We want that summer of safety to go all across the Nation and that formula is in this crime bill, and I think it is a historic and a great new beginning.

KEEPING OPEN THE PEACEFUL OPTION

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Florida [Mr. GOSS] is

recognized during morning business for 4 minutes.

Mr. GOSS. Mr. Speaker, "all options are on the table." This is a phrase we hear a lot from the White House and from William Gray, the President's Special Adviser on Haiti. In recent months, however, we have heard a great deal from the administration about the need to keep open the military option in Haiti and very little about anything else. Granted, we do currently have an ill-advised and hurtful policy of sanctions but unlike the sanctions envisioned in the Governor's Island accord—those that should have gone into effect on January 15 when the military failed to honor the accord—the current sanctions policy is not attached to any political strategy. To date, no one in the administration has been able to answer this question to my satisfaction: How do we go from sanctions or military intervention to democracy in Haiti? It is not as simple as getting the military to step down or as simple as dropping President Aristide off in Port-au-Prince. The machinery of the Haitian Government will not simply pick up and chug along from where it left off in 1991. On the political front, United States policymakers—and Father Aristide—need to recognize the fact that Haiti has a parliamentary system which was designed with the specific goal of ending the 200 year succession of dictatorships in Haiti. In this decentralized form of government, President Aristide must work to build a majority, a working coalition. This means Haitians sitting down at the table with other Haitians. Current United States policy in Haiti is encouraging anything but that. It is time to put some other options on the table and the only way to do that is to take off the pressure. Pull back the 14 warships and the 2,400 troops who stand at ready in the waters off of Haiti. Open the borders and let the desperately needed food and medicine into Haiti. Stop the sabre rattling—invading Haiti won't solve that small nation's problems but, if our 1915 experience tells us anything, will mean many more for American policymakers. Use the safe haven idea but in a more effective way by seeking havens in Haiti for the immediate provision of humanitarian relief and refuge for those who truly are escaping economic or political repression. The UNHCR has done this before in Sri Lanka on Mannar Island with some success. Once the pressure is off we can seize the opportunity to pursue the peaceful option. By focusing on the moderates and the legitimately elected parliamentarians—48 of whom signed a letter to the bipartisan leadership of both Houses of this Congress—we isolate the extremes and start building something for Haiti's future. We need to do the homework too—send down the Chris Smith or the Dole Commission to open up channels of communication, to assess the possibility of a peaceful resolution or the need for military action. And, work with the business and legitimate institutional Haitian leaders to develop positive steps for rebuilding infrastructure and services as quickly as possible. Despite the green light for military action from the United Nations, it seems clear that the American public and the Congress are not willing to give the same go-ahead. There are alternatives; there are legitimately elected Haitians, in Haiti, willing to work with the United States and Father Aristide. We should not invade Haiti; we should put a peaceful, negotiated solution back on the agenda. Let us get started.

□ 1050

HEALTH CARE: PREEXISTING CONDITIONS HAVE TERRIBLE CONSEQUENCES

The SPEAKER pro tempore (Mr. DEUTSCH). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Connecticut [Mr. GEJDENSON] is recognized during morning business for 1½ minutes.

Mr. GEJDENSON. Mr. Speaker, as we begin to confront the challenges before the Congress on health care, one of the critical issues is for people with preexisting conditions. The health care debate is not a theoretical challenge; it is a challenge for life or death.

For 13 million Americans who have diabetes, their preexisting condition puts them in the category of people who, if they lose their jobs, may very well lose their health care and not have the ability to obtain new policies.

Recent stories in the newspapers contrasting people with diabetes who have health care and those who do not indicate it is clear that society saves dollars by proper treatment and counseling. The cost of amputating limbs and losing kidneys is not simply a personal family tragedy but an economic tragedy for the country.

People like Lee Ducat, of the National Diabetes Research Coalition, and others who have struggled for decades to see that diabetics have a chance to grow and prosper in the society and be productive members, have joined us in this battle. The danger for the future in many ways is even worse than the clouded situation we have today. With genetic screening, soon those who do not yet have preexisting conditions may be precluded or have additional costs added to their health care premiums because of a genetic tracer.

As we learn more about the derivation of these diseases and the danger that each of us may get them, rather than helping us develop preventive medical policies, we may be dooming our children and our children's children not to be covered by health care or to pay extraordinary additional expenses.

For this country not to address this issue today is a travesty, and I address my colleagues on my side of the aisle. Our Republican friends have abandoned the health care debate. They would rather say there is no solution. We can do better if we pull together to protect diabetics and all others in the society who need health care coverage now.

CONGRESSIONAL COMMISSION ON HAITI NEEDED NOW

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New Jersey [Mr. SMITH] is recognized during morning business for 4 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, of all the issues deserving the attention of the 103d Congress today, not one is more important than whether soldiers and sailors and airmen are sent into battle in Haiti. So I would ask the House's undivided attention to two specific questions that we are obliged to ask the President of the United States. One, if the United Nations Security Council gets to vote on committing troops in Haiti, why can we not, the Congress, the elected body of the people of the United States? And what are the costs of committing troops there, not only in terms of the very precious lives of our military men and women but to the military's overall mission and our readiness to respond to priority hotspots around the globe?

Put very plainly, what will it cost and where will these resources come from?

Mr. Speaker, more than 100 Members of the House have written President Clinton asking that he seek specific congressional authorization of any military action in Haiti. Notwithstanding his prerogatives as Commander in Chief and absent a genuine emergency that threatens the safety of American citizens, the President should first make the case for invasion and then let the Congress become part of that process.

Members of Congress who hold very different views on United States policy in Haiti agree that the President should follow the course of consulting the elected Representatives of the American people. I would submit that, in any case, if he cannot convince a majority of the House, that will put his policy in peril to obtain a sustainable majority in both the House and the Senate.

Mr. Speaker, again the President has sought and he has obtained U.N. approval for the use of force. Is the Congress to be denied that same opportunity?

Some other questions that the American people need to know: What national interests are at stake that justify the use of armed force in a foreign land? How much, plus what we are already spending patrolling Haitian waters and the Dominican border, will such a Haiti mission cost? Are other programs and readiness suffering as a result? What are the objectives; specifically, what are the objectives of an invasion? Will we stay until President Aristide in restored or remain until he and the duly elected parliament are cooperating to govern Haiti? What steps have we taken to prevent the infamous mission creep or nation-building that spawned disaster in Somalia? Who will share the risk and the cost? When we leave, who will step in?

Above all, and I repeat myself on this, what are the risks to U.S. servicemen and servicewomen?

These are just a few of the questions that must be asked and answered in this Chamber before we can truly say that we as elected Representatives have done our job. President Clinton should consider military force only when he has run out of options, not just when he has run out of ideas.

Mr. Speaker, I have introduced a resolution, a bipartisan resolution which seeks to form a bipartisan commission to look at, explore, study and, hopefully, go to Haiti to find what are the facts and then to make some policy options, suggestions to the Administration. The objective is not to tie the President's hands but to lend a hand in devising a workable, sustainable strategy and, hopefully, a lasting solution to the nightmare of Haiti. I believe that this is just one idea that makes more sense rather than rushing into battle.

Mr. Speaker, there are a number of people across the spectrum, both in Haiti, those who are concerned about Haiti, and policymakers of the previous administration and many others who have looked at this and said invasion is not the way.

Let me be clear that no one wants to give any solace to General Cedras and other leaders in the dictatorship who might look at this as a delaying tactic. It is not. We are hoping to devise a bipartisan strategy that continues the pressure on the military dictatorship, the de facto government that has no place being in Haiti, while we look for the restoration of democracy.

It seems to me until these vital questions are answered, we should not, I repeat, we should not invade Haiti.

DIABETES AND HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from North Carolina [Mr. PRICE] is recognized during morning business for 2 minutes.

Mr. PRICE of North Carolina. Mr. Speaker, more than 13 million people in the United States have diabetes. Every 60 seconds at least 1 person is diagnosed with this disease. This year more than 160,000 of our fellow citizens will die from it. It is a chronic disease and has no cure.

The severity of diabetes and the toll it takes on its sufferers has become a familiar story to all too many Americans. During this health care reform debate, the threat of diabetes has revealed itself in another devastating way. Four months ago I met with three attractive, energetic college students from my district who happen to have diabetes and who came to the Nation's Capital to talk about health care reform.

Now, these young people had some of the usual nervousness about contemplating life on their own after graduating from college, but their nervousness had a particular edge to it because they knew they were going to be removed from their parents' health insurance policies and that they might have a great deal of difficulty finding coverage.

How are they going to secure the medical equipment, medicines, and treatment that they need to live independently and to deal with diabetes-related complications? Will they be able to even get coverage? If they find a plan that will cover them, can they come even close to affording it? I wish I had better answers for those young people. How do I tell them that their nightmares are well-founded, that they will likely encounter what far too many Americans have encountered: Inability to secure coverage because of preexisting conditions? Whatever else we do, Mr. Speaker, on health care reform, we have got to make this threat a thing of the past.

Mr. Speaker, we know what the worst complications of diabetes can be: Blindness, heart disease, kidney disease, neuropathy, amputations. We have made some progress in mitigating and preventing these complications, but as I can testify from my own family's experience, we are not there yet. We are not there yet by a long shot.

We have had some encouraging studies. A 9-year NIH-funded study, for example, found that normalizing blood glucose levels among diabetic individuals could prevent complications by 60 to 70 percent. This medical research has great promise; modest investments can yield big dividends in saved lives, improved care, at reduced costs.

As we bring the health care reform debate to the House floor, we need to carry on our deliberations with an awareness of their human dimension. What we do does matter to millions of Americans who, like those students who came to my office, struggle with diseases like diabetes, attempting to control their illness, avoid devastating medical costs, live normal productive lives. These are the people we must remember as we debate health care reform and medical research funding. I implore my colleagues to rise to that challenge.

□ 1100

REVOKE MOST-FAVORED-NATION STATUS FOR CHINA

The SPEAKER pro tempore (Mr. DEUTSCH). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Virginia [Mr. WOLF] is recognized during the morning business for 4 minutes.

Mr. WOLF. Mr. Speaker, Republicans, rightly so, like to remind America from time to time that we are the party of Lincoln, and we should, so we need to constantly check our compass on key defining issues to be sure that we continue to stand for people and for basic individual rights. Standing up for the people of China is such an issue. We will soon have a chance to vote on H.R. 4590, the Pelosi bill, which revokes most-favored-nation status only, and I stress to colleagues only, for those products produced and exported by the Chinese People's Liberation Army and certain goods from state-owned industries.

Mr. Speaker, Lincoln, the President responsible for ending slavery in this country, would not have stood for the importation of goods made by slave labor in China, and that is exactly what the People's Liberation Army does.

The party of Lincoln has at its heart a fundamental commitment to freedom from the tyranny of oppressive government. Today, what government is more oppressive to its own people than the ruthless Bejing regime and its brutal enforcement arm, the People's Liberation Army. Remember how proud we were when Ronald Reagan stood tall against an earlier oppressor, the Soviet Union? Remember when he named them the "evil empire?"

Life, liberty, and the pursuit of happiness are just words to the individual living in China. Theirs is a government which does not allow freedom to worship, freedom to speak out or even the freedom to have children. There is no right to due process. Punishment is swift. Penalties are harsh.

Yet some would dismiss out of hand these boot-crushing acts.

Some have said, Tiananmen is a long way behind us. We should avoid public pressure on human rights in China, moving forward through continued trade and quiet diplomacy.

This sounds to me more like the policies of Clinton than the party of Lincoln. Tiananmen was 5 years ago. What, in the area of human rights has improved? What has trade and quiet diplomacy accomplished since

Tiananmen? The answer to both questions is too painfully obvious. Conditions grow worse every day for the Chinese populace. If we stand for the individual in China, where one-fifth of the world's population lives, do we not have to then vote for H.R. 4590 to target only those goods made by the Chinese People's Liberation Army and certain state-run industries?

Let me just cover some of the things the Chinese military have done.

At Tiananmen Square 5 years ago, the Chinese military proved that it is an antidemocratic instrument of repression and the ultimate guarantor of Communist rule over the people of China.

Two, the Chinese military is the occupying force in Tibet and threatens peace and stability in Southeast Asia.

China is the only nation targeting the United States with nuclear weapons and the only nation still testing nuclear weapons. Do the Members of this body on both sides of the aisle want to continue to give the Chinese Liberation Army special trade preferences when they are targeting their nuclear weapons at the United States? Clearly, if my colleagues ask this at any town meeting, the American people, our constituents, will say absolutely not.

Although China faces no external threat to its national security, it is engaged in a massive buildup of the most modern conventional and strategic forces, and, lastly, Mr. Speaker, with regard to the Chinese military companies. They are helping to finance the country's military buildup with arms sales to the Middle East and commercial product sales in the United States.

That is correct. The Chinese military are selling arms to Iran. Many of the weapons used in Iraq came from China, and they are selling arms to countries like this, and so clearly, when we vote, we should strongly support this bill that the gentlewoman from California [Ms. PELOSI] has introduced.

DIABETES TREATMENT AND HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Louisiana [Mr. JEFFERSON] is recognized during morning business for 2 minutes.

Mr. JEFFERSON. Mr. Speaker, it is time that the Nation focus attention on diabetes research and prevention as we debate this health care issue.

Diabetes, the fourth leading cause of death by disease, each year results in 12,000 cases of new blindness, 65,000 leg and foot amputations, and 13,000 cases of endstage renal disease.

As many as 4.5 percent of the American population has diabetes. Yet 14.6 percent of health care dollars are spent on this disease, approximately $105 billion.

Medicare and Medicaid paid 42 percent of the diabetes cost of $44 billion. The per capita annual health expenditure for people with diabetes was $9,493, more than three times the nondiabetic figure of $2,604.

An NIH study has shown that early and comprehensive management of the disease rather than treatment after complications dramatically delays the risk and progression of diabetes.

But few Americans receive this type of treatment. Periodic diabetes screening is not covered under private health plans or Medicare, even though the $10 cost of the test would save billions of dollars in the long run. I urge that, with focus on preventive services, health care reform must include early screening and comprehensive management of diabetes.

DIABETES AND HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Oregon [Ms. FURSE] is recognized during morning business for 2 minutes.

Ms. FURSE. Mr. Speaker, I rise today to call attention to diabetes, a serious health problem in America which clearly illustrates the dire need to pass health care reform legislation. Diabetes affects 14,000,000 people. One of those 14,000,000 is my own beloved daughter, Amanda.

Anyone who has diabetes, or knows someone who has diabetes, is aware of the difficulty of finding an insurance company to cover them due to their pre-existing condition. Diabetes is also something that my daughter can do nothing about: it is as irretrievable a part of her as her hair, her eyes, and her smile. If she—or the millions of others like her—does not get the care she needs to properly manage her disease, and she does a wonderful job at that, but, if she does not get that care, we will all be forced to pay for the resulting costly complications of diabetes. Those include heart and kidney disease, blindness, nerve damage. But worse than the cost is the pain that those people will have to bear.

Any health care reform legislation that eliminates preexisting conditions, and they must, must also have universal coverage, or otherwise we will find the cost of reforming our health care system too costly. We must ensure that we do not make the situation worse for people with chronic diseases such as diabetes. I urge all my colleagues to cosponsor House Concurrent Resolution 223. That is diabetes health care reform legislation. It will ensure that health care reform meets the needs of 14,000,000 Americans with diabetes.

DIABETES AND HEALTH CARE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized during morning business for 1½ minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, as with many diseases, a huge number of women who are afflicted with diabetes do not know that they have the disease. About one-half of the 6.5 million American women who have diabetes remain undiagnosed. For black women, the numbers are even more staggering—nearly 8 percent of black women in America have diabetes, and blacks suffer higher rates of complications from the disease, including higher rates of blindness and kidney failure.

As we turn to health care reform, we need to be reminded that in many cases, people with diabetes go without health insurance because of pre-existing condition exclusions—health care reform must eliminate this problem.

Another must of health care reform is a greater emphasis on preventive care, which would increase the likelihood that people with diabetes can have their affliction diagnosed, and can be educated about the disease. Regular checkups as a part of preventive care will also reduce the risk of complications from the disease.

We should all be reminded at this critical juncture in the health care debate that preventive care saves money, and more importantly, saves lives.

□ 1110

THE 1994 REEMPLOYMENT ACT

The SPEAKER pro tempore (Mr. DEUTSCH). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 2 minutes.

Ms. DELAURO. Mr. Speaker, I rise today to address a lingering fear that taints our economic recovery. That fear—one I hear every week in my district—is that goods jobs are not out there for this country's working people. They read about the recovery, but they do not see it.

We are here today to urge passage of a bill that provides the critical ink between those who lost their jobs during the recent recession and the jobs being created by new economic growth. Right now, our workers are struck with an archaic, outmoded unemployment system. A patchwork of services that lack coordination and fail to provide needed education and training.

This system does not serve our workers, it does not serve our businesses and it does not serve our economic interests.

I urge my colleagues to consider this fact. More than 75 percent of the workers who lost their jobs last year did not

expect to be recalled to their old jobs. If we are going to compete in the world economy, we had better focus on training and begin to treat our workers like the tremendous assets they are. We depend on them to provide the world-class levels of skill and productivity necessary to make the high tech products and provide the high technology services of tomorrow. In a rapidly changing economy, they cannot continue to do that without our help.

The Reemployment Act of 1994 will create a new employment system, with one-stop shopping for people who have lost their jobs—one stop to provide labor market information, training programs, job counseling and information on benefits.

Finally, working men and women will have a system that is concerned with helping them do what they want to do most—get back to work. It will help to trim bureaucracy, cut redtape and most importantly, improve job training.

I am proud of this bill, of what it does for working people, and of the people who are supporting it. Many people already recognized the importance—the need—the necessity—of this measure. There are more than 100 cosponsors in the House; it has been reported out of the Ways and Means Committee without opposition; and it is backed by a broad range of businesses and business groups.

I urge my colleagues to help businesses, boost the economy, and give U.S. workers a fighting chance. Support the Reemployment Act.

THE REEMPLOYMENT ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from California [Ms. ESHOO] is recognized during morning business for 2 minutes.

Ms. ESHOO. Mr. Speaker, I am proud to be 1 of over 100 cosponsors of the Reemployment Act.

This bill continues to gain momentum, having recently passed the Ways and Means Human Resources Subcommittee without opposition.

Mr. Speaker, this is a bipartisan bill, supported by small and large businesses, business groups, and educators.

We all understand how critical investment in human capital is to the long-term viability of our economy and the well-being of our Nation.

We must take advantage of this overwhelming support and pass this vital legislation this year.

We must replace our outdated and cumbersome unemployment system with one that trains workers, helps them to find jobs quickly, and gets them off the unemployment rolls.

The Reemployment Act would establish a network of one-stop centers where citizens can walk in, apply for unemployment benefits, arrange for training, and find employment.

By consolidating and streamlining this process we are truly serving workers and businesses.

I urge my colleagues to join us in supporting this overdue legislation and in helping us pass it this year.

NATIONAL NIGHT OUT PROGRAM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Texas [Mr. GENE GREEN] is recognized during morning business for 2 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, tonight people all over our country and in the district I represent in Houston, TX, will participate in the National Night Out Program that brings awareness to our Nation's crime problem. More importantly, this program brings these neighborhoods together to fight crime.

It is interesting that when the rest of the Nation joins together to solve our crime problem, the House of Representatives is still divided on this issue. The crime bill we are considering contains a great many positive programs that will help control crime. While solutions on how to solve our crime problem are many and costly, it is made more difficult when the progress we have made is criticized by those who on one hand argue that we do not go far enough, and yet then complain the Federal Government should do more.

We are criticized for not doing more, but if the crime bills are defeated this week, then these same people, these same editorial writers and same groups, will then say that Congress cannot address the number one issue that everyone agrees on that we have to solve, crime. Yet they are the ones that are saying maybe we should send this bill back to conference and kill it for this session. These are the same people that will never be satisfied with what Congress does, because we are imperfect, we are humans.

This is unfortunate, but it is the way of life. We have to combine our efforts to solve the crime problem. The friends, families, and neighbors who join tonight will know that it will take more than political posturing, whether it be in Congress, city hall, or State capitals, to solve the problem. We must bring our communities together and address it as communities, whether you serve in Congress, whether you serve on city council, on your local school board, or in your State legislature. Because what we should do is do what is right, and not listen to the folks who would just tell us you did it wrong later.

NATIONAL NIGHT OUT

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New Jersey [Mr. MENENDEZ] is recognized during morning business for 2 minutes.

Mr. MENENDEZ. Mr. Speaker, tonight is National Night Out. In my district in New Jersey and in communities across the Nation, Americans will join with their neighbors to take back the streets from crime. This year National Night Out is of particular importance, as the Congress prepares to pass the omnibus crime bill.

The crime bill says we will not sit idly and watch while crime continues to erode our daily lives. The crime bill provides the force needed to make safe streets a reality. The crime bill provides the opportunity for us to renew our efforts to fight this malignancy which has invaded our streets, our schools, and our lives. The crime bill sends the message, that crime will not be tolerated. Three strikes and your out, 100,000 more cops on our streets and a ban on assault weapons are the instruments with which we will fight the crime epidemic, take back our streets from violence and drugs and make every night a national night out.

RETHINK CHINA POLICY

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from California [Ms. PELOSI] is recognized during morning business for 5 minutes.

Ms. PELOSI. Mr. Speaker, for the past 5 years Congress has consistently and strongly supported using our trade leverage with China to express concern over human rights abuses in China and Tibet, the proliferation of weapons of mass destruction to rouge nations, and China's market barriers to American-made products. All of these conditions still exist. The problems still exist.

Last week the CIA, in an unclassified report, states that China's trade surplus with the United States would be at least $28 billion for 1994, an increase of $5 billion over this year.

The proliferation of weapons to rouge states continues. Yesterday in a special order I reviewed that, and have communicated that to our colleagues, the closeness of the North Korean military to the Chinese military, their meeting in June where they said China and North Korea are as close as lips and teeth, the pledge of 82,000 troops in case of war, and also a pledge in case of U.N. sanctions of credit assistance for food and energy to the North Koreans. In addition, the Cambodian Government has reported that their intelligence agency has stated that China has sold 18 million dollars' worth of weapons to the Khmer Rouge under Pol Pot, and that is just as recently as this spring. The list goes on and on and on.

Today I want to talk about what leading human rights groups have said

about the situation in China, particularly in the last couple of months since President Clinton's announcement.

□ 1120

The U.S. Catholic Conference says,

There are increasing reports that China is cracking down harder on nonapproved religious gatherings and is giving more legal power to public safety bureau officers to conduct raids, make arrests and impose fines. I urge you to vote in favor of H.R. 4590.

That is the bill that is supported by the gentleman from Missouri [Mr. GEPHARDT], majority leader, the gentleman from Michigan [Mr. BONIOR], majority whip, the gentleman from Virginia [Mr. WOLF], and the gentleman from New York [Mr. GILMAN] on the Republican side, and over 100 Democrats and Republicans in this body.

The International Campaign for Tibet says that:

The United States more than any other nation has the ability to pressure China to come to the negotiating table with the Dalai Lama or his representatives. But in order for China to take U.S. efforts seriously, a strong message must be sent that China cannot have the sort of relationship they would like with the U.S. until they make progress on Tibet. H.R. 4590 helps send this message.

The Robert F. Kennedy Memorial Center for Human Rights states, and this relates to what the situation is in terms of human rights in China,

The Administration has made it clear that its relationship with China is full of many conflicting priorities and that concern for human rights takes last place. It is up to Congress to reverse this misguided policy by sending a strong message to China's leadership that repressive practices that threaten human dignity and development do not qualify China for preferred treatment from the United States.

From Human Rights Watch/Asia,

in the absence of international pressure, China has steadily tightened the news on all forms of dissident activity. The authorities in Beijing have apparently calculated that there is no price to be paid for continued political repression in the name of guaranteeing 'social stability' at a time when major economic reforms are underway.

I might add, that a few days after the President's statement, the Chinese prime minister announced a new edict redefining and tightening the noose on dissent by redefining counterrevolutionary activity and sabotage. Counterrevolutionary activity is now defined as any disagreement on any issue with the Chinese Communist Party.

I have more that have been sent out in a Dear Colleague today of statements from those who are commenting on the human rights situation in China and the need for Congress to send a strong message. I urge my colleagues to support H.R. 4590.

Mr. Speaker, I would like to inform the body of the statement of Amnesty International on this same subject. "It remains unclear today what constitutes the Administration's human rights policy toward China and Tibet," states the Amnesty International report. "Equally troubling is the Administration's failure to make human rights policy since the MFN decision, an integral part of overall U.S. engagement in China. This is particularly evident as the Administration aggressively pursues its economic and strategic interests, leaving human rights floundering on the periphery. As a result, Clinton's commitment to human rights issues cannot be taken seriously, not only by China but by other countries."

Mr. Speaker, in this legislation that I alluded to earlier, the gentleman from Missouri [Mr. GEPHARDT], majority leader, the gentleman from Michigan [Mr. BONIOR], House majority whip, the gentleman from Virginia [Mr. WOLF], whom we heard from earlier here, the gentleman from New York [Mr. GILMAN], and over 100 Democrat and Republican cosponsors have in H.R. 4590 put forth legislation which focuses on only products made by the Chinese military and selected other state-run industries.

By continuing to provide preferential MFN treatment for military exports, American consumers are subsidizing the Chinese military modernization; in effect, it is a program of guns to butter to guns. The Chinese military exports into our country products such as stuffed animals, household appliances, pharmaceuticals, et cetera. With the profits off of these products, they are able to modernize their army, pursue their nuclear weapons program, sell nonconventional weapons to rogue states. It is one thing for the American consumer to exercise a choice and buy these products. I think the American consumer should understand the choice that it is making. But in addition to that, it just does not seem right that the American taxpayer should give a preferential tax break to the Chinese military, thereby giving them properties to pursue their militarization and their proliferation of weapons.

It is in that spirit that I ask my colleagues to stand with the man before the tank rather than subsidizing the tanks that crushed the dissidents in Tiananmen Square, brutally occupies Tibet and, once again, proliferates weapons to rogue states.

RECESS

The SPEAKER pro tempore (Mr. DEUTSCH). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 11 o'clock and 25 minutes a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

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

By the power of Your spirit we pray O God, that we will have eyes to see any injustice in our world; may we have strong hands to do the works of peace; may we have caring hearts that are not content with vain promises or gestures; may we have souls that sense the unity of creation and our solidarity with every person, so that all we do or say or think may be to Your glory, now and evermore. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from the District of Columbia [Ms. NORTON] come forward and lead the House in the Pledge of Allegiance?

Ms. NORTON led the Pledge of Allegiance as follows:

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

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MARK A. POTTS

The Clerk called the bill (H.R. 3718) for the relief of Mark A. Potts.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JUNG JA GOLDEN

The Clerk called the bill (H.R. 1184) for the relief of Jung Ja Golden.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FANIE PHILY MATEO ANGELES

The Clerk called the bill (H.R. 2084) for the relief of Fanie Phily Mateo Angeles.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in support of H.R. 2084, a bill for the relief of Fanie Phily Mateo Angeles.

I urge my colleagues to vote in support of this private legislation which would grant the beneficiary, Fanie Phily Mateo Angeles, an adjustment of status from humanitarian parolee to legal permanent resident in the United States as of the date of its enactment. This would also direct that a visa number deduction be made by the Immigration and Naturalization Service.

Fanie Phily Mateo Angeles currently resides in Gaithersburg, MD. She has four sisters and two brothers living in the United States. Most have American citizenship and a few have legal permanent resident status. She came to the United States in 1976 under her father's petition as a first preference unmarried child of a permanent resident. But due to the sudden, severe illness of her mother in the Philippines, she and her father were forced to return to their homeland to care for her. In order to maintain her permanent residency status and comply with INS regulations, she returned to the United States every year for a 1 to 2 months period at great expense.

Unfortunately, Ms. Angeles' mother died in 1983 and her father, bereaved by this unexpected loss, decided to remain in the Philippines for the rest of the year. Ms. Angeles, likewise, stayed with her father to care for him during this time.

In 1985, Ms. Angeles attempted to return to the United States but was detained by INS agents who charged that she had violated INS regulations by overextending her stay outside of the United States. She was detained 2 weeks, her green card confiscated, and she was declared excludable from the United States by an INS judge.

In 1989, she filed an appeal with the Board of Immigration Appeals but was flatly denied in 1990. She faced immediate deportation. However, recognizing the special circumstances of Ms. Angeles's case, INS commissioner Gene McNary on February 22 exercised his discretion and granted her a humanitarian parole which allowed her to remain in the United States indefinitely while she regains her permanent resident status.

Since then, she has been renewing her humanitarian parole status every year as required by U.S. law. However, this law may not be available in the next few years; it is scheduled to expire in October 1996 unless otherwise renewed by Congress.

Her best option now to regain her former legal permanent resident status, which could eventually lead to her American citizenship, is to apply as a fourth preference sister of an American citizen. However, this could take about 20 years due to the long waiting period under the current INS rules. As of now, the INS takes about a month to process 1 week of these fourth preference claims.

While the grant of humanitarian parole is reserved for emergency or extraordinary circumstances like Ms. Angeles, it nonetheless falls short of providing the security that a permanent legal residency offers. But more importantly, it forecloses any opportunity for Ms. Angeles from becoming an American citizen. Since she already received and possessed a green card in 1976, she would already have been naturalized as a citizen before her detention and confiscation of her green card by the INS in 1985.

Mr. Speaker, through her selfless and compassionate care of her aging parents, Ms. Angeles has demonstrated her strong sense of responsibility, her love of family, and her willingness to sacrifice her own aspirations for the benefits of others. I can think of no one who better emulates the basic principles of fairness and compassion that this country was founded on. Therefore, it is only just that we provide Ms. Angeles with a fair solution to her exceptional situation and give her the permanent residency status she patiently seeks.

Mr. Speaker, on behalf of Ms. Angeles and her family, I respectfully urge this distinguished body to unanimously vote for passage of H.R. 2084, a bill for the relief of Fanie Phily Mateo Angeles.

ELIZABETH M. HILL

The Clerk called the bill (H.R. 810) for the relief of Elizabeth M. Hill.

There being no objection, the Clerk read the bill as follows:

H.R. 810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Elizabeth M. Hill—

(1) the sum of $6,780, and

(2) interest on such sum—

(A) calculated at the rate determined in the manner provided in subsections (a) and (b) of section 1961 of title 28, United States Code, and

(B) payable for the period beginning on October 5, 1985, and ending on the date on which such sum is paid.

Such sum represents the amount that was recovered by the United States under Public Law 87-693 (76 Stat. 593; 42 U.S.C. 2651 et seq.) in satisfaction of its claim against a tortiously liable third person for the value of medical care and treatment the United States furnished to Elizabeth M. Hill, but would have been recovered by Elizabeth M. Hill if a timely request for a waiver of such claim had been submitted on her behalf.

SEC. 2. LIMITATION ON ATTORNEY'S AND AGENT'S FEES.

Not more than 10 percent of the sums appropriated by section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section. Any person who violates this section shall be fined not more than $1,000.

Mr. STENHOLM. Mr. Speaker, I rise to urge my colleagues to support H.R. 810, the Elizabeth M. Hill private relief bill. This bill is for the relief of Miss Hill who was injured in a 1977 automobile-bicycle accident, while her father was stationed with the United States Navy in Italy.

I would like to begin by thanking Judiciary Chairman BROOKS, Subcommittee on Administrative Law and Governmental Relations Chairman BRYANT, Mr. FISH, ranking member of the Judiciary Committee, and Mr. GEKAS, ranking member of the Subcommittee on Administrative Law and Governmental Relations, for working with me and bringing this bill to the floor today.

This bill requires the Treasury to pay Elizabeth M. Hill $6,780 plus interest computed from October 2, 1979. This amount was recovered by the U.S. Government in 1979, in satisfaction of its claim against a tortiously liable third person, in reimbursement for medical care provided for Elizabeth Hill, a military dependent. This amount, part of a fixed total amount available for settlement in her 1977 automobile-bicycle accident, would have been recovered by Elizabeth M. Hill if a timely request for a waiver of such claim had been submitted on her behalf and approved by the Secretary of the Navy. However, the Navy never informed the Hill's of their separate lawsuit.

The Department of the Navy, on behalf of the Department of Defense, has gone on record as stating that they have no objection to this legislation.

I believe Miss Hill's claim is valid and just. Again, I urge my colleagues to support H.R. 810 for the relief of Elizabeth M. Hill.

The bill was ordered to be engrossed and read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

MERRILL LANNEN

The Clerk called the bill (H.R. 2194) for the relief of Merrill Lannen.

There being no objection, the Clerk read the bill as follows:

H.R. 2194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELOCATION EXPENSES FOR MERRILL LANNEN.

Merrill Lannen of Tampa, Florida, shall be deemed to be an employee whose transfer in March 1985 from the United States Postal Service to the United States Army Corps of Engineers entitled him to travel, transportation, and relocation expenses authorized, at the time of the transfer, under subchapter II of chapter 57 of title 5, United States Code, for other transferred employees within the meaning of chapter 57 of such title.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. The Clerk will call the last bill on the Private Calendar.

KRIS MURTY

The Clerk called the bill (H.R. 2793) for the relief of Kris Murty.

There being no objection, the Clerk read the bill as follows:

H.R. 2793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELOCATION EXPENSES FOR KRIS MURTY.

For the purpose of receiving reimbursement for relocation expenses under sections 5724 and 5724a of title 5, United States Code, Kris Murty of El Paso, Texas, an employee of the Department of the Army, is deemed to have been an employee transferred by the Department of the Army from one official station to another for permanent duty when we relocated from Houston, Texas, to Fort Bliss, Texas, in February 1985.

SEC. 2. LIMITATION ON AGENTS AND ATTORNEYS FEES.

No amount exceeding 10 percent of a payment made pursuant to section 1 may be paid to or received by any agent or attorney in consideration for services rendered in connection with the payment. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided under title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LET US REASON TOGETHER

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, in dispatching Federal marshals to abortion clinics, Attorney General Janet Reno follows a Little Rock precedent set by President Dwight D. Eisenhower. School integration was even more controversial in 1957 than abortion is in 1994. But President Eisenhower knew that the failure to defend constitutional rights in the face of violence was the ultimate abdication of Federal responsibility.

This weekend I went to the Hillcrest Women's Surgi-Center in southeast Washington. I had heard nothing like the taunts and intolerance I heard there since I was the target during my youthful days as a civil rights worker.

Then as now, controversial constitutional rights were at stake. Then as now, honest differences were obscured by the violence of the extremists.

Americans may protest on opposite sides of the road. But let us always move to common ground to stop violence, as the Justice Department has done.

LAY THE OLD ASIDE

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

Mr. MICHEL. Mr. Speaker, an item appeared today in the newspaper which sheds some needed light on the campaign finance reform debate. According to Common Cause, 44 of the 47 top recipients of PAC contributions were House Democrats. The House campaign finance reform bill has languished in conference of months over the issue of PAC contributions. House Republicans want them banned, Senate Republicans want them banned. Senate Democrats want them banned also. And House Democrats? Well, House Democrats would rather keep the status quo when it comes to PAC contributions.

When PACs were first formed, they were meant to reform the campaign finance system, but that reform has failed to reduce the influence of special interests and failed to inspire confidence in our political system.

I say enough is enough.

We need to go forward with effective and comprehensive campaign finance reform now. Common Cause has shed some light on why House Democrats are reluctant to give the American people the reform they demand. Once again, for their own personal interests, they are the last to lay their old ways aside.

THE VOTING RIGHTS ACT AND VOTING RIGHTS DISTRICTS

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

Mr. FIELDS of Louisiana. Mr. Speaker, on August 6, 1965—29 years ago this Saturday—the Voting Rights Act was signed into law. Congress boldly acted to include all Americans in the political process, and the Voting Rights Act is among the most meaningful acts this body has ever passed.

Today, as a 31-year-old African-American, I address this body as a beneficiary of the Voting Rights Act and testify to its importance.

Unfortunately, the Voting Rights Act is under attack, and there are those who seek to turn back the hands of time, returning our political bodies to the pre-civil rights day.

Three judges in Louisiana have ruled against the Voting Rights Act, going behind closed doors to dismantle voting rights districts.

Then last night, a court in North Carolina affirmed the validity of voting rights districts that allowed North Carolina to send to Congress its first black representatives since Reconstruction.

At this crucial time of reexamination, I urge my colleagues to support the principles and intent of the Voting Rights Act, and to speak out vigorously against efforts to return this institution to the days before this body acted so bravely in 1965.

REJECT THE CRIME BILL CONFERENCE REPORT

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

Mr. SENSENBRENNER. Mr. Speaker, if you think that a bunch of Senators and Representatives in Washington can solve the crime problem in this country by throwing $33 billion at social and other programs, think again. Our colleagues in the State legislatures think otherwise.

Last week the Washington Times reported from the National Council of State Legislators Convention in New Orleans that many of the State legislators are not enamored with the crime bill which will be coming up tomorrow, because it contains too many Federal requirements and too many Federal mandates to be of much use to States and local governments in fighting crime.

Let us face it: Crime on our streets is not fought by the FBI or the U.S. Marshal Service, it is fought by our local police departments and sheriffs departments and it seems to me that the way we fight crime the best is by helping State and local governments with the resources and the wherewithal, without all kinds of congressionally imposed mandates, to fight crime where it happens. That is why this crime bill should be rejected. It is an assault of federalism. We should go back to the drawing boards and do something that will help our States and localities rather than posturing with an election coming up.

JAPANESE SWISS ARMY KNIFE? NOT

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

Mr. TRAFICANT. Mr. Speaker, it cuts, it dices, it slices, it reams, it saws, it even opens up bottles. That is a trusty Swiss Army knife.

□ 1210

But an American court ruled that a Swiss Army knife made in China as an imitation is also a Swiss Army knife, so let me ask this, my colleagues:

Is it now a Swiss-made Swiss Army knife, or is it a Chinese-made, Swiss-look-alike, Swiss Army knife? What is a Swiss Army knife to consumers around the world?

Now the Swiss say a real Swiss Army knife is made by the Swiss and a Swiss Army knife made by the Chinese is a Chinese Army knife or should be called a Swiss Army knife made by the Chinese, and is, in fact, an imitation.

One thing is for sure. This is no play on words. Chinese dictators are laughing all the way to the bank, consumers are getting ripped off, and this issue reminds me of America's trade policy with China which resembles another Swiss product: Swiss cheese.

Think about it, this cutting two-edge sword.

DRAGNET

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

Mr. BALLENGER. Mr. Speaker, this is the city. Washington, DC. The time: August 1994. This is a true story. The names have remained to expose the guilty.

The crime: Passing a fake crime bill to get reelected.

If Sgt. Joe Friday were analyzing the crime bill conference report, he would throw the Congress in jail.

Quite obviously, this bill does not measure up either to its promise or to its need.

The American people want the Congress to pass a real anti-crime bill. This conference report is full of social welfare spending that few associate with crime fighting.

In fact, $9 billion goes to things like community development corporations that will finance projects intended to provide business and employment opportunities for low income people.

Mr. Speaker, the crime conference report is no dragnet to criminals. It is more than a drag on the resources of middle-class taxpayers and the Federal Government.

DIABETES AND HEALTH CARE REFORM

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

Mr. BILBRAY. Mr. Speaker, we are addressing health care. It is coming up in the next few weeks. I would like to talk about those 7 million people with diabetes around this country and another 6 million people that have diabetes that do not even know about it. It is critical that health care reform pass because most of them cannot get health insurance unless they belong to a large plan that has negotiated so that they cannot be excluded. Most of them do not have health care insurance and cannot get health care insurance. Over 160,000 people die each year as a result of diabetes.

I can tell my colleagues it hit my family personally because my own son died from diabetes, so I can say we need health care reform, Mr. Speaker, now. We need universal coverage. We need it so no preexisting conditions can be excluded because Americans deserve that they could have assurance that they can have health care, they have insurance for it, and, if we do not allow this for our people, then it is a crying shame, something that we will be ashamed of for generations to come.

THE CRIME BILL?

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

Mr. HEFLEY. Mr. Speaker, according to a recent poll, only 18 percent of the American people think that the Democrats do a good job fighting crime. After looking at Clinton's crime bill, I am surprised the number is that high. As every American knows, the Democrat Party wastes no opportunity to spend more money on social welfare programs. This crime bill is no exception. Here is where they want to spend taxpayer's money to fight crime.

Some $270 million to the family and community endeavor schools "to improve academic and social development by instituting a collaborative structure that trains and coordinates the efforts of social workers and public schools teachers."

Another $895 million to model intensive grants, awarded to 15 high crime areas at the discretion of the Attorney General. This program has no specific guidelines.

And $650 million for the youth employment skills, to "test the proposition that crime can be reduced through a saturation jobs program."

Mr. Speaker, we need to fight crime, not spend money on fuzzy-minded social welfare programs that may bribe big-city mayors but do little to reduce crime.

THE DEATH OF MEGAN KANKA

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

Mr. SMITH of New Jersey. Mr. Speaker, young Megan Kanka, a 7-year-old girl from Hamilton, NJ, disappeared near her home on Friday of last week. A massive search followed, and on Saturday evening, July 30, police located Megan's lifeless body in a Mercer County park.

Deputy Assistant Prosecutor Kathryn Flicker told a New Jersey court this week that Megan's confessed killer lured her into his house on Friday by offering to show her his new puppy. Ms. Flicker said that the killer pulled the girl into his room, strangled her with a belt, sexually assaulted her, and that the little girl subsequently died of the strangulation injuries.

Mr. Speaker, the killer had been convicted twice for violent, sexual crimes against children in the early 1980's. He was released from prison in 1988, after serving 6 years of a 10-year sentence. He shared a house in Megan's neighborhood with two other men who had previous records of sex crimes against children.

Megan's parents and our entire community—especially those who are parents of small children—are outraged that there could be a home with not one, not two, but three persons with previous sexual assault records and that no one in the neighborhood was aware of this. As a father of four young children, I share the bitterness, the sorrow, the anger, and the frustration these parents feel.

Mr. Speaker, our society is dangerous for small children. As many of my colleagues are aware, I have led the effort to pass—and enforce—tough laws to crack down on child pornography, precisely because I believe it leads to diabolical crimes such as the incident that just occurred in my county.

But we need to take it a step further. We need to throw these people who prey on our children into jail for 30, 40, 50 years and—if I had my way—life imprisonment with no parole. We must do away with early release and require these felons to serve their full sentences, with no exceptions. And when they are released, there must be full notification of the local police department and the communities where these dangerous ex-cons take up residence.

As a parent, I believe I have a right to know that a person who has moved in next door has a previous record of violent crimes against children. If Megan Kanka's parents had known about their violent neighbors, they would never have allowed her to play near the house across the street. She certainly would have been prohibited from going into the killer's house to "see his new puppy dog." And Megan would be alive today.

Mr. Speaker, I understand we will begin consideration of the conference report on the omnibus anticrime bill tomorrow, and this incident will be weighing heavily on my mind as we begin the debate on this important legislation. On July 13, I joined with the overwhelming majority of my colleagues in voting to instruct the House conferees to include language in this legislation that would require local police departments to be notified about the presence of ex-cons who served time for crimes against children, and to authorize these police departments to disclose this information to residents of the affected community. This is a good start, but we need to make the law tougher and establish community notification as an explicit requirement.

In the next few days I plan to introduce legislation that would require community notification. I know my bill faces an uphill fight. But the memory of Megan Kanka, the extreme agony her parents and family must now endure, and the prevention of tragedies like this in the future demands no less than full disclosure to communities when sexual predators are released back into our communities.

May God bless and comfort the Kanka family during this horrible ordeal.

BRING BACK THE COPS ON THE BEAT

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

Mr. OLVER. Mr. Speaker, once upon a time, there were cops in our neighborhoods. We knew them. They knew us. We felt safe. Kids knew they would be caught if they did something wrong.

Things are different today. Communities try to fight crime each day without enough cops on the street.

This weekend, I rode with the Pittsfield, MA police bike patrol. I saw how officers on the beat—a cornerstone of our crime bill—make a difference in the security of the community.

The cops know the streets, the kids, and the troublemakers. Their presence prevents crime. It is like having a cop on the corner again.

Community policing will bring back our neighborhoods, so we feel secure again: Taking a walk after supper, shopping downtown, or letting our kids play in the neighborhood.

Let us bring back the cops on the beat. Pass the crime bill.

THE BUCK STOPS HERE

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

Mr. EWING. Mr. Speaker, President Clinton said an interesting thing last weekend in Independence, MO. Paraphrasing Harry Truman, he said "the buck stops here, the buck stops in the Congress, and the buck stops with you the American people."

When it comes to the crime bill, the President is partially right. The buck does stop with the American people.

In fact, with almost 9 billion bucks in social welfare spending, the American people are getting a lot more than they wanted with this crime bill conference report.

Mr. Speaker, crime is the No. 1 problem with the American people. Social welfare spending is the No. 1 issue with the liberal majority in Congress, but not with the American taxpayers. So, what we have here is mixing the spending with a few anticrime initiatives in order to fool the taxpayer.

Mr. Speaker, that kind of flimflam just will not work anymore.

□ 1220

Mr. Speaker, we need a tough crime bill, and this conference committee report should be defeated and sent back to the conference committee to take out the unneeded social spending.

POLICE CHIEFS LOOK TO ENACTMENT OF THE CRIME BILL

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

Mr. LEVIN. Mr. Speaker, the best answer to those who oppose the crime bill came in the Detroit News headline this morning: "Local Police Chiefs Urge Passage of Crime Bill."

The headline makes the case unequivocally. America's front line crime fighters are looking to Congress for much needed support to combat crime. In America's suburbs, our crime bill will support communities in fighting crime, using regional task forces that have proved so successful in my district.

Mr. Speaker, following up on discussions with suburban police chiefs, I worked to amend the crime bill to ensure that the provision for 100,000 new cops on the beat can be used to support these regional task forces. These task forces target local drug distribution rings and auto thefts, and after passage of this bill they can expand their focus on repeat violent criminals and teenage offenders.

Mr. Speaker, I urge all of my colleagues to join in bipartisan support of this crime bill and provide our local police chiefs the support they very much deserve and need.

THE CRIME BILL, WITH NEW SOCIAL SPENDING, MISLABELED

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, let us talk about truth in labeling. The bill labeled "the crime bill" has returned from conference at long last. Usually long hours and hard work in conference improve upon a piece of legislation. But in this case we are being asked to accept a massive new social spending program that is not directly concerned with crime control at all.

It is no mystery why the President has been so eager to enact this social spending. It is basically his stimulus package of a year ago with a new "crime" label. But no matter how we package it and what the label is, the truth is that this is a very weak bill that does not begin to adequately address one of our Nation's most serious and pressing problems—crime.

We have one more chance. Let us defeat the rule and send this bill back to conference for the tough measures this country needs. Back where I come from, people know the difference regardless of how it is labeled.

JUVENILE DIABETES

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

Mr. KLINK. Mr. Speaker, as the House moves toward its historic floor debate on health care reform, Members will direct their attention to several issues that have deeply divided us and our constituents: employer mandates, abortion, Medicare Part C, and cost controls.

These are vital issues, but let us not forget that the real reason for a health care reform has less to do with architecture and more to do with people.

Insurance companies have long discriminated against patients with diabetes and other illnesses by denying them health care coverage. Insurance reform to prevent discrimination based on preexisting conditions must be included in the health care bill.

This year more than 160,000 Americans will be killed by diabetes and diabetes-related complications such as heart disease, stroke, and kidney failure.

More than 650,000 people—many of them children—will be diagnosed with diabetes this year. Diabetics, whose own systems do not produce or use the hormone, insulin, face a challenging task of self-regulation of their blood sugar through insulin injections, exercise, and rigorous diets.

Diabetics know better than most that they have to eat to live, rather than live to eat.

Matt Pysch who lives near Pittsburgh, faces challenges that most of us can only imagine.

"It's mind boggling," says Bea Pysch of her 13-year-old grandson.

Matt can not eat too much at one time and his diet requires that his meals be broken up into five sessions per day rather than the breakfast, lunch and dinner. Certain foods are prohibited.

"Matt has a really great attitude and that's a key when you're a diabetic," says his grandmother.

For Matt and 13 million Americans, there is no sure for diabetes.

Researchers at the University of Pittsburgh are doing ground-breaking laboratory work to understand what causes diabetes. For example, one research team has been exploring a possible link between streptococcus (which causes strep throat) and diabetes.

Other researchers at the University of Pittsburgh have investigated the relationship between chicken pox and diabetes. These efforts and others like them are necessary to find a cure for diabetes.

Mr. Speaker, let us not forget as we debate health care that it affects real people, like Matt Psych, and this important issue has a human face.

FCC AIRWAYS AUCTIONS A HUGE SUCCESS

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

Mr. OXLEY. Mr. Speaker, the Federal Communications Commission's first spectrum auction ended last Friday, and the figures on revenue raised thus far for the U.S. Treasury are impressive.

I sponsored the legislation that paved the way for these sales, and I had the honor of gaveling-in Friday's auction. The bidding was for licenses to use the airwaves for the next generation of paging and messaging services.

The American people will benefit both as consumers and taxpayers, with the Government gaining much-needed revenue by auctioning off a valuable public resource, rather than dipping into the paychecks of American workers.

The bidding resulted in $617 million pledged to the U.S. Treasury, a windfall which exceeded expectations. Analysts now believe that the Government will net more than the $12.6 billion forecast to be raised over the next 5 years.

I want to commend the FCC on its administration of the bidding, and I want to thank Chairman DINGELL and all those who supported my legislation to implement these highly successful auctions.

Mr. Speaker, this has been a huge success, using market forces to benefit the consumers and the taxpayers.

THE NEVER-ENDING WAR AGAINST DIABETES

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

Mr. HAYES. Mr. Speaker, in some ways the continued fight against diabetes has made great strides since I was a child and would peer into the lower rungs of the refrigerator to look at my grandmother's syringe with curiosity and wonder what the little bottles contained. In others, it has meant continued frustration.

For my nephew, a juvenile diabetic, it has meant frustration, without any clear path toward health, no matter how hard he tries.

As Members have noticed today, several of us have gotten together to urge consideration of the war against this horrendous disease that afflicts over 13 million Americans, and even more frighteningly so, over half of that number will not even know they have the disease until its debilitating effects may have gone too far.

Mr. Speaker, we cannot honestly and adequately say we have adequately improved health care or made reforms until we want to confront diabetes. We owe that collectively as Members of Congress not just to our families but clearly and even more so to yours.

THE CRIME BILL CONFERENCE REPORT

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

Mr. GRAMS. Mr. Speaker, tomorrow, this body will pass the conference report on the crime bill. And tomorrow night, politicians everywhere will boast about it. But in reality, this bill is nothing more than an election year feel-good measure—a bill that is tough on taxpayers and soft on criminals.

In this so-called crime bill is over $9 billion in social welfare spending. This is in addition to the $1 trillion we've already spent on failed social programs. But Congress doesn't seem to learn. Great Society programs didn't move people out of poverty—and they will not make America's streets any safer.

Instead, we need to take a new direction in fighting crime—one that focuses less on social welfare and more on stricter penalties, tougher sentencing, and genuine enforcement of our laws. But this crime bill does none of these things.

A real crime bill would put an end to the current policy of "catch and release" by requiring prisoners to serve their full sentences, allow prosecutors to admit incriminating evidence without the obstacles of search and seizure rules, and ensure that those on death row not escape their punishment through loopholes in the appeals process.

But that is not what we are voting on tomorrow. And that is the real crime Congress will commit on American taxpayers and law-abiding citizens tomorrow.

RURAL HEALTH AND THE HOUSE HEALTH BILL

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

Mr. DERRICK. Mr. Speaker, historically, rural areas in America have suffered from inadequate health care—a lack of doctors and facilities. A rural doctor in my district estimates that 64 percent of his patients are on Medicare or Medicaid. He has found it impossible to attract new doctors and other health providers to the area—they go to more profitable locales.

The House health care bill intends to meet the needs of rural areas by correcting these problems.

As the chart shows, the House health bill expands and integrates existing rural health care facilities, providing more doctors, nurses, and other professionals to strengthen care centers.

It makes available substantial funding for expansion of health care facilities and it supports the development of managed care plans.

Finally, it encourages care providers to come to underserved areas by increasing Medicare bonus payments and making rural health professionals eligible for substantial tax credits.

Support the House bill and remedy what ails rural health care.

□ 1130

PRESENT HEALTH CARE PLAN TO CONSTITUENTS FIRST

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

Mr. ROTH. Mr. Speaker, what Congress does on health care will affect every man, woman, and child in America. One out of every seven dollars of our national economy goes to health care. Next week we are told we will begin debate on the health care legislation. This bill is hundreds of pages long. According to news reports, we are going to be asked to vote on this bill the same week.

This would not be in the best interests of the American people. Before we vote on the health care bill, we must call a recess and let each Congressman go home and, like an insurance agent, explain this plan to the people. After all, what Congress is really doing is ordering an insurance plan for the American people. Do the people not have a right to know what is in the plan? Is it not our responsibility to let the people have their say?

Therefore, I ask that Congress call a recess just before the final vote, so that each Member can go home and explain this plan to his or her constituents and get their approval.

The people have a right to know what is in the bill, the people have a right to be heard, and we in Congress have an obligation to listen to the people, especially on national health care, which will affect every man, woman, and child in America.

TIME TO ACT ON HEALTH CARE

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

Mr. WISE. Mr. Speaker, some people call out for delay, more delay in health care. Let us wait a week, let us wait a month, let us wait a year, or 3 years. Let us look at the health care debate and how it has moved along.

1972, Richard Nixon, yes, that great liberal socialist, proposed, you have got it, an employer mandate, that employers would share the responsibility, much in the same vein as has been proposed in this legislation. The 1970's, President Carter came forward with a comprehensive health care reform bill. 1980's, President Ronald Reagan came forward with a comprehensive health care reform bill. President George Bush proposed insurance reforms in the late 1980's and early 1990's. It was nice. Everyone agreed on the insurance reforms. Unfortunately, it did not cover

everyone and did nothing to control costs.

Meanwhile, all during this debate, health care costs have risen several times the rate of inflation, with less people paying more money for less health care. We have waited long enough. It is time to act.

FUNDAMENTAL CONCERNS WITH CLINTON-GEPHARDT HEALTH CARE PLAN

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

Mr. MILLER of Florida. Mr. Speaker, I rise today to express fundamental concerns with the Clinton-Gephardt approach to health care reform. My district contains the largest number of senior citizens, and seniors are the big losers under Clinton-Gephardt.

The American people haven't been shown the numbers on Clinton-Gephardt, but we already know that the Medicare cuts will be around a half trillion dollars over 10 years. Let's be honest: Cuts of this magnitude are going to reduce both access to and the quality of care elderly Americans receive.

The creation of Medicare part C will further erode quality of care by creating a huge new entitlement class to compete with senior citizens for scarce Medicare dollars. Medicare will look more and more like the Medicaid Program—all Government promises, but no funding. That's not health care reform—that's Government rationing. It is scary to think that this Congress will consider enacting wholesale changes to our health care system before all the ugly details of Clinton-Gephardt are released to and understood by the American people.

UNIVERSAL CARE MUST BE UNIVERSAL

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

Mr. FARR of California. Mr. Speaker, whenever I have used the word "universal" or whenever I have heard the word "universal," I have always assumed this word meant not "some," not "most" and not "as many as possible."

To me the word "universal" means one thing: it means "all."

We cannot pass a health care plan that covers only "some" or covers "most" or covers "as many as possible."

We must pass a health care plan that covers "all." To do less is to condemn those who are not part of the "some" or part of the "most" or part of the "as many as possible" to a life of indeterminate health care, exposure to disease and illness, and a constant fear of accidental injury with no way to repair or pay for the hurt.

In my own district, there are 118,000 persons without health insurance.

These are not people who are loafers. These are not people who live off the dole. Almost 85 percent of these people are working men and women, people who work hard for their daily bread, yet cannot afford to see a doctor when they get sick.

This is wrong. And I for one am not willing to go to these people and say, "Hey, guess what, we passed health care reform and it covers just about everyone, but not you."

Mr. Speaker, universal care means universal. It means all. It can mean no less than everyone.

REFORM IS COMING

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

Mr. BARTLETT of Maryland. Mr. Speaker, in yesterday's Roll Call there was a report of one of our Members being hit hard for the perks of Congress as he runs for a Senate seat.

Yesterday's Roll Call also ran another story of yet another perk that will be used against incumbents: moving our offices to get a better view of the Capitol, a closer walk, or more space.

These moves cost the taxpayers millions and millions of dollars every election cycle. Each office move in the other body costs over $33,000. Is it fair or right that many taxpayers pay a large portion of their yearly earnings just so one of us can have a shorter walk to the Capitol?

If you want to move your office, fine: But pay for it out of your office account, as my reform bill, H.R. 4444, calls for. Make the choice between a better view and reductions elsewhere in office spending. Americans make these kinds of choices daily in the real world.

Reform is coming, Mr. Speaker. Congress can take the lead or be run over at the polls in November.

Support H.R. 4444.

CRIME BILL IS BIG SPENDING OF TAXPAYER DOLLARS

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

Mr. LINDER. Mr. Speaker, if social spending was the antidote to crime, America's neighborhoods would be safe.

The $1 trillion we now spend on social welfare has not put a dent in crime, and there is no reason to believe that $9 billion more will stop one criminal either.

Not only is the so-called crime bill bad, big spending, it is—in true liberal form—micromanaged. For instance, midnight basketball leagues must have 80 players, half must live in public housing and the funding will go to communities with a high incidence of HIV infection.

Setting aside that ridiculousness, teenagers should be asleep at midnight so they can get up in the morning and go to school or work.

The way to stop crime is to remove from the community that small percentage of individuals who are robbing, raping, killing, and selling drugs. The American people recognize the crime bill as the liberal spending of more taxpayer dollars. They also recognize we cannot pass a bad crime bill so the President can hold a signing ceremony surrounded by cops.

TAXING HEALTH CARE BENEFITS SEEN AS UNFAIR

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

Mr. TORKILDSEN. Mr. Speaker, several health care reform proposals, including the newly released Clinton-Gephardt bill, would tax any health care benefits purchased above a national benefit plan.

The taxation of additional benefits places an unfair burden on Americans wishing or needing to purchase addition coverage. It would sacrifice the rights of Americans to many types of quality, cost-effective health care. Millions of workers have negotiated quality insurance packages, rather than accept much deserved raises. Taxing health benefits effectively results in a pay cut.

Taxing health insurance benefits would be an unfair tax on millions of Americans. It would make universal coverage more difficult to achieve, and would reduce the quality care many Americans now receive.

We have the rare opportunity to implement true health care reform, to provide every American access to quality, affordable health care. We should not add a regressive tax which would reduce and restrict access to quality health care.

I urge my colleagues to vote "no" to taxing health care benefits.

CHINA POLICY MUST CHANGE

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

Mr. WOLF. Mr. Speaker, I would urge all Members to think carefully when the Pelosi bill, H.R. 4590, comes up. It is not really a trade bill. It is really a national security bill. It is also a human rights bill.

Keep in mind the bill is targeted toward the People's Liberation Army, the Chinese Army, which did so many

bad things at Tiananmen Square. The Chinese military is the occupying force in Tibet and threatens peace and security in Southeast Asia. China is the only nation targeting the United States with nuclear weapons and the only nation still testing nuclear weapons.

Clearly, I think we should also remember that it is a human rights bill, because in China today Catholic bishops, Catholic priests, Protestant ministers, house churches, are being harassed and put in jail. So when given an opportunity, I would urge my colleagues to support the Pelosi bill, which does not take away MFN from the private sector, but solely targets the People's Liberation Army and those that are doing terrible things in the state-run industry.

□ 1240

CRIME BILL DEBATE

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

Mr. MANZULLO. Mr. Speaker, the House is about to take up debate of a massive $30 billion crime bill. I spoke last night in special orders.

I just spoke before the Committee on Rules, imploring that body not to waive rule 912(a). That is a very basic rule that simply says that this 900- to 1,000-page bill should at least be in the hands of the Members of Congress before they have an opportunity to vote on it.

It is a simple request. Members of Congress want to be able to see the bill before they are voting on it. We implore the Committee on Rules not to waive rule 912(a). Give us an opportunity to read the legislation.

THE CRIME BILL

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

Mr. CUNNINGHAM. Mr. Speaker, unlike some of my colleagues, I think there are many good things in the crime bill. They want to take it to conference, but let us be specific.

I was wrong on the night basketball event. I went and witnessed it. I think it is a good program. But I would hope in the conference that they take out the requirement to be 2 percent HIV positive or even of a drug population. The racial justice has been taken out. I hope the President would not sign an order to reinstate it.

The bill has gone from $15 billion to $33 billion in social spending because they could not get it in other bills because of the caps. I would rather see the 100,000 police over a 5-year period be paid for.

Some of the good things: the Dunn deal with sexual predators, 4,000 Border Patrol, primarily from the gentlemen from California, Mr. HUNTER and Mr. MOORHEAD and the chairman. Illegal immigration, reimbursement, persons funded, revolving door, racial justice is out. The community policing, drug rehabilitation and those are all good.

Let us take this thing back to conference and eliminate some of the things that are very controversial, and we can actually come out with a very good bill.

UPDATE ON VINCE FOSTER INVESTIGATION

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

Mr. BURTON of Indiana. Mr. Speaker, when I read the Fiske report regarding Vince Foster's death and its possible connection to the Whitewater investigation, I had a lot of questions, as many Members have had. So I made it a point to try to find out who the confidential witness was, the man who found Vince Foster's body.

I found out through Gordon Liddy who he was. I set up an appointment, and I went out to see this man. I showed him the picture of Vince Foster's hand with the gun in it and, when he saw it, he said, "That is not the way it was. That is not the way the body was when I found it." He said, "The head was moved and the hands were moved."

So I took a statement from the man. He signed a statement before me in his own words saying that the body had been moved and that the Fiske report was inaccurate.

Many of my colleagues were skeptical as were many in the media. So last Thursday, the gentleman from California [Mr. ROHRABACHER] and the gentleman from Florida [Mr. MICA] and I went out there with a court reporter and we had this man sworn in and he swore before God that the statement he made was true. And we got his statement.

And tonight in special orders, I am going to go through his statement line by line so anybody who is interested, any of my colleagues who wants to know what really happened at Marcy Park when he found that body, tune in tonight.

YOUR MONEY OR YOUR HEALTH

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

Mr. GOSS. Mr. Speaker, the Democratic leadership has lost sight of reality. That may not be news, but it is remarkable that in spite of our impending entitlement disaster, the new Clinton-Gephardt health bill proposes the mother lode of all entitlements—Medicare Part C. While it promises health security, in reality, it would force nearly half of all Americans into a Government-run health insurance plan. Unlike today's Medicare system, this one would be subject to spending limits which would lead to rationing. In short: you are promised care for life, but the Government decides what the care is. You know "Trust me, I'm from the Government." Given our entitlement history, cost overruns would be inevitable. We would soon have to raise taxes or cut benefits or add dramatically to the deficit, probably all three. In sum, the Clinton-Gephardt bill amounts to an ultimatum: your money or your health.

RWANDA

(Mr. DUNCAN asked and was given permission to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the situation in Rwanda is a terrible, heartbreaking tragedy. We need to do all we reasonably can to help out. I especially want to commend the work there by the agency for International Development and its administrator, Brian Atwood.

However, it is absolutely shameful that most other countries around the world are doing so little. Most are doing nothing at all.

What are the French doing? What about the Germans? The Japanese, the Swedes? The answer is, very little, in comparison to us.

The United States needs to play a leadership role. I am glad that we do more than other nations in these international tragedies.

But, we are not some sort of gigantic money tree—not when we have a national debt of $4½ trillion.

It is not fair to our people for other nations to sit back and expect us to foot the bill, almost alone, for every tragic situation in the world.

In the future, we need to lead by convening an emergency meeting of every nation willing to help out when disaster strikes.

I know we will do more than our share, but we need to let the world community know that we can no longer do it all, we can no longer do it alone.

WRITING THE HEALTH BILL

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

Mr. COX. Mr. Speaker, some years ago in a notorious political murder case, the accused relied on the so-called Twinkie defense. He said that he had binged on so much junk food in the days before the murder that he was not

responsible for his own actions, that he could not tell the difference between right and wrong.

Get ready for the 1994 version of the Twinkie defense. In today's Washington Post we read how the health care bill is being drafted and who is doing it. Members of Congress have yet to see the bill. I read in the New York Times on Saturday that the gentleman from Missouri, Congressman GEPHARDT, had dropped his bill. But I called the gentleman from Missouri, Congressman GEPHARDT's office this morning and there still is no bill. There still is no bill. We are going to vote on it next week. And who is writing it? Not Members of Congress. There will be no hearings on this bill.

Rather, according to today's Washington Post, a handful of Capitol Hill staffers who are, to quote the Post, "frantically drafting this bill in a matter of days."

They are, according to the Post, bringing on fast food and getting by on 3 or 4 hours sleep a night. How do they do it? Answered one staffer, "adrenalin and stupidity."

HEALTH CARE

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

Mr. BOEHNER. Mr. Speaker, the President and their allies on Capitol Hill are trying to bring a health care bill to this floor that they claim is going to help the middle class. Any health care bill that has an employer mandate in it is not going to help the middle class; it is going to hurt the middle class.

I got a letter recently from Connie Mahaffey of Farmersville, OH, who is the owner of the Stiver Insurance Agency that has been in business since 1913. She writes to me and says that she will have to lay off her two employees if we pass a health care bill that has an employer mandate in it.

Mandates on America's employers really are not hurting the employers. They are hurting the employees. An employer mandate is a tax on employment. It is going to cost 1 to 3 million jobs in America and hurt 23 million Americans who keep their jobs.

The American people know that the Government is too big and spends too much. Let us not pass a health care plan that makes the Government bureaucracy larger and more expensive. Let us not hurt America's employees by trying to tax America's employers.

□ 1250

STEPHANOPOLOUS' SWEETHEART DEAL

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

Mr. STEARNS. Mr. Speaker, we have been reading about George Stephanopolous' real estate deal.

According to newspaper accounts, President Clinton's right-hand man recently sealed a $668,000 commercial real estate loan at 6.3 percent from Nation's Bank. Most folks are paying 8.5-9.5 percent today.

Nation's Bank is run by a person who President Clinton called quote "the most enlightened banker in America." I am sure he is, and I'm sure Mr. Stephanopolous probably thinks so too.

What's puzzling to many, according to columnist Jack Anderson, is "how the President's most trusted adviser became heavily leveraged despite a comparatively modest net worth and annual income."

His real estate agent said that "George made out like a bandit." I am sure he did.

Mr. Stephanopolous first said he received a commercial loan. Now he says he received a residential loan.

What is the big deal? I guess its because President Clinton said that his administration was going to do things differently when they came to town, that there would be no more "business as usual," that even the appearance of impropriety was unacceptable.

Mr. Speaker, we have had Whitewater, cattle futures, Travelgate, and now, the President's most trusted adviser making out like a bandit. Where do we go from here?

AMERICANS WANT CONGRESS TO WORK ON SOLVING PROBLEMS

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

Mr. DURBIN. Mr. Speaker, I would like to address two issues that have come up this morning. The first is whether the Congress is prepared to really debate health care. Any Member of Congress who has been around for the last 2 years has been focusing on health care to the exclusion of many other issues, because it is the No. 1 issue in the minds of Americans. Virtually every Member of Congress, Republican, Democrat, and Independent, is conversant with the terms and the challenges of the health care debate.

Mr. Speaker, for my colleagues on the Republican side to stand up here at the last minute and say, "We cannot go forward with this debate," really smacks and brings back echoes of the gridlock which stopped Congress in the previous administrations. The American people do not want that. They want Congress to move forward to work to solve problems.

Mr. Speaker, I think what we have to do is to address the biggest challenge facing America: To keep what is good in our health care system and to remove those elements that are bad.

Finally, Mr. Speaker, let me say this. the uninsured Americans out there are often misunderstood. People who come to this well often leave the impression that Americans who do not have health care insurance are not employed. In fact, in my district 85 percent of the uninsured people are employed. They need basic health care protection.

THE CLINTON BILL: STILL ALIVE

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

Mr. HERGER. Mr. Speaker, rumors about the demise of the Clinton health plan are greatly exaggerated.

Last week, the President and the Democratic leadership publicly stated that the Clinton health care plan was dead, adding that they were crafting a new approach to health reform.

But as the Wall Street Journal put it, despite the leaders' emphasis on a new approach, the bills they are designing aren't radically different from the administration's proposal.

Mr. Speaker, merely changing the name on the Clinton health bill will not make much difference. Only a truly different approach to reform will sell with the American people.

Global budget, employer mandates, job-killing payroll taxes, mandated community ratings, rationing, these are the concepts that scare the American people, but these are the very points that still remain in the Clinton health care bill.

I urge the Democratic leadership to listen to the desires of the American people. Work with Republicans to craft a commonsense approach to health care reform.

PROVIDING FOR CONSIDERATION OF H.R. 4003, MARITIME ADMINISTRATION AND PROMOTIONAL REFORM ACT OF 1994

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 500 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 500

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4003) to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour, with thirty minutes equally divided

and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five minute rule the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill, modified by the amendment recommended by the Committee on Ways and Means now printed in the bill and by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. All points of order against the committee amendment in the nature of a substitute, as modified, are waived. No amendment directly or indirectly changing title II of the committee amendment in the nature of a substitute, as modified, shall be in order except the amendment printed in part 2 of the report of the Committee on Rules. That amendment may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendment printed in part 2 of the report are waived. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. In the engrossment of H.R. 4003, the Clerk shall insert the text of H.R. 2151, as passed by the House, as a new title I and shall redesignate the succeeding titles accordingly.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to my dear friend, the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. All time yielded during the consideration of this resolution is for purposes of debate only.

Mr. Speaker, House Resolution 500 makes in order the bill H.R. 4003, the Maritime Administration and Promotional Reform Act of 1994.

The rule provides 1 hour of general debate, with 30 minutes divided and controlled by the Chairman and Ranking Minority Member of the Merchant Marine and Fisheries Committee, and 30 minutes equally divided and controlled by the Chairman and Ranking Minority Member of the Ways and Means Committee.

The rule makes in order the Merchant Marine and Fisheries Amendment in the nature of a substitute now printed in the bill as original text. This text is modified by the amendment recommended by the Ways and Means Committee now printed in the bill and by the amendment printed in part 1 of the report accompanying this resolution.

All points of order are waived against the Committee substitute.

Mr. Speaker, this rule is open to amendment under the 5 minute rule, with the exception of title II, where only the amendment to be offered by Mr. STUDDS and printed in part 2 of the Rules Committee report is in order.

All points of order are waived against this amendment. The rule provides one motion to recommit with or without instructions, and directs the Clerk in the engrossment of H.R. 4003 to insert the text of H.R. 2151 as a new title I.

Mr. Speaker, H.R. 4003 represents the final step in the stretch run for maritime reform in the House of Representatives. For years our Nation's merchant marine has been in steady decline and little has been done to prevent that slide.

Since the 1960's the U.S. oceangoing fleet has fallen from fourth in the world to 16th and our shipyards have seen their business seemingly vanish before their eyes with the continued downsizing of our Navy.

The result has been massive job loss for our shipbuilders and for the men and women who make up the U.S. merchant marine.

Mr. Speaker, the continuing demise of the U.S. merchant marine has also made our country almost entirely dependent on foreign-flagged ships for trade.

In fact 96 percent of the trade through U.S. ports is carried on foreign-flagged ships.

Not only are we dependent on these ships for trade, but in a time of war, without a fleet of U.S.-flagged ships or experienced U.S. crew, this country would be forced to turn to a foreign flagged fleet to help move troops and equipment to wherever the conflict may be.

Mr. Speaker, this is a situation which I find to be completely unacceptable to the only remaining superpower in the world. Mr. Speaker, as I mentioned earlier, this bill represents the final step in turning around the declining maritime industry in this country.

In the first session of this Congress the House took the first step toward this goal by passing H.R. 2151, the Maritime Security and Competitiveness Act of 1993.

Last year's bill authorized a new approach to reform which will serve as the foundation for the revival of the U.S. merchant fleet.

However, at the time of its passage, the bill contained no mechanism to fund its new programs. H.R. 4003 contains the funding mechanism for H.R. 2151.

The funding mechanism contained in title II of the bill, was reported out of both the Merchant Marine and Fisheries Committee and the Committee on Ways and Means.

These two committees developed two different strategies for arriving at the same goal. Real maritime reform.

The Merchant Marine and Fisheries Committee version of title II raises $1.7 billion over 10 years for the programs in H.R. 2151.

Mr. STUDDS and his committee raised these revenues solely by increasing the tonnage tax on ships trading in U.S. ports to 53 cents per ton.

The Ways and Means Committee version of title II, which is now in the base text of the bill, raised $1 billion for the programs in H.R. 2151.

However, Mr. GIBBONS and the Ways and Means Committee took a different tack in arriving at their funding.

Ways and Means raised these revenues through a combination of fuel taxes, increased tonnage duties, and by increasing the departure tax for passengers on cruise ships leaving U.S. ports of call.

The rule makes in order only one substitute amendment to title II, to be offered by Mr. STUDDS, which would raise $1.3 billion over 10 years through an increase in the tonnage duty.

With this amendment in order the House will be able to choose between these two responsible approaches to maritime reform.

I can think of no fairer way for the House to work its will.

Mr. Speaker, this country desperately needs this legislation. We can no longer stand idly by and let our merchant fleet continue to decline toward a certain extinction.

Mr. STUDDS and his committee, as well as the Ways and Means Committee and Mr. GIBBONS, have worked diligently to give the House a sound bill which will mean that real aid will soon be available to rescue our country's merchant fleet.

I urge adoption of the rule and adoption of the bill.

□ 1300

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the Rules Committee, Mr. MOAKLEY, has described the provisions of this rule. Normally I would be reluctant to support a rule providing a blanket waiver or restricting any portion of a bill for an amendment, but in this case a list of waivers was furnished to the Rules Committee and I do not object to these waivers.

Under the rule, title II is restricted for amendments but the House will have the opportunity to choose between the financing provisions developed by the Ways and Means Committee or those developed by the Merchant

Marine and Fisheries Committee. I think this is a fair and appropriate way to deal with this section of the bill.

Other than this, Mr. Speaker, it is a completely open rule, and I urge adoption of this rule.

Today this House finishes the work it began last November third and 4th. Members will recall that on the third we considered and adopted the rule on H.R. 2151, the Maritime Security and Competitiveness Act of 1993, and on November fourth we passed the bill by an overwhelming 347 to 65 vote. H.R. 2151 is authorizing legislation to give the Secretary of Transportation the authority to provide assistance to American shipyards and to establish a fleet of active commercial vessels to "enhance sealift capabilities and maintain a separate presence in international commercial shipping of United States documented vessels."

Today this House is confronted with the question of whether or not it will live up to its responsibility to provide the means to the executive banch to protect the national economic security of the people of the United States by voting for the money to pay for the programs already authorized by the House.

I venture to say that there is not one Member in this House who does not comprehend the necessity for the creation and maintenance of a fleet of U.S. built, U.S. flagged and U.S. crewed merchant vessels. At the risk of repeating myself, I say that there is not a Member of this House who does not understand the necessity for the creation and maintenance of the shipbuilding industrial base.

We voted 347 to 65 to create a modern fleet of U.S. flag vessels. That same vote authorized the Secretary of Transportation to provide a modest incentive for the building of commercial vessels in the United States. Today we consider the bill, H.R. 4003, the bill before us, which originated in the Committee on Merchant Marine and Fisheries and was considered by Committee on Ways and Means and is to be considered by the House under a modified open rule approved by the Committee on Rules, of which I am a member.

I am proud to say that I will vote yes on the rule which permits the Merchant Marine Committee amendment to be offered. I am proud to say I will vote yes on H.R. 4003, the Maritime Administration and Promotional Act of 1994.

Let me say how pleased I am to support a bill which is the product of the Committee on Merchant Marine and Fisheries. I take my hat off to the Chairman and the ranking member on the full committee and the chairman and ranking member on the Merchant Marine Subcommittee for their fine work. Your committee, gentlemen, is a model of how conflicting and potentially divisive issues can be ironed out in the interests of the national welfare.

Under the rule which guides the actions of all Members of this House, the Committee on Merchant Marine and Fisheries proposes to pay for the new fleet and the shipyard assistance with an increase in the tax levied on every vessel in the international trade which calls at an American port. Let us not forget that 96 percent of the international maritime trade of the United States is carried on foreign flag vessels. That tax is to be levied to provide money to the Treasury of the United States to pay for the numerous services from the U.S. Coast Guard which all vessels, regardless of registry, receive in U.S. waters. No tax will be levied on vessels in the inland maritime trade of the United States nor on vessels in the domestic and Canadian trade solely in the Great Lakes basin.

But, Mr. Speaker, I would like to call attention to the House that it is time that this Congress think about the Defense Department paying to build American bottoms, and if the Defense Department cannot absorb the cost, even though we are cutting billions out of the defense budget, then I think the Congress should bolster its efforts to provide the funds, because it is so important to have a merchant marine fleet.

We recently celebrated the 50th anniversary of the invasion of Normandy. That invasion was made possible by the hundreds of thousands of men and women who built and manned our ships in World War II but it was action by the President and Congress in 1936, 8 years before D-day, which made the invasion a success. We passed the Merchant Marine Act of 1936—during a period of relative tranquility—because America knew that a maritime industry, then perilously close to extinction could not be allowed to die.

H.R. 2151 and its companion, H.R. 4003, are amendments to the 1936 Merchant Marine Act. The 1936 act, like the bill before us today, was an insurance policy. Congress determined that expenditures to keep U.S. flag vessels on the high seas and to stimulate the building of new vessels in American yards was worth the price. That Congress considered the threat to our national and economic security which would follow from the collapse of the American maritime industry. That Congress appropriated the money to support our maritime industry by keeping U.S. flag vessels on the high seas and it appropriated money to build ships in U.S. shipyards.

Our situation today is in many respects similar to 1936.

□ 1310

The world is a dangerous place, but we have peace at home. There are men of questionable sanity in control of the industrial and military power of strong nations. The horizon is clouded with the threat of anarchy, war, and famine and pestilence.

Let us do what Congress did in 1936. Let us recognize the world is a dangerous place. Let us reassure the American people and purchase an insurance policy. Let us maintain an American maritime industry.

Mr. Speaker, I urge my fellow Members to adopt the rule so that we may consider the amendments to H.R. 4003. I urge my fellow Members to follow the leadership of the Committee on Merchant Marine and Fisheries and vote for the rule.

Mr. Speaker, I am including at this point in the RECORD the statistics on open versus restrictive rules, as follows:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	84	23	27	61	73

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Aug. 1, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the chairman emeritus for yielding me this time.

Ladies and gentlemen, first of all, let me just thank the chairman of the Committee on Rules for putting this rule out on the floor. And, yes, it is a somewhat restrictive rule in that it does prohibit additional amendments beyond a Merchant Marine Committee substitute to one section of the bill. However, Republicans were polled. There is no need for other amendments to that section. Therefore, we support this rule very strongly.

I also support the merchant marine substitute amendment I just mentioned, and the bill itself.

You know, ladies and gentlemen, it is a shame to see what has happened to the merchant marine in this country. Thirty years ago we had several thousand American flagships that could carry out the strategic interests and trade of our country. Today we do not have several thousand such ships. We have less than 400.

Thirty years ago, just for example, the People's Republic of China, that is Communist China, only had a handful of ships flying the flag of their country. Today they have three times more than we do. They deliver all of their our goods, which helps to create the $24 billion trade surplus they hold against this country. They deliver all of their goods on their own flagships and none of ours. That is terrible.

Ladies and gentlemen, we were put into a situation back during Desert Storm where we were actually blackmailed by some of our allies who

did not agree with our strategic interests in defending Kuwait. We cannot let that happen again. If we had to go to war in two theaters today, we could not maintain the strategic military interest of the United States of America. That is disgusting. That is why we need not only this bill, but we need the Merchant Marine Committee substitute amendment as well.

I strongly support both of them. I hope the House will agree and will pass both.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, this is basically an open rule, providing for consideration of amendments in a free and open process. It is also a fair rule.

Each committee of jurisdiction is provided with equal time during general debate.

The only section to which amendments have been restricted is title II, the financing section—and here we have an opportunity for a clear vote on two legitimate, but different, points of view.

The base bill embodies the Ways and Means version, which involves three taxes—tonnnage fees, a passenger tax increase, and a new fuel tax—to raise about $1 billion over 10 years.

The merchant marine substitute would rely entirely on tonnage fees, and would raise $1.3 billion over 10 years.

Under the rule, Members are provided with a clear choice between these two financing proposals.

I am normally opposed to any restrictions on amendments, but the Committee on Rules is not aware of any other amendments to title II.

Our merchant marine performs vital economic and national defense functions; yet we have let this service decline to the point where it is a mere shadow of what it needs to be.

During the gulf war, we were forced to contract out to foreign-flagged vessels—a precarious arrangement at best. Luckily the problems with foreign-flagged shippers during this conflict were relatively minor, but there were conflicts, and there are no guarantees for the future. There are also non-wartime absurdities—such as renting cruise ships from the Ukrainians to be Haitian refugee processing centers.

When the financing portion of H.R. 4003—title II—is considered, I urge support of the merchant marine amendment. It represents a reasonable compromise between the original bill, which called for $1.7 billion in financing, and the $1 billion Ways and Means version.

Supported by the bipartisan leadership of the Merchant Marine and Fisheries Committee, the substitute financing amendment is absolutely necessary to maintain the bare minimum of merchant marine service for our national interests.

Please support the rule and support the bill.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, I rise in support of the rule and indeed in favor of the legislation.

Although entitled merchant marine legislation, indeed, today this House could be debating the same bill entitling it a National Security Act of 1994, or we could be calling it an Economic Security Act of 1994, because in truth, it is both.

In a single generation, we have seen the United States fall from one of the world's great maritime powers to indeed a nation unable to raise sufficient maritime forces to support our own troops in the field or to handle our own cargo in export.

It is not simply a question of the nostalgia for an American power we used to have. It is a real and dangerous loss of influence and capability, more than in theory.

In the Persian Gulf war, it is not simply, as the gentleman from New York [Mr. SOLOMON] suggested, that we were intimidated by some nations who did not want to help. We were threatened by some who would not help. American cargo arrived late for the Persian Gulf war. Merchant ships leased from other nations refused to enter the Persian Gulf under fire. American forces were without the support they needed at critical moments.

Make no mistake about it, if in Korea the current conflict were to become an armed struggle, this Nation all by itself to defend our own interest is without the capability to bring the merchant forces to bear.

And on the economic sphere, it is no different. A great economic power cannot be dependent for its own exports and its own imports to the tune of almost 70 percent of capability, cannot be dependent upon foreign flag carriers almost exclusively for some cargo on some routes. We need the competition. We need the domestic capability.

After years of decline, an answer has finally been brought to this floor. For that, this body owes a considerable debt of gratitude to the gentleman from Massachusetts [Mr. STUDDS].

I urge my colleagues, Democrats and Republicans alike, to take this stand. It will not bring us back the capability we once had. It will not give us the capability we need. But it will stop the continuing decline and the possible extinction of both our construction and our operating capabilities at this late date.

I urge support of the rule and of the legislation.

□ 1320

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. BATEMAN], a member of the committee.

Mr. BATEMAN. I thank the chairman emeritus for yielding this time to me, and I certainly want to begin by associating myself with the remarks just made by the gentleman from New Jersey [Mr. TORRICELLI]. They certainly mirror my own views.

I think we must, as we approach the vote on this rule, which I wholeheartedly support, and the legislation that underpins it, the true dimensions of what we are dealing with today. We, unfortunately, have arrived at a juncture where our maritime community is going to disappear unless it receives the assistance that is calculated for it through H.R. 2151, which we passed overwhelmingly last year.

The bill which we act upon today is that which gives the muscle to make possible the implementation of H.R. 2151. when we passed that, we did not operate on the basis of we must do something for the American-flag liners that are still in existence; we did it for them, yes, and we realized then as we must realize even more today that if we do not, the American flag will disappear from the seas of the world.

We did it not just for maritime labor, but maritime labor will disappear as a resource for manning American ships in times of crisis.

We did not do it just for the American shipbuilding industry, but if you care about this Nation's ability to build naval combatant vessels in the future—and how dare we think in terms of our not being able to do so—if we care about our national security, we must assure the industrial base in America now and forever that has that capability. And that is what H.R. 2151 brought together, carefully crafted to protect all segments of the American merchant marine community, supported by all segments of the merchant marine community.

I support this rule and especially its allowing the Merchant Marine Committee to offer an amendment that would make possible the $1.3 billion level of revenue as opposed to the merely $1 billion in revenues over the next 10 years. That additional $300 million a year is critical to there being a shipbuilding component to this bill.

The underpinning of the Ways and Means Committee proposal is that it eliminates revenue which would go to the shipbuilding initiative. That seals a death warrant for American shipbuilding. We will get into the details of the shipbuilding initiative that is crafted into H.R. 2151 and will be supported by the Merchant Marine and Fisheries Committee's version of the financing tool.

To deny that throws out one of the three critical segments of the American merchant marine community.

In 1781, one of the most monumental naval engagements in the history of the world took place off the Virginia capes when a fleet commanded by

Comte de Grasse defeated a British fleet sent to relieve Lord Cornwallis at Yorktown. Because of that naval victory, the doom of Cornwallis was sealed and America won its freedom.

Then, dependent upon a foreign fleet, I do not see, colleagues, a future in which America's security would be protected by a foreign fleet. Our ability to build ships, our ability to carry our cargo in times of peace and most critically in times of war and our ability to man those ships by American merchant mariners is dependent upon the passage of this rule and the passage of the version of the financial tool which the Merchant Marine Committee offers to you.

I wholeheartedly urge your support for both.

Mr. MOAKLEY. Mr. Speaker, it gives me great pleasure to yield 5 minutes to the gentleman from Illinois, the Honorable DAN ROSTENKOWSKI.

Mr. ROSTENKOWSKI. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in opposition to the rule providing for consideration of H.R. 4003, the Maritime Administration and Promotional Reform Act of 1994.

H.R. 4003 was sequentially referred to the Committee on Ways and Means because it included a revenue measure to fund its underlying programs. As reported by the Committee on Merchant Marine and Fisheries, the bill relied on an increase in tonnage fees to fund $1.7 billion in programs over a 10-year period.

Aftr careful consideration, the Members of the Committee on Ways and Means determined that it was not acceptable or appropriate to rely solely on tonnage fees to fund the underlying programs. Further, the committee determined that the amount of taxes raised in the merchant marine bill was greatly in excess of the amounts necessary to finance the program.

Thus, the committee approved a carefully-crafted $1-billion package consisting of three revenue components: (1) a modification to current law tonnage fees, (2) an increase in the tax on water transportation with respect to certain voyages, and (3) a penny-per-gallon international shipping fuels tax.

The rule would allow a Committee on Merchant Marine and Fisheries amendment to strike the revenue title that was crafted by the Members of the Committee on Ways and Means.

This part of the rule is a dangerous break from the longstanding practice that the work-product of the Committee on Ways and Means be respected on the House floor.

The Committee on Ways and Means is charged with the responsibility and the burden for making the difficult decisions as to how to raise revenues. it is not always easy or politically popular for our members to be in the position of raising revenue for our Government. However, we do our job.

Just as the Committee on Merchant Marine and Fisheries has the expertise and responsibility for authorizing maritime programs, Members of the Committee on Ways and Means have the expertise and responsibility for revenue measures.

I find it very troubling that the House would second-guess the revenue title that was developed by the committee of jurisdiction—Ways and means. This is more than an issue of how much tonnage fees should be increased.

It raises the fundamental question of whether or not we will follow regular order and respect the deliberations of the House committees that are charged with these responsibilities. We ignore regular order at our own peril.

For these reasons, I strongly urge you to vote against the rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today in support of the Rule. It is extremely important that we pass this rule today, not only because the U.S. commercial shipbuilding industry is at stake, but because tens of thousands of industry jobs are at stake as well. By passing the rule, we would permit the distinguished chairman of the Merchant Marine and Fisheries Committee to offer an amendment that would significantly improve this legislation.

Last November, this House overwhelmingly passed (347–65) the Maritime Security and Competitiveness Act of 1993—an extremely important bill because it sent the loud-and-clear signal that this body is committed to restoring this Nation's maritime greatness and protecting the jobs of the men and women who are its foundation. In this legislation, we have the opportunity to build upon the work this body started last November. But we only have one chance, and we've got to get it right.

We have an obligation to help restore this Nation's commercial shipbuilding industry, especially those shipyards that have been heavily involved in Navy shipbuilding contracts—such as Bath Iron Works in my home State of Maine, which is the largest private employer in Maine. With the downsizing of our Armed Forces, and cutbacks on the number of new naval ships we will build, it is our responsibility to help our private shipyards become competitive again in the world shipbuilding market. It is simply not good enough to provide a safety net * * * we must provide a desperately needed leg-up as well.

Just a few short decades ago, the U.S. was the world's greatest shipbuilding nation. But today we have fallen to around 24th in the world. In 1981, the United States eliminated its direct subsidy for the shipbuilding industry. Since that time, the industry has lost 40 shipyards and about 120,000 jobs. Of the 22 largest American shipyards in business in 1980, only 8 remain today. And the decline in Navy construction threatens to shut down the entire industry and force the loss of more than 180,000 jobs within the next 5 years unless American shipyards can transition successfully to commercial work.

One of the biggest reasons for the decline of the U.S. shipbuilding industry is the billions and billions of dollars in unfair shipbuilding subsidies that foreign countries pump into their commercial shipyards. These foreign subsidies have given foreign-built ships a tremendously unfair advantage over similar ships built in American shipyards.

Nobody knows better the challenges facing our commercial shipyards than the distinguished chairman of the Merchant Marine and Fisheries Committee. By passing this rule, we will give him the opportunity to offer an amendment already approved by the Rules Committee that would give our commercial shipyards the financial ability to compete in the international marketplace. I am speaking of the series transition payments to help finance new commercial ship construction that this House overwhelming endorsed and authorized with its passage of H.R. 2151. (347–65)

Now, opponents will contend that financing for the series transition payments are not necessary because last month a trade agreement was signed in Paris between the United States and the major industrialized nations that would phase-out all shipbuilding subsidies by 1999. While that agreement, on the surface, appears to be a good one, it is far from perfect. In fact, it is seriously flawed.

Under that agreement, between now and January 1, 1996, existing foreign shipbuilding subsidies can continue with no budget ceilings. Moreover, any foreign subsides approved before that date can be carried over until January 1, 1999.

This means that those nations currently subsidizing their shipyards will have at least another 4 years to flood the world marketplace with their subsidized ships. In trying to help our private shipyards for the long term, we have put them at a significant competitive disadvantage over the short term. The playing field will be a level one in 1999, but unless we do something today to help our shipyards, there will not be very many of them around to compete on that level playing field in 1999. It is about as fair as ensuring an evenly-matched baseball game between teams only to find when the first inning starts that you've sent Team USA out to the plate with broken bats.

The new shipbuilding subsidy agreement provides a long-term solution to

the problem of foreign subsidies. But in the meantime it has created a significant short-term one—one which threatens the very existence of our shipbuilding industry.

The answer to this short-term problem is first to pass the rule, and then pass the amendment that will be offered by the chairman of the Merchant Marine Committee. Let's make a good bill a much better one. Support the rule. Then support the chairman of the Merchant Marine Committee's important amendment. By supporting both, this House will be giving a critical industry a second chance.

□ 1330

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I only wish that the American people could view the Committee on Merchant Marine and Fisheries. I serve on three major committees, and there is no committee that I have witnessed, or testified before, or worked for, or with, with the chairman and the ranking member, the gentleman from Texas [Mr. FIELDS] and the gentleman from Massachusetts [Mr. STUDDS], that works in such a bipartisan way. It not only get things done, but it has responsibility, it has accountability, and it offers hope for the American people. I would ask the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, to learn from it. They are not power builders, they are not committee power builders, but their one agenda is for the American people, and I cannot tell my colleagues that coming here in the 102d Congress, and all the malarkey that we have to go through, what a pleasure it is to come to Chairman STUDDS' committee because they work together and join together for the American people, and they not only do it in rhetoric, and it is not just for unions, it is not just for small business, but it is for both. It is for all Americans.

In addition I want to tell my colleagues that this bill is a fair bill, and it does a lot of different things.

The merchant marine fleet and the industry have been devastated. As my colleagues have heard, during Desert Storm we had Russian hulls carrying our cargo overseas. In Los Angeles and other ports many of those ships had to be loaded and off loaded. That meant time, and time in combat means life or death. Billions of dollars of tie-down materials and cargo shipping materials were just lost when these ships went in. They were never recovered, and that means taxpayer dollars as well.

So, the committee is accountable, accountable to the American taxpayers.

Some of these ships did not even go in to deliver the equipment. Foreign countries have primarily killed the industry through foreign subsidies. Our committee is where the gentleman from Texas [Mr. FIELDS] and the gentleman from Massachusetts [Mr. STUDDS] work to save jobs that have been lost, and the skills that have been lost over a hundred years, Mr. Speaker, are going away. Just take a look at the east and the west coasts. We used to have hundreds of ship builders and hundreds of ship repair facilities. They are nearly gone. There is only one left on the west coast. Those are not just union jobs. Those are union and small business jobs.

I only wish the other committees could learn from it, the infrastructure, the lost revenue that we have, and, yes, even the education programs. This bill and this committee provides for the Merchant Marine Academy, and I would also like to thank the gentleman from California [Mr. MILLER] for helping and being the driving force to get a training ship for the Merchant Marine Academy, not in this bill, but it was also important.

Let me give my colleagues some names:

NASCO.
Southwest Marine.
Continental Marine.
Pacific Ship.
Campbell's.
Bay City.

None of these are in my district, Mr. Speaker, but they create American jobs, and that is what the chairman and the ranking member work for. If we lose these facilities, they are going to go into condos or other things, and we are never going to get it back.

During the surge of national emergency we tried, even during Desert Storm, to go back in our bone pile of ships and regenerate old steam ships. We could not even find enough people to operate them. That is why we needed to use foreign hulls. This bill helps with that, loan guarantees. Let us build our ships in America, not let Taiwan, Japan, and other countries take our jobs because those dollars, even though it might be cheaper because of the subsidies, those dollars go into their tax accounts and tax rolls and do not regenerate jobs within this country. Let us let them be sailed by American sailors.

The dual-hulled tankers; OPA-90 requires that we build dual-hulled tankers. Guess what? There is no money to do it. This bill provides a startup for that with $1.7 billion. I think that will be cut, but at least it is paid for. OPA regulations with dual-hulled tankers would prevent things like Valdez and the ships going along that are leaking oil on the east and west coast and on our beaches. Yes, it even helps the environment.

Mr. Speaker, we are responsible, we have compassion in the committee, and it is hopeful for an industry that has died, and I say to the gentleman from Massachusetts, Chairman STUDDS, except for the tuna bill, I want to thank you. It's been very, very, pleasurable coming and working in the committee.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I think that much that has been said here this afternoon has been said several times. But this issue does cause a great deal of concern for Members who have been associated with the subject, with the issue, for one reason or another. I, maybe, enjoy, if my colleagues will, a couple of special kinds of circumstances that have brought this issue into focus for me over the years because my home is just a few miles from the northern terminus of the 80-mile trek from the Delaware River down to the Atlantic Ocean from Philadelphia to Cape May, and, as a result of being in that location over a number of years, I have had the opportunity to observe ships coming and going. If one take advantage of those opportunities, we see ships from Norway, and Great Britain, Uruguay, and Brazil, Kuwait, and Turkey, and every once in a while we see an American flag on a ship, and that is because 97 percent of the ships that visit ports like the ports of Philadelphia and Camden, 97 percent fly foreign flags, and anyone, I think, would agree that that is reason for concern.

Recently I watched a short videotape about the revisiting, revisitation, of the Normandy invasion, and I was reminded that at that time this country sailed under American flags 6,000 ships and that those ships were so vital in making it possible for us to get our people, men and women, and munitions and stores for those troops into the proper place at the proper time. Today that 6,000 ship fleet has shrunk to just 300 ships.

How do we restore this? That is the question that we are here to discuss today, and it just seems to me that we ought to be very realistic and look at this bill as one way to do that.

There was an article in the Washington Post this morning for those who, maybe, are thinking we ought to do this out of the defense budget, and the headline in the Post was: "Defense Costs Underestimated, GAO Says." The first paragraph of this article says the Defense Department is underestimating by more than $150 billion the cost of funding the military for the next 5 years according to a key congressional report released yesterday. If accurate, the General Accounting Office estimate would mean that either much larger appropriations are needed for defense, a virtual impossibility politically they insert, or deep new reductions in military programs will be required despite President Clinton's declaration that the Pentagon programs already have been reduced enough.

This bill, in a way, is a self-help bill. It is an answer to the question how do we begin to solve this problem.

So, Mr. Speaker, I hope that this self-help bill, as modest as it is in terms of its approach over a full decade to come, I hope this approach will pass today. I hope we vote for the rule and then support the bill.

Mr. QUILLEN. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of the rule to accompany H.R. 4003, the Maritime Administration Authorization Act. This rule has been reported by a bipartisan majority of the Rules Committee and it provides for equitable consideration of this important legislation.

The bipartisan leadership of the Committee on Merchant Marine and Fisheries requested this rule in order to provide the House of Representatives an opportunity to vote on an alternative funding amendment that is vital to our Nation's economic well-being. Last November, the House overwhelmingly authorized the revitalization programs that are funded by this legislation. The Merchant Marine Committee's amendment would finance these important revitalization efforts in a manner that relieves the burden on U.S. taxpayers.

As representatives of the committee which has principal jurisdiction in this important area, the bipartisan leadership of Merchant Marine and Fisheries deserves an opportunity to offer their very balanced and sensible amendment. This is a matter of simple fairness to the membership of the committee, the membership of the House and most importantly, the American people.

Mr. Speaker, I urge a "yes" vote on the rule, a "yes" vote on the Merchant Marine and Fisheries Committee's financing amendment and finally, a "yes" vote on final passage of H.R. 4003.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS], chairman of the Committee on Merchant Marine and Fisheries.

□ 1340

Mr. STUDDS. Mr. Speaker, I thank the distinguished chairman of the committee and I thank the ranking member of the Committee on Rules and all the members of the various committees who have had such kind things to say about the ranking member of the Committee on Merchant Marine and Fisheries and the way in which we run our committee. We are very proud of it.

I rise only to make one clarification. I have no intention of prolonging the debate on the rule. There is some misunderstanding, I believe, with regard to the amendment made in order under the rule to be offered by the gentleman from Texas [Mr. FIELDS] and on behalf of the Committee on Merchant Marine and Fisheries. The gentleman from Illinois, speaking for the Committee on Ways and Means, just characterized that amendment or the making of it in order as somehow a violation of the regular order and an invasion of the jurisdiction of the Committee on Ways and Means.

No one has more respect, in fact verging on awe, for the jurisdiction of the Committee on Ways and Means than this Member. Let me just observe that the bill as introduced, H.R. 4003, was referred initially solely to the Committee on Merchant Marine and Fisheries. We are the committee of principal jurisdiction. We are the committee of sole jurisdiction, with the exception of title II, the funding title, and on that title the Committee on Ways and Means requested and received a limited and sequential referral.

With the funding mechanism as it was originally in the bill reported by our committee, based solely on tonnage duties, that is a matter over which the Committee on Merchant Marine and Fisheries exercises principal primary jurisdiction. That is a shared jurisdiction with the Committee on Ways and Means, and they were entirely correct in requesting that sequential referral.

It is true that the version supported by the Committee on Ways and Means adds two other components of funding, both of which are within the exclusive jurisdiction of that committee, and that is the excise tax on diesel fuel and the increase in tax on tickets paid by passengers on cruise vessels. Those two components are indeed solely within the jurisdiction of the Committee on Ways and Means, and they comprise two-thirds of the package reported by that committee. The remaining third is the tonnage duties.

It is the entirety of those tonnage duties of the package recommended by the Committee on Merchant Marine and Fisheries, both in the bill and in the amendment, which we have requested be made in order. So with regard to our amendment, it is very much within the primary jurisdiction of our committee and does not, I submit respectfully, constitute in any way an invasion of the regular order or a lack of respect for the jurisdiction, the very real and very awesome jurisdiction, of the Committee on Ways and Means.

I also would like to take this opportunity to thank that committee, all of its members and particularly its acting chairman, notwithstanding the fact that, as Members have seen and will see in a while, we have a disagreement on the best way of achieving the goals which I think most of us share. They have been remarkably open and cordial as we have attempted in the last few weeks to work out these differences.

Members of our committee have been invited to a caucus of the Committee on Ways and Means to present our view of this matter, which, so far as I know, is without precedent. Members of our staff were invited to sit in on the actual markup of that committee. We are profoundly grateful for the civility and the cordialness with which the two committees have dealt with one another.

With that in mind, Mr. Speaker, I once again thank and commend everybody who should be thanked and commended.

Mr. ENGEL. Mr. Speaker, I rise today in support of the rule for the consideration of H.R. 4003, the Maritime Administration and Promotional Reform Act. This bill would greatly benefit our national maritime industry, increasing both the competitiveness and efficiency of our American shipyards.

The bill provides funds for increased shipbuilding, additional national defense reserve, and improved maritime education. While many of these programs were established in H.R. 2151, the Maritime Security and Competitiveness Act, the means by which the financial requirements of the various programs would be met were not addressed.

Enacting this legislation would generate nearly $250 million in fiscal year 1995 for Maritime Administration [MarAd] authorization national security programs, benefiting both the Ready Reserve force and national defense reserve fleet. Furthermore, our Nation's maritime education program would be helped by granting funds to the U.S. Merchant Marine Academy at King's Point, NY. As a New Yorker, I know about the fine training provided at this institution. The bill also succeeds in offering assistance to six additional State-sponsored maritime academies as well as subsidizing training support needs at State academies and at the Federal Academy.

I urge my colleagues to vote in favor of the rule and H.R. 4003. This bill is crucial to ensuring that the United States remains a leader in international trade.

Mr. MOAKLEY. Mr. Chairman, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 336, nays 77, not voting 21, as follows:

[Roll No. 369]

YEAS—336

Abercrombie
Andrews (ME)
Andrews (NJ)
Applegate
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Cantwell
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Cox
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hansen
Harman
Hastings
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hobson
Hochbrueckner
Hoekstra
Holden
Hoyer
Hughes
Hunter
Hutto
Inslee
Istook
Jacobs
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Knollenberg
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quillen
Quinn
Ravenel
Reed
Regula
Richardson
Ridge
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Watt
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NAYS—77

Allard
Andrews (TX)
Archer
Baker (LA)
Barca
Barton
Bereuter
Boehner
Brewster
Bunning
Canady
Cardin
Collins (IL)
Costello
Coyne
Crane
DeLay
Dickey
Dornan
Durbin
Ehlers
Ewing
Fawell
Franks (NJ)
Gibbons
Grandy
Hancock
Hastert
Herger
Hoagland
Horn
Houghton
Hutchinson
Hyde
Inglis
Jefferson
Johnson (CT)
Kennelly
Klug
Kolbe
Kopetski
Kyl
Leach
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Manzullo
Matsui
McDermott
Mica
Michel
Miller (CA)
Packard
Payne (VA)
Petri
Pickle
Porter
Poshard
Rahall
Ramstad
Rangel
Reynolds
Roberts
Rogers
Rostenkowski
Royce
Sensenbrenner
Shaw
Shays
Shuster
Smith (OR)
Stump
Thomas (CA)
Thomas (WY)
Waters
Zimmer

NOT VOTING—21

Ackerman
Carr
Clay
Collins (MI)
Conyers
DeFazio
Dingell
Ford (TN)
Gutierrez
Hoke
Huffington
Inhofe
Laughlin
Montgomery
Olver
Owens
Skelton
Slattery
Torres
Washington
Wheat

□ 1406

Mr. HASTERT and Mr. COSTELLO changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORTS ON H.R. 3474, REGULATORY REFORM ACT OF 1993, AND H.R. 3841, INTERSTATE BANKING EFFICIENCY ACT OF 1994

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file conference reports on the bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, and on the bill (H.R. 3841) to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Texas?

There was no objection.

MARITIME ADMINISTRATION AND PROMOTIONAL REFORM ACT OF 1994

The SPEAKER pro tempore. Pursuant to House Resolution 500 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4003.

□ 1407

IN THE COMMITTEE OF THE WHOLE

□ 1410

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4003) to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes, with Mr. WISE in the chair.

The Clerk read the title of the bill.

Mr. WISE. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 15 minutes, the gentleman from Texas [Mr. FIELDS] will be recognized for 15 minutes, the gentleman from Florida [Mr. GIBBONS] will be recognized for 15 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, last November, the Merchant Marine and Fisheries Committee brought before the House H.R. 2151, the Maritime Competitiveness and Security Act of 1993. This bill authorized two new programs to help revitalize our U.S.-flag fleet and U.S. shipyards.

On that day last November, this House voted overwhelmingly, by a margin of 347 to 65, to support our American maritime industries. Today, we ask for your vote to ensure that the will of the House becomes a reality: that American flags continue to fly from vessels carrying this Nation's commerce; that American shipyards will someday soon build another commercial vessel; that when American servicemen and servicewomen are sent to distant corners of the globe they

will have the certainty they need that ammunition, medical supplies, and food will be there; that the skills of the working men and women of this Nation who build ships, and who are trained to run them, will not be lost; and finally, Mr. Chairman, to ensure that this Nation, the only remaining superpower on the planet, will never dangerously rely on the kindness of foreign nations to move our goods to market.

When we brought H.R. 2151 to the floor, we recognized that the programs we were authorizing were subject to the pay-go requirements of the budget act. We committed then to return to the House with a revenue measure to offset the cost of these programs. H.R. 4003 is the fulfillment of that promise.

Like the administration, the Merchant Marine and Fisheries Committee ultimately decided—after examining many other options that did not meet our pay-go obligations, would not raise the needed revenues, or were unfair to certain segments of the maritime industry—that increasing tonnage duties is the best and fairest way to raise revenues to offset the costs of maritime reform.

Tonnage duties have been around since Congress first passed the Act Imposing Duties on Tonnage of July 20, 1789. Interestingly, the Congress of 1789 had the same purposes for creating these duties that we have in raising them today—to encourage American shipping and shipbuilding, and to support lighthouses and other navigational aids.

Tonnage duties are collected by Customs Service on the cargo-carrying capacity of all vessels entering U.S. ports. Most of these ships, those moving 96 percent of our trade, are foreign built, foreign owned, and foreign crewed.

The administration's maritime reform proposal announced last March, would have raised approximately $1 billion by increasing the present tonnage duty to 24 cents per ton for vessels entering from ports in the Western Hemisphere, and 71 cents per ton for other vessels.

In May, the Merchant Marine and Fisheries Committee approved a plan to generate approximately $1.7 billion by raising the tonnage duties to a flat 53 cents per ton. This was, admittedly, an ambitious proposal, but one we believed was necessary to fully fund all maritime programs, both operating and shipbuilding.

The Ways and Means Committee, which share jurisdiction over tonnage duties, last week reported provisions that would raise only $1 billion through a combination of revenue sources and directed that money not be expended on a shipbuilding program.

At the appropriate time, I intend to offer an amendment on behalf of my committee that we feel is a workable compromise between the positions of the two committees. My amendment would raise approximately $1.3 billion, a $400 million decrease from our original proposal. We are confident that this amendment provides adequate funds for the maritime industry, and meets the pay-go requirements of the Budget Act.

Mr. Chairman, increasing tonnage duties on vessels entering U.S. ports is consistent with all of our international obligations. It is also fully justified to help offset a small fraction of the value of services that the Coast Guard provides to all commercial vessels.

Every year the Coast Guard spends nearly a half billion dollars to operate modern navigational services, such as loran, Omega, the differential global positioning system [DGSP], and over 46,000 lighthouses, buoys, daybeacons, fog signals, radar reflectors, and vessel traffic service [VTS] systems.

In all, it costs the Coast Guard $868 million annually, excluding capital costs, to provide services that benefit U.S.- and foreign-flag vessels. If we raised the entire amount that our proposal calls for from tonnage duties exclusively, it would amount to only $130 million, a very small portion of what the Coast Guard actually spends.

While maritime programs of the past have been less than perfect, it is perfectly clear that we need a strong maritime industry and that we have found the best, fairest, and least painful way to ensure that the security and economic interests of our nation are protected today and in the future.

We must not repeat the experience of the Persian Gulf war when we had to charter foreign-flag ships to carry military supplies to our troops and when we lacked the trained personnel to operate the ships we had.

With the end of the cold war, we must not forget that America's battles will be fought more and more on the economic bottom line, not just on the front line. Without American ships to move American goods to foreign markets, those goods may never leave our shores.

We must not lose the ability to build ships. Encouraging our yards to be competitive commercial shipbuilders will ensure that we always retain the skills and industrial base we need to build naval vessels.

We must not forget gas lines. As an oil consuming nation, the United States must not be without the wherewithal to bring petroleum—or any critical product—to our consumers. With the U.S. flag flying from U.S. commercial ships, this will never happen.

The legislation we bring you today—legislation that is the product of the bipartisan cooperation that we unfailingly enjoy on our committee—will ensure that we can turn our existing maritime programs around, make them more cost-effective, and give our Nation the American ships and shipbuilding capacity that we must—I repeat, that we must—retain.

Mr. Chairman, the Merchant Marine and Fisheries Committee has labored long and hard to bring before the House a bill that not only pays for important maritime programs, but, along with H.R. 2151, will restore confidence in our maritime industry.

Mr. Chairman, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I want to first of all begin by commending our distinguished chairman, the gentleman from Massachusetts [Mr. STUDDS], the subcommittee chairman, the gentleman from Illinois [Mr. LIPINSKI], and our ranking minority member, the gentleman from Virginia [Mr. BATEMAN], for the long hours they put in on this particular subject.

Mr. Chairman, I also want to compliment the staffs in dealing with a very delicate yet very important piece of legislation.

Mr. Chairman, I rise in support of H.R. 4003, the Maritime Administration and Promotional Reform Act of 1994, a bill to provide revenues for a new maritime reform program.

Last fall, the House of Representatives passed H.R. 2151, the most sweeping maritime reform bill in several decades—by the overwhelming vote of 347 to 65. That bill was a compromise—no one was completely satisfied with it. Although it is not perfect, it will go a long way toward solving the major problems confronting our maritime industries.

H.R. 2151 is a new maritime reform program with two parts:

First, a maritime support program for American vessel operators to assure the continued existence of U.S.-flag ships for both international trade and national defense sealift; and

Second, a short-term ship construction assistance program to enable American shipyards to convert from Navy construction work to building ships for international commercial use.

Now, to ensure the success of this maritime reform program we must establish a mechanism to finance it. H.R. 4003, as approved by our Committee on Merchant Marine and Fisheries, would accomplish that purpose by increasing the existing tonnage fees on the cargo carrying capacity of all vessels entering the United States from foreign ports.

Since 96 percent of our international oceanborne trade is carried by foreign-flag vessels, it is these vessels that will be paying the overwhelming majority of the increased tonnage duties.

The fee is structured so that all vessels engaged in international trade, including the foreign-flag vessels that enjoy the use of our ports and the luxury of our cargo, pay for some of the

navigation and safety benefits they receive. It has also been designed to ensure that it does not violate any international trade agreement including article VIII of the General Agreement on Tariffs and Trade [GATT].

Our committee has repeatedly demonstrated just how strongly we believe in the three components of the merchant marine: vessel operations, manning, and shipbuilding. Each of these elements of the maritime industry has a proud history and there is no question that an appropriately funded maritime reform program is critical for their survival.

H.R. 4003 will provide the necessary new revenues to support the American maritime industry. We are talking about supporting our national defense sealift needs with fully crewed U.S.-flag ships; preserving the capability to be able to build, and repair, both warships for the Navy and commercial ships for domestic and international trade; and assuring that our Nation's international trade will not become captive to foreign shipping interests who do not care about American businesses.

Operating a U.S.-flag ship is expensive. American shipowners pay considerably higher costs for their ship mortgages and insurance. They have to meet all sorts of health, labor, and environmental costs that are not levied by other nations in the world. They also pay income taxes that their foreign counterparts, in most cases, do not pay at all.

Our standard of living is also higher than the rest of the world. On average, a U.S.-flag containership with a crew of 21 costs about $9,500 per day just for the crewing costs. These costs include wages, vacation allowances benefits, overtime pay, and other costs such as payroll taxes. An identical foreign-owned containership, with a crew of the same size, costs about $1,500 per day for these same expenses.

One simple example will demonstrate the radically different costs that shipowners face. The Taiwan shipping company, Orient Overseas Container Line, provides $5 per day for all three meals for each of its crewmen. Nowhere in America can people eat three meals for just $5. However, this is just one way that foreign shipowners keep their costs down.

We are also talking about protecting American workers with this legislation. In both the merchant marine and shipbuilding industries as many as 250,000 American jobs are at stake.

The Committee on Ways and Means considered H.R. 4003 after we approved it, and decided to modify our tonnage fee proposal. They adopted a three-part proposal that would raise $1.0 billion over 10 years from an additional $2 per passenger excise tax on departing passengers; a one-cent-per-gallon fuel excise tax on ships departing U.S. ports for foreign destinations; and a tonnage fee on all vessels arriving in the United States from foreign ports.

I join with our distinguished chairman, GERRY STUDDS, and our Merchant Marine Subcommittee chairman and ranking member, BILL LIPINSKI and HERB BATEMAN, in offering an alternative to the text of H.R. 4003, as approved by the Committee on Ways and Means.

Specifically, I suggest that we can accommodate most of the differing views on how to fund maritime reform with a modified tonnage fee. Recognizing the concerns of many Members that our original tonnage fee proposal may cause some hardships to various maritime sectors, our committee's alternative would establish a flat tonnage fee of 38 cents per net registered ton.

Furthermore, it would increase from 5 to 25 the number of transits, or calls, to the U.S. ports when the fees would be collected. Our amendment would raise approximately $1.3 billion over 10 years, which is $400 million less than our original measure.

Contrary to statements made by some cargo shippers and port interests, according to the Department of Transportation, the increased tonnage fees would not result in any diversion of American-bound cargoes to either Mexico or Canada. The on time delivery schedules in international trade do not allow for time consuming transhipments through either country.

Mr. Chairman, let there be no mistake, unless we approve H.R. 4003, there will be no U.S.-flag containerships and U.S. shipyards will continue to close. We are at a critical juncture and the jobs of thousands of our constituents are in serious jeopardy. By enacting H.R. 4003—to pay for the maritime reform program we authorized in H.R. 2151 last fall—we can prevent this catastrophe. We will ensure that essential military equipment is carried on U.S.-flag vessels, and we will retain a shipbuilding capability to build, and repair, large ocean-going ships in the future.

I would like to comment briefly on the remarks made by several Members of the Committee on Ways and Means in their dissenting views on H.R. 4003. A point was made that in Operation Desert Shield/Desert Storm we did not use all available U.S.-flag ships and, furthermore, since the Government maintains a ready reserve force of standby ships, we don't need to support the private, commercial U.S.-flag fleet.

Operation Desert Shield/Desert Storm was unlike any military engagement this Nation has ever embarked on in two key ways. First, the entire world—except Saddam Hussein—was on our side. We had sealift help from virtually every seagoing Nation in the world. Second, there was no hostile action at sea against any of the supply ships. We cannot be assured that either of these conditions will apply in any future military action, and we must be prepared to operate alone.

It is also important to recognize that the Government's ready reserve force fleet of standby sealift ships will be of limited value if there are not sufficient people available to run the ships. The manpower pool for these ships will come from the private sector crews of the U.S.-flag ships. If we lose our merchant fleet, we lose the crews. Creating a merchant marine manpower reserve force will be extremely expensive when you add all the costs related to salaries, benefits, and other costs related to drilling and supporting a reserve force.

During World War II and in every conflict since then—Korea, Vietnam, and Operation Desert Shield/Desert Storm—American merchant mariners have played critical roles. If we do not act now to pass H.R. 4003 to fund maritime reform, our own Government will do what our wartime enemies have never been able to do—sink the U.S.-flag merchant marine, and remove the American flag from the world's oceans.

I urge my colleagues to join the bipartisan effort of the Committee on Merchant Marine and Fisheries to revitalize America's once proud maritime industry.

□ 1420

Mr. Chairman, I reserve the balance of my time.

Mr. STUDDS. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. LIPINSKI], the distinguished chairman of the Subcommittee on Merchant Marine.

Mr. PICKETT. Mr. Chairman, will the gentleman yield?

Mr. LIPINSKI. I yield to the gentleman from Virginia.

Mr. PICKETT. Mr. Chairman, I rise in support of H.R. 4003.

Mr. Chairman, U.S. maritime policy, as defined by title I of the Merchant Marine Act of 1936, establishes the necessity for a strong merchant marine capable of handling a substantial portion of the Nation's commerce and serving as a naval and military auxiliary in time of war or national emergency. U.S. maritime policy further provides that the merchant marine shall be supplemented by efficient facilities for shipbuilding and ship repair.

The deteriorating condition of America's maritime industries, including the ship repair industry, presents a clear and growing danger to U.S. economic and military security. Both our strategic sealift capability and our shipyard mobilization base are at risk and will be increasingly at risk without decisive action by this Congress and this President to enact appropriate remedial legislation.

H.R. 4003 provides a practical, balanced, and cost-effective plan for action to promote and facilitate immediate implementation by the administration, the Congress, and the private sector of an integrated and plausible maritime policy. Taken as a whole, this legislation will

begin the process to help our Nation restore and enhance its maritime industrial base.

This legislative initiative is founded upon 2 years of cumulative effort by the members of the Merchant Marine Committee. The committee leadership has taken a "hands on" approach in dealing with the sharply divergent interests that exist within the maritime industries. H.R. 4003 represents a major breakthrough in defining and funding a plan to deal fairly and responsibly with the problem. It reflects considerable compromise and substantial agreement among the members of the committee.

H.R. 4003 does carry a cost. The rapidly deteriorating situation cannot be remedied without expending a meaningful amount of national resources. Any course of action will have costs to our nation. The challenge is to develop and implement policies that meet the requirements in the most cost-effective manner possible. The Merchant Marine Committee bill meets this test. It provides a funding source to pay for the program that is set out in the bill and meets the "pay go" requirement of the Budget Enforcement Act.

Mr. Chairman, H.R. 4003 will be vitally important in enabling our Nation to maintain and sustain a viable ship repair industry. The United States and foreignflag ships trading in and out of U.S. ports need this important industry. For economic and environmental reasons, a viable full service U.S. ship repair industry is a must. H.R. 4003 will help private ship repair yards modernize with advanced ship repair technologies and processes. These investments will enable U.S. ship repair yards to perform more efficiently and be more competitive with foreign ship repair yards.

What we have before us is the very minimum that must be done to begin the job of revitalizing our merchant fleet and ensuring the future of our shipbuilding and ship repair yards. I urge my colleagues to pass this legislation.

Mr. LIPINSKI. Mr. Chairman last year, I joined Chairman STUDDS and ranking minority Members FIELDS and BATEMAN to introduce H.R. 2151, the Maritime Security and Competitiveness Act of 1993. In November, with strong support from the committee members, the bill passed the House by an overwhelming 347 to 65 margin. At that time, the bill did not have a funding source.

Today, the bipartisan leadership of our committee presents a funding mechanism in H.R. 4003 to pay for the reform program. Over the past 6 months, the committee has worked diligently to formulate a delicately balanced funding plan similar to the administration's tonnage fee proposal introduced earlier this year. This revised tonnage fee will raise enough revenue to support both the operating and shipbuilding elements of the House-passed bill.

We considered several different funding options and believe a tonnage tax is the best revenue source for maritime reform. The Coast Guard provides over $1 billion a year for a multitude of navigational and search-and-rescue services to U.S. and foreign vessels using our ports. The total revenues collected by this tax represent only a small portion of the cost of these services. The committee also made every effort to ensure that the bill does not violate GATT or any other international trade agreement.

If Congress does not pass H.R. 4003 this year, the U.S. merchant marine and shipbuilding industry will disappear. Without this legislation, thousands of U.S. jobs will be lost forever. We must vote for H.R. 4003 to prevent this national catastrophe. Passage of this bill will ensure that essential military equipment is carried on U.S.-flag vessels and commercial vessels will be built in this country. I strongly urge you to join us to save the U.S. merchant marine.

In closing, I would like to once again thank the gentleman from Virginia [Mr. BATEMAN] for the outstanding cooperation and work that he has done on this bill. Without his interest in this bill, we would not be standing here on this floor today hoping to pass this bill. Also I would like to thank the acting chairman of the Committee on Ways and Means, the gentleman from Florida [Mr. GIBBONS] for the outstanding cooperation that he gave to us in developing this legislation. We stand here today unfortunately with a difference of opinion on how to fund this particular piece of legislation, but I want to say that the gentleman from Florida [Mr. GIBBONS] gave us on the Committee on Merchant Marine and Fisheries an excellent opportunity to try to get our point of view across to his committee membership, and I thank him sincerely for that.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support H.R. 4003 as it is presently before the House, but if it is amended as is proposed here today, I would not be able to vote for it.

The bill was sequentially referred from the Committee on Merchant Marine and Fisheries to the Committee on Ways and Means because of the revenue provisions of the bill. The Committee on Ways and Means carefully considered this bill. We heard from the members of the Committee on Merchant Marine and Fisheries about what they wanted to do and how they proposed to finance it. We also received input from the public and the administration about the revenue provisions of the bill. So after due deliberation, we came up with a program to finance the amount of money that had been requested by the administration for the funding of this program. That sum was roughly $1 billion over the 10-year period. The dispute between the two committees here today is about the difference in the amount of money and the difference in the way in which the money will be collected.

Mr. Chairman, one of the reasons the Committee on Ways and Means limited its funding of this bill to about $1 billion is because the United States just entered into an agreement with all of the other shipbuilding nations of the world. This agreement was reached after the Committee on Merchant Marine and Fisheries reported their bill. In this agreement, the United States and the rest of the shipbuilding nations have agreed to forgo any additional subsidies to ships commencing in 1996, with the understanding that those ships that had been subsidized by that time can be completed but that no subsidies for those types of ships would be available to the construction of those ships for delivery after 1999.

That agreement in itself is a historic agreement. Ships have been subsidized ever since the Phoenicians built their first ships about 4,000 years ago. This is the first time the shipbuilding nations of the world have ever come together and agreed to put an end to the subsidies. Shipbuilding subsidies are a bad thing as far as the U.S. merchant marine is concerned and as far as the construction of ships is concerned. The United States eliminated its subsidies unilaterally here in an amendment known as Gramm-Latta in 1981, and in 1981 we put an end to all shipbuilding subsidies in the United States.

□ 1430

So in the years following Gramm-Latta, the U.S. shipbuilders have been at a disadvantage, but the shipbuilders are now enthused, I think by the fact that an international agreement has been reached which comes into effect January 1, 1996. In that agreement, we agreed solemnly with all of the rest of the shipbuilding nations that entered into this agreement that we would not create any additional or new subsidies. Yet we are faced here with a request by the Committee on Merchant Marine and Fisheries to create and to fund some additional subsidies in the shipbuilding area. So as a matter of principle for the United States, and as a matter of international law, I do not believe we should start any new subsidies. We have agreed not to, and we have told the rest of the world we should not. We do not want to be the first to renege on that.

The tonnage fee is an old, old tax. It goes back to the 1700's, and has been changed many times. But the change proposed by the Merchant Marine Committee is a rather dramatic change. The tonnage tax would be increased under the merchant marine proposal that will be put forward and debated here in a few minutes by many times its current level. Under the merchant marine amendment, all of the money would be raised by increasing the tonnage tax.

In fact, it is not only the amount of money that is involved but the way in

which it is raised that is at issue. The Merchant Marine and Fisheries Committee would rather raise all the financing through the tonnage tax. The Ways and Means Committee had a lot of objections from the public on that. We came up with a different way of raising the money. About half of it would be raised by the tonnage tax, and the other half would be raised by an international shipping fuels tax and by a ticket tax on cruises that cost more than $150.

Our fuels tax would not be levied on any trade exclusively in the Great Lakes, and would not be levied on any fishing vessels leaving the United States and landing back here. It would only be levied on ships engaged in international trade in the saltwater areas of the United States. So we think our method of raising the money and the amount of money raised is superior to that put forward by the Merchant Marine and Fisheries Committee. For that reason we would have to oppose the bill if it is amended as the Committee on Merchant Marine and Fisheries suggests.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to H.R. 4003, unfortunately for the same reasons that I have opposed cargo preference initiatives on this floor, because this bill, like its predecessors in the cargo preference, will severely damage agricultural exports because it will raise their costs and make them less competitive in world markets.

H.R. 4003, as modified by the Committee on Ways and Means, not only mandates a new uniform rate of 22 cents per net registered ton for all vessels, but also assesses an excise tax of 1 cent per gallon on all diesel fuel sold for use in commercial vessels departing the United States for foreign ports.

These taxes particularly hurt agricultural farmers, but these taxes also hit bulk commodities particularly extra hard. Bulk commodities, such as grain, fertilizers, and coal are extremely price-sensitive in the present competitive world market, and a few cents a ton in price can make the difference on whether a foreign purchaser decides to buy a U.S. commodity.

It is also important to point out that increasing the tonnage tax will damage United States exports to Mexico. A significant amount of grain exports from the United States to Mexico, probably in the area of 50 percent, still move by ocean vessel as well.

As a case in point, a typical gulf vessel would make approximately 10 to 12 calls on a U.S. port per year, and would have a net registered tonnage of 11,000 tons, and carry approximately 25,000 tons of corn. Under the tax provisions in H.R. 4003, this means an increase of $19,250 or 389 percent.

In the final analysis, Mr. Speaker, farmers, grain elevators, and barge companies which use the river system to move grain to ocean export points will be hurt at the expense of questionable subsidies for the maritime industry. I ask Members to vote "no" both on H.R. 4003 and on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

Mr. FIELDS of Texas. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of H.R. 4003. I want to compliment the gentleman from Massachusetts [Mr. STUDDS], chairman of the committee, and the gentleman from Texas [Mr. FIELDS], the ranking member on this work in this endeavor.

I hope Members listening to this debate understand one thing. We went from 1945 being the greatest maritime nation in the world, better than Britain which was the big one of all times until right now we are 16 in the total maritime fleets. We have 394 vessels left to ply the great seas of this world, 394 vessels. Panama has 3,040, Liberia has 1,550, China has 1,359, Cyprus has 1,210, and I can go on down the line. The largest importer in the world, the United States, the largest exporter in the world, the United States, and we are the least in the maritime industry in the whole world today. This is the last chance to retain and improve and to grow in the maritime industry.

We ought to have cargo preference, with all due respect to my good friend who just spoke. We ought to be shipping our goods abroad on American-crewed and American-built ships, and we ought to be bringing some of it into our shores as all other countries do today, and we do not.

Last year we started building new ships, two new ships being built for the maritime industry, two being built. In 1979 at least we had about 89 ships being built. In a short period of time we have gone to very nearly zero.

So I ask my colleagues to support the Merchant Marine and Fisheries Committee substitute. We are paying our share. It is in fact an ability to raise the money to pay for this program to the industry itself so that we can reinstate our greatness on the seas that we had in the past. If we do not do that today, we will never have the merchant marine fleet we should have for this great Nation.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my objection to H.R. 4003 in its current form is twofold. First of all, I oppose the more than $1 billion in new taxes that it contains. Make no mistake about it, this is an increase in taxes of over $1 billion. To me, that is a significant amount of money serving on the Ways and Means Committee that has to raise taxes.

Second, I question the maritime subsidy program for which those new taxes would be levied on American commerce. Again, make no mistake about it, it is a new entitlement program, an entitlement spending program that will not be subject to the budget spending caps.

□ 1440

The tonnage tax increase will fall hardest on trade with our Western Hemisphere neighbors, particularly Mexico. These export taxes will only serve to make America less competitive and essentially make inconsistent our policies under NAFTA and GATT.

Relative to current law, the tonnage tax is reduced for trade with Europe and the Far East under the Ways and Means title. There is a little deception at work here. Upon closer examination, the Ways and Means Committee negates the benefits of the tonnage tax reduction by increasing fuel costs for vessels traveling on our international seaways. This give with one hand and take away with another provision is a new and permanent 1-cent-a-gallon diesel tax on diesel, actually diesel and residual fuel tax, used in international shipping.

At first blush, a penny tax may not sound very harsh, but when you take into consideration that large ships carry 1 million gallons of fuel, then the penny tax grows to $10,000 per fill-up.

It has been estimated the fuel tax, when coupled with the tonnage tax increases, will significantly increase the cost of grain exports to this country. The remainder of the financing comes from an increase in the passenger excise tax on ship departures. This comes as an addition to the $6.50 customs fee that was put into the law just last year.

Second, the amendment would finance a new direct spending program, as I mentioned, ostensibly to ensure an American flag fleet on the high seas which would also be available in time of war and emergency. The Merchant Marine and Fisheries Committee has proposed a program which is called the Maritime Security Fleet which would provide an annual payment of over $2 million per vessel over the next 10 years. In exchange, vessels would have to fly the U.S. flag in theory and make their ships and crews available in time of war. The U.S.-flag part would be a requirement.

The theory is that the ships would be available in time of war. The current operating subsidy program contains a similar requirement for U.S.-flag vessels, and it was put to the test during the Persian Gulf war. Without going into great detail, we learned several things from our experiences. First, by

war's end, the Pentagon chartered 51 foreign roll-on-roll-off vessels and 7 American ships in order to be able to carry the tanks and the heavy equipment. So only seven ships even under a subsidy program that required the availability of American ships were American. Fifty-one were foreign.

Since then, the Pentagon has launched a multibillion-dollar acquisition and conversion plan. That is already out there independent of this bill.

Second, of the total of 77 of all types of subsidized American ships, only 22 were actually chartered by the Pentagon.

Finally, of the 365 commercial vessels chartered during the gulf conflict, less than one-half flew the Stars and Stripes. The deployment of troops and equipment in the gulf war was accomplished with a ready availability of foreign flag vessels, and most importantly, the United States did not force a single U.S. subsidized ship to carry any cargo during the conflict.

It is worth noting that an early draft of Vice President GORE's Reinvent Government recommended deregulation of the maritime industry. On this recommendation, the administration should have stayed the course. Instead, the Merchant Marine Committee program employs an old compass which has steered our maritime industry away from healthy competition. And even with the massive subsidy programs under current law, it has witnessed a rapid decline of American vessels.

Unfortunately, the Committee on Ways and Means provides a financial engine for a program which is not seaworthy as it is currently drafted. Worse, the engine is fueled by $1 billion of new and increased taxes on American trade.

I urge my colleagues to reject this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, I rise in strong support of the substitute amendment and passage of this bill as amended. Our Nation has an established history of a strong merchant marine. Unfortunately, that history has been changing and is about to end altogether. Shortly after World War II, the U.S. shipbuilding industry became the world's leading builder of military and commercial ships. Just a few decades later, that same industry is struggling to survive. The impacts of this decline are devastating.

Not only are there the obvious impacts in lost jobs, wages, and tax revenues but there are the impacts of our national defense capabilities. If this decline continues unabated, our military will not have U.S.-flag vessels necessary for sealift capabilities; our reserve fleet will be inoperable due to a lack of trained merchant seamen; and, foreign shipowners will control the price and availability of ships.

Our military forces today must be prepared to fight with less notice, and must be able to win in shorter order than ever before. These requirements mean that first, our force structure must allow us to respond quickly to contingencies, no matter how suddenly they arise or how far away they are, and second, we must have an increasingly capable industrial base to support the needs of our forces.

With the proliferation of highly lethal weapons, warning times for an attack are greatly reduced. We no longer have the luxury of being able to "tool up" for conflicts. These military requirements become impossible to achieve if we lose our ability to manufacture and repair defense capable ships.

Given these national defense needs, it is imperative that we pass this necessary legislation with the funding levels provided for in the merchant marine amendment. This amendment provides not only ship operating subsidies but also shipbuilding subsidies. It does so at a level of $1.3 billion raised over 10 years without the imposition of new taxes. This is a full $300 million above the Ways and Means Committee proposal. While I respect and admire the leadership provided by the Ways and Means Committee on this issue, I must urge my colleagues to support the merchant marine funding proposal. As the committee with jurisdiction over the merchant marine and maritime industry, it is the Merchant Marine and Fisheries Committee proposal which best reflects the needs of that industry and which best provides for its recovery and long-term health.

Mr. Chairman, I strongly urge my colleagues to support the Merchant Marine Committee amendment providing for an alternative funding mechanism and an adequate funding level. Thank you. I yield back the balance of my time.

The CHAIRMAN. The Chair would inform the committee that the gentleman from Massachusetts [Mr. STUDDS] has 5 minutes remaining in general debate; the gentleman from Texas [Mr. FIELDS] has 5½ minutes; the gentleman from Florida [Mr. GIBBONS] has 9 minutes remaining; and the gentleman from Texas [Mr. ARCHER] has 7 minutes remaining.

The Chair would also inform Members that the order of closing for general debate is as follows: The gentleman from Texas [Mr. ARCHER] would be the first to speak, the gentleman from Florida [Mr. GIBBONS] would be the second, the gentleman from Texas [Mr. FIELDS] would be the third, and the gentleman to close debate would be the gentleman from Massachusetts [Mr. STUDDS].

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, let us make sure we understand what this debate is not about. It is not about national defense. It is not about the security of the United States. And it is not about making sure that we simply tip the balance in the difference between survival in the area of maritime.

Most of you have watched a railroad car go by, trains go by at railroad crossings nowadays, and there are no cabooses on those railroads. The reason there are not any cabooses is because we decided to get rid of featherbedding in railroads, and the cabooses were the primary example of featherbedding. We had folks who were not really working on those trains riding in the cabooses. We simply decided to get rid of the featherbedding, so you could get rid of the cabooses.

What we have in front of us today is a proposition that we take 50 ships, 21 sailors a ship, 2 crews a year, 42 sailors a year, for 50 ships. Divide that into the amount of money that they are asking for, and it comes out to $50,000 a sailor, a small price to pay for national security. The only trouble is these folks are not ready, are not used, and are not needed. They do not offer the kind of ship that the military needed in our most recent military engagement in the Middle East. We charter those ships.

If you want to do something about national security, take this money and set it aside so that when we need it we can charter those ships with a trust fund available for the chartering of the ships, if you are concerned about national security.

□ 1450

If you are concerned about the role of the United States maritime in the world today, take a look at the fundamental laws of economics under which we operate. If you want to repeal some of those, we can go back in time and be a major maritime country. What we are doing here is asking for a small subsidy relative to the bigger picture for a small group of folk who do not want to change.

Do not believe this vote has anything to do with national security. It has to do with an attempt to perpetuate a way of life that ought to go the way of the caboose.

If you let economics determine, you will not do this; if you let sentiment and inside politics prevail, then you are going to vote this little subsidy to keep the hope and the promise alive under the false presumption you are doing something in the name of national security.

This is how you wind up, bit by bit, piece by piece, with a $200 billion-per-year deficit. Do not do it.

Vote no.

Mr. FIELDS of Texas. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. I thank the gentleman for yielding this time to me.

Mr. Chairman, I ask our esteemed colleague, Mr. THOMAS of California, a rhetorical question:

How can you charter something that doesn't exist?

A few minutes ago, the esteemed chairman of the Ways and Means Committee talked about the new agreement negotiated within the OEECD as a reason why the Congress should not vote in the amendment whose purpose is to enable building of those merchant vessels we need to help the flow of commerce to and from the United States.

I would like to point out here that the negotiations within the OEECD have been ongoing for some 6 years under pressure from the United States. The only reason they have reached the point as announced was because of the overwhelming passage of H.R. 2151 last year and the progress of H.R. 4003 in recent days.

In that so-called agreement, any ship contract negotiated before the signing can continue up until 1999. This means that the $8 billion subsidy now being paid to the shipyards within the OEECD can continue up until 1999. And there is no limitation on the capacity or expansion. And the agreement is nowhere near finished. In fact, we understand France is endeavoring to be allowed to set its own terms for its yards and ships.

And Belgium, Spain, Portugal, and Korea are asking to have their yards grandfathered so they can continue as they have in the past. And Spain is seeking to establish a new $1.4 billion program.

So I question how real the OEECD agreement is and want to point out that the congressional committees have not been able to obtain a copy of that agreement. How real is it?

Mr. Chairman, on June 6 of this year, we all watched in awe the replay of the D-Day landing at Normandy 50 years earlier which was the turning point of World War II.

Mr. Chairman, all segments of the Armed Forces were praised and their exploits recounted time and again on this anniversary occasion—that is, all sectors except one even though that one was most often in view on those 50-year-old films.

That segment of course, was the merchant marine. There were 2,700 U.S. built and U.S. manned merchant ships providing the supplies needed by our brave men and women for that historic invasion to liberate mainland Europe. Our country was able to provide not only those 2,700 vessels—but double that number—in 4 short years because the United States had an industrial base from which to begin that vast shipbuilding program.

The United States led the free world to victory because its skilled men and women worked round the clock and because it had the machine shops, the machine tool companies, and the shipyards to send the ships down the ways.

That type of industrial strength enables the United States of America not only to lead but to become a true power in the industrial world because of the far-reaching ramifications of these many segments that made America a strong industrial nation.

We will retain a small part of that vital industry if today this House votes in favor of the Merchant Marine and Fisheries amendment to title II of H.R. 4003. And we will have a nucleus merchant fleet flying the Stars and Stripes proudly on the fantails of the ships, ready to provide the kind of protection and competition to American shippers who otherwise would be at the mercy of foreign-flag fleets. History has proven that our shoreside shippers truly are taken over the coals when American vessels disappear from the horizon.

With this bill, our Nation will have a fleet on which it can count and it will have a maritime manpower base and intermodal cargo carrying capability essential to strong sealift under our own control.

Mr. Speaker, I endorse H.R. 4003 and urge strong support for its final passage today as well as for the Merchant Marine and Fisheries Committee's amendment.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The Speaker pro tempore (Mr. MCNULTY) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The committee will resume its sitting.

MARITIME ADMINISTRATION AND PROMOTIONAL REFORM ACT OF 1994

The committee resumed its sitting.

Mr. GIBBONS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ARCHER. Mr. Chairman, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank our ranking member, the gentleman from Texas [Mr. FIELDS], for yielding this time to me. I want to take even a part of this precious 2 minutes to express my appreciation and admiration for the chairman of our committee and the chairman of the subcommittee who made it possible for us to bring this totally bipartisan effort to the floor.

It is not an overstatement to suggest that unless we fund H.R. 2151, which we overwhelmingly passed last year, the last American-flag vessel will disappear from the seas of the world. That is not a theory, that is a fact. And with the last American-flag vessel we will lose the capability in the future to man American ships to haul our international commerce, especially to look after our national security concerns in the future.

Without funding all of H.R. 2151, including the series transition payment to shipbuilders, American shipbuilding will not be able to get on that so-called competitive level playing field after 1999.

Let me emphasize to my colleagues in the House that we have not signed an international agreement. The agreement has not even been reduced to writing and ready for signature. It is not contemplated that anyone will sign it until after October.

Even if signed in the form in which it has been negotiated, as discussed with me by the principal American negotiator, it protects the subsidies of other nations who have, and for some time and continue now, in their authority to continued subsidy practices in practical terms until 1999.

For the American shipbuilding industry we ask only a very modest pittance for a transition program that would end before any agreement comes into effect which will permit American shipbuilders to be competitive in that international marketplace.

Mr. ARCHER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FIELDS of Texas. Mr. Chairman, I yield myself the remaining minute.

I think it is important for my colleagues to ask themselves what is at stake here, what is this debate really all about? You can crystallize the debate fairly simple: It is about 250,000 jobs, jobs that both operate ships and jobs that build ships. We are talking about closed shipyards if this particular piece of legislation is not passed; we are talking about diminished national security; we are talking about whether this country can move commerce.

We are talking about what I think is a fundamental question, and that is whether we as a country will continue to have control over our own destiny? I do not think there is a more fundamental question that can be put to this House, and I encourage my colleagues to support not only the legislation but the amendment that is brought in the nature of a substitute by the Committee on Merchant Marine and Fisheries.

Mr. STUDDS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to commend all those who have spoken. This is a very, very important matter. I think members understand that.

I would insist, however, that this really is a debate, among other things, about national security, and anyone who doubts that should really contemplate the very real possibility of the next century dawning with this Nation as the only superpower on Earth having no ships in foreign commerce flying our flag, none. The principal operators have already notified us of their intention to go foreign flag within a year if we do not enact the legislation before us. And at the same time, this Nation being without the capacity to build such a vessel, even, will have diminished our capacity to do the one thing, one thing we do know how to do, which is build naval vessels for military purposes. It is fundamentally a question of national security.

Nor is it simply a question of the basic law of economics. Every other shipbuilding nation in the world—and, hopefully, this agreement will change that—but to date it subsidizes their vessels in the shipbuilding industry.

□ 1500

There are consequences that flow from that, and there are jobs at stake, lots of very good jobs, jobs in operating vessels, jobs in building vessels. There is a lot at stake here.

One final observation:

This is not an uncapped entitlement as was suggested. We are strictly PAYGO here. Nothing is spent that is not paid for by this bill. It is not an open-ended entitlement. It is terribly important, and once again I want to commend especially the members of our committee who have in a bipartisan fashion done themselves, all of us, I think, proud in this House.

Ms. SNOWE. Mr. Chairman, our maritime industries are fast becoming likely candidates for top spots on the endangered species list, and our actions today can reverse this rush to extinction. And that is the clear choice before us today—extinction or survival. But we can—and should—change that right now. And it is a change that is necessary not only for our shipyards, but for the industry, for American jobs, and even for our national security.

To those who might doubt the severity of decline of our commercial shipbuilding industry, I offer a quick lesson in the facts.

Consider that, in 1960, the United States privately owned, oceangoing fleet ranked fourth in the world with over 1,000 ships. In 1993, our fleet consisted of only 384 ships and is ranked 16th in the world and behind such nations as Malta, Panama, Liberia, and China.

Consider that in 1981 our Nation's shipyards employed 186,700 men and women. Ten years later, 50 of those shipyards have vanished and shipyard jobs have fallen to 129,300, and total job loss by 1998 will be almost 160,000.

Consider that between 1965 and 1992, the number of jobs on privately owned, large oceangoing American vessels decreased from about 51,000 to just over 9,150.

To be successful in our national security interest, we must be—as a nation—successful in our commercial shipbuilding capabilities as well. The two are clearly dependent on one another. For example, a March 1994, DOD report on the adequacy of our shipbuilding industry identified a clear, long-term national security benefit from the successful reentry of the global commercial shipbuilding market by American shipbuilders, and it stated that "the best long-term solution to maintain a robust shipbuilding industrial base is to obtain a respectable percentage of the global commercial shipbuilding market."

And to do this, the commercial shipyards of the United States must be able to rely on the support of the U.S. Government. And that means adequate subsidies.

The Gibbons bill contains maritime subsidies—but only for shipping lines, and not for our shipyards. Isn't it important that, 5 years from now, we are able to ensure that there is a fair and equitable amount of American-made commercial ships traveling on those shipping lines?

By providing subsidies for the ship lines and not our shipyards, the Gibbons bill would have the same effect of providing funds to build and maintain miles and miles of American roads, but doing nothing to help ensure that American cars travel those roads.

Certainly, no one is questioning the merits of a level playing field for commercial shipbuilding between major industrialized nations: according to the Paris agreement, all government subsidies are to cease on January 1, 1999. After that time, the commercial shipbuilding industries of the signatories will operate on the same basis.

What we must take a good, hard look at is what occurs in the years between 1994 to 1999. Mr. Speaker, it is the next 5 years that will in effect determine whether our commercial shipbuilding industry even survives economically to be able to compete after the year 1999. That is the issue here today. So, while foreign governments heavily subsidize their shipbuilding industries, American shipyards will remain shutout and in danger of being shutdown. In Spain alone, new subsidy aid will be permitted to the extent of $1.4 billion even before the 1999 cutoff date. Is that a sign of a fair agreement?

Mr. Chairman, I can tell you from personal experience that this bill and this issue are critically important to my State. Bath Iron Works is the largest private employer in the State of Maine. It is over 100 years old and it is currently the Navy's lead shipyard for the construction of *Aegis* destroyers. For decades, BIW has proven that it can build the world's best warships.

Now BIW has embarked on an ambitious 5-year plan to turn its skills and resources toward building world-class merchant ships at world prices. But it, and shipyards like it, need our help to make their plan a success.

There is a large international shipbuilding market which is projected to grow at a modest rate in the next 5 to 10 years. But world shipbuilding capacity is potentially greater than this market demand, thus only the most efficient shipyards will prosper in the long run—BIW intends to be one of those shipyards.

BIW has made a commitment to invest in the technologies and process needed to compete in the next century's international shipbuilding market. But what BIW needs most is a level playing field in the international market.

But because of the flaws in the new international subsidy agreement, that level playing field won't materialize until 1999. We must provide BIW, and other shipyards dependent on naval construction, with the assistance necessary to survive and prosper when that level playing field arrives.

Mr. Chairman, that's what it comes down to—extinction or survival. We need to act today to take our shipyards and other maritime industries off the endangered species list and place them squarely on the road to survival.

Mr. DELLUMS. Mr. Chairman, I cannot stress too strongly how essential H.R. 4003 is to the future well-being of our country. For more than 200 years, from before the birth of the United States of America, an active merchant fleet has been a necessary component of our economy and national security. In wars large and small, in the peacetime commerce of our farms and factories, U.S.-flag commercial shipping has represented a reliable and cost-effective means of transport.

Today, we are in great danger of losing this national treasure. Most of our maritime promotional programs have either ended or are slated for extinction. So far, nothing has been produced to fill the void, thereby throwing the domestic registry into chaos. Without a stable economic environment, private investors are understandably hesitant about making the huge capital investments that new shipping assets entail.

As for existing assets, they too will disappear. The two largest U.S.-flag liner operators, Sea-Land Service and American President Lines, have applied to reflag a substantial number of their ships under a foreign registry. There is no reason to think that this is an isolated action. On the contrary, we can reasonably expect a wholesale flight from the U.S. flag; that is, if we in the Congress are unwilling to provide our citizens with the tools they need to compete against the unfair trading practices and substandard manning and safety regulations of the foreign flags.

H.R. 4003 is a wake-up call to our Nation. It reconfirms our commitment to providing for a merchant marine of sufficient strength to serve as a strategic asset during times of war, and as a source of jobs and prosperity during times of peace. It is a step back from the precipice to which our past inaction has brought us. It is our last, best chance of saving an essential piece of America. I urge my colleagues in joining me in support of the merchant marine panel's amendment to H.R. 4003.

Mr. ABERCROMBIE. Mr. Chairman, often overlooked in the debate over maritime policy is what it means to average citizens, who despite low-interest rates are hesitant to buy a new car or a home. They all know someone, a relative or a friend, who recently lost a job, and they are afraid that next time it will be their turn. With the economic recovery sluggish at best, Members need to ask themselves

whether we can afford to lose yet another major industry.

For lose it we will if we fail to act to support full funding for maritime reform. Already, U.S.-flag operators are poised to register their vessels offshore. An entire generation of skilled labor is being lost, perhaps forever.

What is going to happen to the port communities along our thousands of miles of coastline and inland waters? What are we going to do with the tens of thousands of workers who will be cast aside by a disappearing maritime industry? What about factory workers whose plants need dependable waterborne transportation to get raw materials and to ship finished goods to market?

While we quibble about the cost of a new maritime program, we ignore the enormous social cost of inaction. I, for one, would prefer to help keep shipboard workers actively employed, rather than incur the revenue losses and welfare costs of giving them a pink slip.

Yes, by all means, let us support maritime reform for its role in national defense. But let us not forget that the jobs of our constituents also hang in the balance. A vote for final passage of H.R. 4003 are votes cast for them.

Mrs. UNSOELD. Mr. Chairman, I would first like to commend the chairman of the Ways and Means Committee for the way in which he worked with the Merchant Marine and Fisheries Committee on this important piece of legislation. I also wish to commend Chairman STUDDS, Chairman LIPINSKI, and the ranking minority member of the Merchant Marine and Fisheries Committee, JACK FIELDS, for their tireless work to bring maritime reform legislation to the floor.

I rise to urge my colleagues to support the rule and the Studds/Fields amendment that will be offered later this afternoon. I do so because the fate of the amendment will spell the difference between whether our domestic maritime industry will get a huge boost or only a slight nudge in the right direction.

The case for meaningful maritime reform legislation and for the Studds/Fields amendment can best be made by keeping in mind a few telling statistics:

Two thousand American-flagged vessels plied international waters 50 years ago, while less than 200 do so today.

Fifty years ago, if you measure by total tonnage, we were the leading shipping nation in the world. Today we are ninth.

Fifty years ago our ocean going vessels provided 250 thousand American jobs, today only one-tenth of those jobs remain.

Fifty years ago, 1.5 million Americans received pay checks working in our shipyards. Today, our yards employ 125,000.

Our final statistic makes the need for the Studds/Fields amendment and for maritime reform abundantly clear. Today, only 4 percent of American goods shipped abroad go on vessels flying an American flag. I'll repeat that—only 4 percent of goods produced in our country and sent overseas on ships go on U.S.-flag vessels.

Today, our economy is growing again. Yet despite progress and significant growth in gross national product, unemployment rates remain frustratingly high. That's not new. We've been faced with unacceptably high unemployment rates too long. With that in mind, no one should be cavalier about the significance of preserving American jobs in American shipyards, on American vessels, and at American ports.

Maritime reform is also about national security. They may not be as glamorous as the newest stealth technology, but without the basic ability to get our troops, equipment and supplies where they need to be in an emergency, we're sunk. It is a never ending frustration that some people are so enamored of new high-priced weaponry that they disregard the nuts and bolts of security. We dare not take this vital security resource for granted.

If this body does the right thing and passes the Studds/Fields amendment, it will provide the means to allow twice as many ocean-going ships to fly the U.S. flag. That means more jobs for our workers and greater security for our country. It will also mean that maritime reform will have smoother sailing from here on it. If we fail to adopt the Studds/Fields amendment the maritime reform effort may end up on the rocks and we will have missed our last best chance to save the American merchant marine.

Make no mistake, whether we enact real maritime reform legislation this year is crucial. Without it we will lose well-paying jobs and much of the remaining infrastructure needed to build and repair ships. Without it, the last remnants of our ocean-going maritime fleet will likely vanish and we will be left to go shopping at "rent a fleet" the next time a national security emergency erupts.

I urge my colleagues to support the Studds/Fields amendment and then to pass H.R. 4003.

Ms. PELOSI. Mr. Speaker, I rise in support of the amendment offered by the chairman of the Merchant Marine and Fisheries Committee, Mr. STUDDS, to H.R. 4003, the Maritime Administration Authorization Act. This legislation would raise $1.35 billion over the next 10 years through an increase in existing tonnage fees collected from ships that arrive in U.S. ports. These revenues could then be used for direct assistance contracts under the proposed new shipbuilding and ship operating programs.

Mr. Speaker, U.S. shipbuilders and operators are subject to higher standards for safety, health, and employment than their foreign counterparts.

This, in combination with the subsidies that foreign yards receive, gives foreign operators a clear advantage because their vessels are less expensive to construct and operate. By voting "yes" on the Studds amendment, Congress has the opportunity to not only preserve, but to create, jobs for American seafaring and shipbuilding workers and to increase the competitiveness of the U.S.-flag commercial fleet. Over the last two decades, the number of U.S. ships in the merchant marine has been reduced from 798 to 385. This decline must be stopped. This amendment and the bill itself is an effort to ensure that the United States retains a merchant marine built in America, owned by Americans, and crewed and maintained by American sailors. I urge my colleagues to support the Studds amendment and vote for the passage of H.R. 4003.

Mr. STUDDS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries printed in the bill, modified by the amendment recommended by the Committee on Ways and Means printed in the bill, and by the amendment printed in part 1 of House Report 103-646, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 4003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maritime Administration and Promotional Reform Act of 1994".

TITLE I—MARITIME ADMINISTRATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Maritime Administration Authorization Act for Fiscal Year 1995".

SEC. 102. AUTHORIZATIONS FOR THE MARITIME ADMINISTRATION.

(a) AUTHORIZATIONS.—For fiscal year 1995, there are authorized to be appropriated to the Secretary of Transportation for use for the Maritime Administration the following amounts:

(1) Any amounts necessary to liquidate obligations under operating-differential subsidy contracts for the fiscal year 1995 portion of the total contract authority.

(2) $43,076,000 for expenses related to manpower, education, and training, including—

(A) $30,701,000 for maritime training at the United States Merchant Marine Academy at Kings Point, New York;

(B) $10,525,000 for assistance to the State maritime academies (including reimbursement of fuel costs associated with the operation of training vessels), of which $1,200,000 may be used for training simulators for the State maritime academies; and

(C) $1,850,000 for manpower and additional training.

(3) $35,124,000 for operating programs, including—

(A) $20,866,000 for general administration;

(B) $9,216,000 for development and use of water transportation systems;

(C) $3,627,000 for research, technology, and analysis; and

(D) $1,415,000 for national security support capabilities.

(4)(A) $248,800,000 for the National Defense Reserve Fleet (including the Ready Reserve Force component of that fleet), including—

(i) $228,448,000 for maintenance and operations in support of the Ready Reserve Force;

(ii) $6,352,000 for maintenance and operations in support of the National Defense Reserve Fleet;

(iii) $4,000,000 for facilities; and

(iv) $10,000,000 to repair and convert the vessel T-AGS 39 MAURY for use as a training vessel at the California Maritime Academy.

(B) As a condition of making any payment from amounts appropriated under subparagraph (A)(iv), the Secretary shall require that the California Maritime Academy agree to make the T-AGS 39 MAURY available to the Ready Reserve Force of the National Defense Reserve Fleet upon request by the Secretary and the Secretary of Defense.

(5) $4,000,000 to pay administrative costs related to new loan guarantee commitments under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), relating to Federal ship mortgage insurance.

(6) $50,000,000 for costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of new loan guarantee commitments under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.).

(b) USE OF PROCEEDS OF SALES.—Notwithstanding any other provision of law and subject to the availability of appropriations, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels, that are currently collected and retained by the Maritime Administration, as follows:

(1) For facility and ship maintenance, modernization and repair, acquisition of equipment, training simulators, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and the State maritime academies.

(2) The Secretary shall pay from those proceeds $4,000,000 to the California Maritime Academy to repair and convert the vessel T-AGS 39 MAURY for use as a training vessel at the Academy.

(3) The Secretary shall pay from those proceeds up to $50,000 to the Great Lakes Maritime Academy for operation of the training vessel of the Academy.

SEC. 103. REIMBURSEMENT OF CERTAIN FEES BY STATE MARITIME ACADEMIES.

(a) CONDITION OF ASSISTANCE.—Section 1304(d) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295(d)) is amended by adding at the end the following:

"(3)(A) Subject to subparagraph (B), an agreement under this subsection shall require a State maritime academy to reimburse each qualified individual for any fee or charge for which the individual is liable to the United States for—

"(i) the issuance of an entry level license under chapter 71 of title 46, United States Code;

"(ii) the first issuance of a merchant mariner's document under chapter 73 of that title;

"(iii) an evaluation or examination for such a license or merchant mariner's document conducted before the end of the period described in subparagraph (D)(ii); or

"(iv) an application for such a license, merchant mariner's document, evaluation, or examination.

"(B) A State maritime academy shall reimburse qualified individuals under subparagraph (A) to the extent amounts are available under subparagraph (C).

"(C) In addition to annual payments under paragraph (1)(A) and subject to the availability of appropriations, the Secretary shall pay annually to each State maritime academy that enters into an agreement under paragraph (1) amounts to reimburse qualified individuals under subparagraph (A).

"(D) In this paragraph, the term 'qualified individual' means an individual who—

"(i) is attending or is a graduate of a State maritime academy;

"(ii) fulfills the requirements for a license or merchant mariner's document described in subparagraph (A) not later than 3 months after the date the individual graduates from a State maritime academy; and

"(iii) is liable for a fee or charge described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) is effective October 1, 1994.

(c) AMENDMENT OF EXISTING AGREEMENTS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Transportation shall amend agreements under section 1304(d) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(d)) pursuant to the amendment made by subsection (a).

(d) ADDITIONAL APPROPRIATIONS AUTHORIZED.—In addition to amounts authorized to be appropriated in section 102 for assistance to State maritime academies, there is authorized to be appropriated $300,000 for fiscal year 1995 to reimburse qualified individuals pursuant to the amendment made by subsection (a).

SEC. 104. TERMINATION OF CONDITION FOR STATE MARITIME ACADEMY ASSISTANCE.

(a) IN GENERAL.—Section 1304(f)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(f)(1)) is amended to read as if section 3 of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 692), had not been enacted.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective October 13, 1989.

(c) CLERICAL AMENDMENTS.—

(1) Section 3 of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 692), is repealed.

(2) Section 706 of the Federal Maritime Commission Authorization Act of 1990 (46 App. U.S.C. 1295c note) is repealed.

SEC. 105. MAINTENANCE CONTRACTS FOR NATIONAL DEFENSE RESERVE FLEET VESSELS.

The Secretary of Transportation may enter into a contract for the maintenance of the National Defense Reserve Fleet, including the Ready Reserve Force, only for—

(1) the repair, activation, operation, berthing, towing, or lay-up of a vessel;

(2) a vessel used by a State maritime academy; or

(3) obtaining maintenance technical services when—

(A) the technical expertise required for that service is beyond the capabilities of the Fleet staff or when the Fleet has insufficient personnel resources to adequately maintain the Fleet; and

(B) the contract does not result in reducing employment at the Fleet site.

SEC. 106. MAINTENANCE OF READY RESERVE FORCE VESSELS IN REDUCED OPERATING STATUS.

The Secretary shall, during fiscal year 1995, maintain in a reduced operating status—

(1) at least 29 vessels in the Ready Reserve Force component of the National Defense Reserve Fleet, or

(2) a lesser number of those vessels that the Secretary determines to be practicable based on the appropriations available for that fiscal year for maintenance of vessels in that force.

SEC. 107. VESSEL REPAIR AND MAINTENANCE PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a pilot program to evaluate the feasibility of using long-term contracts for the maintenance and repair of outported vessels in the Ready Reserve Force to enhance the readiness of those vessels. Under the pilot program, the Secretary, subject to the availability of appropriations and within 6 months after the date of the enactment of this Act, shall award 9 contracts for this purpose.

(b) USE OF VARIOUS CONTRACTING ARRANGEMENTS.—In conducting a pilot program under this section, the Secretary of Transportation shall use contracting arrangements similar to those used by the Department of Defense for procuring maintenance and repair of its vessels.

(c) CONTRACT REQUIREMENTS.—Each contract with a shipyard under this section shall—

(1) subject to subsection (d), provide for the procurement from the shipyard of all repair and maintenance (including activation, deactivation, and drydocking) for 1 vessel in the Ready Reserve Force that is outported in the geographical vicinity of the shipyard; and

(2) be effective for 3 years.

(d) LIMITATION OF WORK UNDER CONTRACTS.—A contract under this section may not provide for the procurement of operation or manning for a vessel that may be procured under another contract for the vessel to which section 11(d)(2) of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1774(d)(2)) applies.

(e) GEOGRAPHIC DISTRIBUTION.—The Secretary shall seek to distribute contract awards under this section to shipyards located throughout the United States.

(f) REPORTS.—The Secretary shall submit to the Congress—

(1) an interim report on the effectiveness of each contract under this section in providing for economic and efficient repair and maintenance of the vessel covered by the contract, no later than 20 months after the date of the enactment of this Act; and

(2) a final report on that effectiveness no later than 6 months after the termination of all contracts awarded pursuant to this section.

SEC. 108. AMENDMENTS RELATING TO COAST GUARD MARITIME ACADEMY RESERVE TRAINING PROGRAM.

(a) NAVAL RESERVE STATUS.—Section 1304(g)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(2)) is amended by inserting before the period the following: ", unless the individual participates in the Coast Guard Maritime Academy Reserve Training Program".

(b) RESERVE SERVICE OBLIGATION.—Section 1304(g)(3)(D) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(3)(D)) is amended by—

(1) inserting "(i)" after "commissioned officer";

(2) inserting "(except as provided in clause (ii))" after "the United States Coast Guard Reserve"; and

(3) inserting before the semicolon at the end the following: "; or (ii) in the United States Coast Guard Reserve for such period following that date of graduation as may be established by the Secretary of the department in which the Coast Guard is operating, in the case of an individual that participates in the Coast Guard Maritime Academy Reserve Training Program".

(c) PENALTIES FOR FAILURE TO FULFILL INCENTIVE PAYMENT AGREEMENT.—Section 1304(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)) is amended—

(1) in paragraph (4) by inserting ", except as provided in paragraph (8)," after "such individual may";

(2) in paragraph (5) by inserting ", except as provided in paragraph (8)," after "such individual may"; and

(3) by adding at the end the following:

"(8)(A) Paragraphs (4) and (5) shall not apply to a failure to fulfill a part of an agreement, by an individual who—

"(i) is enlisted in the United States Coast Guard Reserve; and

"(ii) participates in the Coast Guard Maritime Academy Reserve Training Program.

"(B) If the Secretary determines that an individual described in subparagraph (A) has failed to fulfill any part of the agreement (required by paragraph (1)) described in paragraph (3), the individual may be ordered to active duty in the Coast Guard to serve for a period of time determined by the Commandant of the Coast Guard, not to exceed 2 years. In cases of hardship as determined by the Secretary, the Secretary may waive this subparagraph.".

(d) COAST GUARD MARITIME ACADEMY RESERVE TRAINING PROGRAM DEFINED.—Section 1304(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)), as amended by this section, is further amended by adding at the end the following:

"(9) In this subsection, the term 'Coast Guard Maritime Academy Reserve Training Program'

means that program established by the Commandant of the Coast Guard, as in effect on the date of the enactment of the Maritime Administration Authorization Act for Fiscal Year 1995.".

SEC. 109. MERCHANT SHIP SALES ACT OF 1946 AMENDMENT.

Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended as follows:

(1) In subsection (b)(2) by striking "Secretary of the Navy," and inserting "Secretary of Defense,".

(2) By striking subsection (c) and redesignating subsection (d) as subsection (c).

SEC. 110. REEMPLOYMENT RIGHTS FOR CERTAIN MERCHANT SEAMEN.

(a) IN GENERAL.—Title III of the Merchant Marine Act, 1936 (46 App. U.S.C. 1131) is amended by inserting after section 301 the following new section:

"SEC. 302. (a) An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38, United States Code, for any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty.

"(b) An individual may submit an application for certification under subsection (c) to the Secretary of Transportation not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

"(c) Not later than 20 days after the date the Secretary of Transportation receives from an individual an application for certification under this subsection, the Secretary shall—

"(1) determine whether or not the individual—

"(A) was employed in the activation or operation of a vessel—

"(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946, in a period in which that vessel was in use or being activated for use under subsection (b) of that section;

"(ii) that is requisitioned or purchased under section 902 of this Act; or

"(iii) that is owned, chartered, or controlled by the United States and used by the United States for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

"(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or chapter 73 (as applicable) of title 46, United States Code; and

"(2) if the Secretary makes affirmative determinations under paragraph (1) (A) and (B), certify that individual under this subsection.

"(d) For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate referred to in paragraph (1) of section 4301(a) of title 38, United States Code.".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to employment described in section 302(c)(1)(A) of the Merchant Marine Act, 1936, as amended by subsection (a), occurring after August 2, 1990.

(c) EMPLOYMENT ENDING BEFORE ENACTMENT.—Notwithstanding subsection (b) of section 302 of the Merchant Marine Act, 1936, as amended by this Act, an individual who, in the period beginning August 2, 1990, and ending on the date of the enactment of this Act, completed a period of employment described in subsection (c)(1)(A) of that section may submit an application for certification under subsection (c) of that section with respect to that employment not later than 45 days after the date of the enactment of this Act.

(d) REGULATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations implementing this section.

SEC. 111. PILOT PROGRAM ON SEALIFT TRAINING.

The Secretary of Transportation shall establish, subject to the availability of appropriations in addition to the amount authorized to be appropriated under section 102(a)(2), a 3-year period pilot program for Sealift Training at the Massachusetts Maritime Academy.

SEC. 112. MASSACHUSETTS CENTER FOR MARINE ENVIRONMENTAL PROTECTION.

The Secretary of Transportation shall pay, subject to the availability of appropriations in addition to the amount authorized to be appropriated under section 102, $242,000 to the Massachusetts Maritime Academy for assistance to the Massachusetts Center for Marine Environmental Protection.

SEC. 113. REPORT ON SEALIFT MANPOWER MOBILIZATION PROGRAM.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall submit a report to the Congress on—

(1) the feasibility of conducting on Ready Reserve Force vessels a program to familiarize civilian merchant mariners with the operation of those vessels, for the purpose of facilitating national defense mobilizations involving those vessels; and

(2) the ability of the Coast Guard to track the availability of qualified civilian merchant mariners for service on those vessels during those mobilizations.

SEC. 114. VESSEL DOCUMENTATION.

Notwithstanding section 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the fisheries for the vessel ABORIGINAL (United States official number 942118).

SEC. 115. MARITIME POLICY REPORT.

(a) REPORT.—The Secretary of Transportation shall transmit to the Congress a report setting forth the Department of Transportation's policies for the 5-year period beginning October 1, 1994, with respect to—

(1) fostering and maintaining a United States merchant marine capable of meeting economic and national security requirements;

(2) improving the vitality and competitiveness of the United States merchant marine and the maritime industrial base, including ship repairers, shipbuilders, ship manning, ship operators, and ship suppliers;

(3) reversing the precipitous decrease in the number of ships in the United States-flag fleet and the Nation's shipyard and repair capability;

(4) stabilizing and eventually increasing the number of mariners available to crew United States merchant vessels;

(5) achieving adequate manning of merchant vessels for national security needs during a mobilization;

(6) ensuring that sufficient civil maritime resources will be available to meet defense deployment and essential economic requirements in support of our national security strategy;

(7) ensuring that the United States maintains the capability to respond unilaterally to security threats in geographic areas not covered by alliance commitments and otherwise meets sealift requirements in the event of crisis or war;

(8) ensuring that international agreements and practices do not place United States maritime industries at an unfair competitive disadvantage in world markets;

(9) ensuring that Federal agencies promote, through efficient application of laws and regulations, the readiness of the United States merchant marine and supporting industries; and

(10) any other relevant maritime policies.

(b) DATE OF TRANSMITTAL.—The report required under subsection (a) shall be transmitted along with the President's budget submission, pursuant to section 1105 of title 31, United States Code, for fiscal year 1996.

SEC. 116. TITLE XI LOAN GUARANTEES.

Title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.) is amended—

(1) in section 1101(b), by striking "owned by citizens of the United States";

(2) in section 1104B(a), in the material preceding paragraph (1), by striking "owned by citizens of the United States"; and

(3) in section 1110(a), by striking "owned by citizens of the United States".

SEC. 117. STUDY OF FEASIBILITY OF SHIP REPAIR DIFFERENTIAL ASSISTANCE PROGRAM.

(a) STUDY.—The Secretary of Transportation shall conduct a study of the feasibility of establishing a program of financial assistance to qualified ship repair yards, to make those yards more competitive in international ship repair markets by paying to those yards the difference between the cost of repairing vessels in those yards and the cost of repairing vessels in foreign ship repair yards.

(b) REPORT.—The Secretary of Transportation shall submit to the Congress by not later than 1 year after the date of the enactment of this Act a report on the findings and recommendations of the study required by subsection (a).

(c) QUALIFIED SHIP REPAIR YARD DEFINED.—For purposes of this section, the term "qualified ship repair yard" has the meaning given that term in section 118(d).

SEC. 118. QUALIFIED SHIP REPAIR YARD MODERNIZATION ASSISTANCE.

(a) GRANT AUTHORITY.—The Secretary of Transportation may use available amounts to make grants to qualified ship repair yards to pay 75 percent of the cost of acquiring advanced ship repair technology and modern ship repair technology.

(b) CONDITION OF ASSISTANCE.—As a condition of receiving a grant under this section, the Secretary shall require that a qualified ship repair yard provide, in cash contributions, 25 percent of the costs incurred in acquiring advanced ship repair technology and modern ship repair technology with the grant.

(c) PRIORITY.—In making grants under this section, the Secretary shall give priority to qualified ship repair yards for which assistance under this section will permit the performance of ship repairs more efficiently and in a manner that is more competitive with foreign ship repair yards.

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

(1) ADVANCED SHIP REPAIR TECHNOLOGY.—The term "advanced ship repair technology" includes—

(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving ship repair and related industrial production which advance the state-of-the-art; and

(B) novel techniques and processes designed to improve ship repair quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

(2) MODERN SHIP REPAIR TECHNOLOGY.—The term "modern ship repair technology" means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of ship repair yards.

(3) QUALIFIED SHIP REPAIR YARD DEFINED.—The term "qualified ship repair yard" means a shipyard located in the United States that meets the eligibility qualification requirements for obtaining and retaining a Master Ship Repair Agreement with the United States Navy.

(e) AUTHORIZATION OF APPROPRIATIONS.—For grants under this section there are authorized to be appropriated to the Secretary of Transportation $17,500,000 for fiscal year 1995, to remain available until expended.

SEC. 119. GREAT LAKES ENDORSEMENTS.

(a) REPEAL OF GREAT LAKES ENDORSEMENT.—

(1) Section 12107 of title 46, United States Code, is repealed.

(2) The analysis at the beginning of chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12107.

(3) Section 12101(b)(3) of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking "or 12107".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 2793 of the Revised Statutes of the United States (46 App. U.S.C. 111, 123) is amended—

(A) by striking "coastwise, Great Lakes endorsement" and all that follows through "foreign ports," and inserting "registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,"; and

(B) by striking ", as if from or to foreign ports".

(2) The Act of March 8, 1910 (46 App. U.S.C. 132; 32 Stat. 234, chapter 86), is amended by striking "shall be exempt" and all that follows through the end of the section and inserting "shall be exempt from section 36(a) of the Act of August 5, 1909 (36 Stat. 111).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1994.

TITLE II—REVENUE PROVISIONS

Subtitle A—Tonnage Duties

SEC. 201. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds the following:

(1) The Coast Guard—

(A) will spend over $400,000,000 in fiscal year 1995 conducting search and rescue operations far into the Atlantic and Pacific Oceans and the Gulf of Mexico to protect life and property on United States and foreign-flag vessels;

(B) inspects vessels of all nations to ensure their compliance with international treaties and conventions;

(C) will spend over $470,000,000 in fiscal year 1995 providing navigational aids to vessels from around the world through the operation of—

(i) LORAN, OMEGA, and the Differential Global Positioning System; and

(ii) over 46,000 lighthouses, buoys, daybeacons, fog signals, radar reflectors and Vessel Traffic Service systems; and

(D) will spend over $86,000,000 in fiscal year 1995 providing icebreaking services for vessels from all nations.

(2) It is reasonable for vessel owners of all nations that benefit from these services, including owners of United States-flag vessels, to pay tonnage duties to help offset the cost of providing these services.

(b) Purpose.—The purpose of this subtitle is to increase the tonnage duties imposed on vessels entering the United States to help offset the cost of providing Coast Guard services to those vessels.

SEC. 202. INCREASE IN TONNAGE DUTIES.

(a) Increased Duties.—Section 36 of the Act of August 5, 1909 (46 App. U.S.C. 121, 36 Stat. 111), is amended—

(1) by designating the first paragraph as subsection (a) and amending it to read as follows:

"(a) Tonnage Duty Imposed on Certain Entries.—

"(1) Duty imposed.—There is imposed on a vessel making an entry described in paragraph (2) before fiscal year 2005 a duty of 22 cents per ton, except that the duty for a vessel under this paragraph shall not exceed in the aggregate $2.64 per ton in any 12-month period.

"(2) Entry described.—An entry referred to in subparagraph (A) is any of the following:

"(A) Formal entry from foreign port or place.—A formal entry in any port of the United States from any foreign port or place, other than an entry by a vessel that is in distress or is not engaged in trade.

"(B) Other entry.—An entry by a vessel that departs a United States port or place and returns to the same port or place without being entered in the United States from another port or place, other than—

"(i) an entry by a vessel of the United States, a recreational vessel, or a barge (as those terms are defined in section 2101 of title 46, United States Code); and

"(ii) an entry by a vessel that is in distress or is not engaged in trade.

"(3) Offsetting receipts of coast guard.—Amounts received by the United States as duty imposed under this subsection shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities."; and

(2) by designating the remainder of the section as subsection (b).

(b) Effective Date.—The amendments made by subsection (a) shall take effect October 1, 1994.

Subtitle B—Other Revenue Provisions

SEC. 211. INCREASE IN PER PASSENGER TAX ON TRANSPORTATION BY WATER.

(a) In General.—Subsection (a) of section 4471 of the Internal Revenue Code of 1986 (relating to imposition of tax on transportation by water) is amended by adding at the end the following new sentence: "If the value (as determined under section 4462(a)(5)(B)) of the covered voyage is $150 or more, the preceding sentence shall be applied by substituting '$5' for '$3'."

(b) Effective Date.—The amendment made by subsection (a) shall apply to voyages beginning after December 31, 1994.

SEC. 212. TAX ON FUEL USED IN INTERNATIONAL COMMERCIAL WATER TRANSPORTATION.

(a) In General.—Subchapter B of chapter 31 of the Internal Revenue Code of 1986 (relating to retail excise taxes) is amended by adding at the end the following new section:

"SEC. 4043. FUEL USED IN INTERNATIONAL COMMERCIAL WATER TRANSPORTATION.

"(a) In General.—There is hereby imposed a tax on any liquid—

"(1) sold in the United States by any person to an owner, lessee, or other operator of a taxable commercial vessel for use as a fuel in such vessel, or

"(2) purchased in the United States and used by any person as a fuel in such a vessel during foreign transportation unless there was a taxable sale of such fuel under paragraph (1).

"(b) Rate of Tax.—The rate of the tax imposed by subsection (a) shall be 1 cent per gallon.

"(c) Exemption From Tax for Vessels Not Engaged in International Shipping.—

"(1) Exemption where tax imposed at time fuel loaded in vessel.—In the case of fuel which is loaded into the bunker of a vessel at the time of the sale on which tax is imposed by subsection (a), if the purchaser reasonably estimates the amount of fuel to be used in foreign transportation before the next purchase of fuel for such vessel, the tax imposed by subsection (a) shall apply only to fuel purchased at such time in the amount certified by the purchaser to the seller as being equal to the excess of such estimate over the fuel in the bunker at such time on which tax was imposed by subsection (a).

"(2) Other cases.—In any case in which tax is imposed by subsection (a) before the time referred to in paragraph (1), a rule similar to the rule of paragraph (1) shall apply under regulations prescribed by the Secretary.

"(3) Ordering rule on fuel use.—For purposes of determining, at the time of purchase of fuel, the amount of tax-paid fuel which is in the bunker of the vessel, the vessel shall be treated as having used tax-paid fuel (to the extent thereof) when in foreign transportation.

"(d) Definitions.—For purposes of this section—

"(1) Foreign transportation.—

"(A) In general.—The term 'foreign transportation' means transportation by water—

"(i) from any point within the United States,

"(ii) to any point outside the United States where passengers or cargo are loaded or unloaded, and

"(iii) to any point thereafter (whether or not outside the United States).

"(B) Inclusion of certain transportation between 2 points within the United States.—The term 'foreign transportation' includes transportation between 2 points within the United States if any of the passengers or cargo being transported by the vessel between such 2 points is to be transported by such vessel in foreign transportation (as defined in subparagraph (A)).

"(C) Exclusion for transportation exclusively within the great lakes.—Notwithstanding subparagraphs (A) and (B), the term 'foreign transportation' does not include transportation exclusively within the Great Lakes.

"(2) Taxable commercial vessel.—The term 'taxable commercial vessel' means any commercial vessel (as defined in section 4462(a)(4)) which is designed primarily for use on the high seas and which has a draft of more than 12 feet.

"(3) United States.—The term 'United States' has the meaning given such term by section 4612(a)(4)(A).

"(e) Special Rules.—

"(1) Treatment of offshore fueling.—For purposes of this section, the delivery of fuel into the bunker of a vessel by pipeline or another vessel shall be treated as occurring in the United States if such fuel was removed from the United States for such delivery.

"(2) No penalty for sale of dyed fuel.—Section 6715 shall not apply to any liquid on which tax is imposed by this section."

(b) Credit or Refund for Tax-Paid Fuel Not Used in International Commercial Water Transportation.—Subchapter B of chapter 65 of such Code is amended by adding at the end the following new section:

"SEC. 6428. FUEL NOT USED IN INTERNATIONAL COMMERCIAL WATER TRANSPORTATION.

"(a) In General.—If tax has been imposed by section 4043 on the sale of any fuel and the purchaser establishes to the satisfaction of the Secretary that such fuel was not used in foreign transportation (as defined in section 4043(d)), the Secretary shall pay (without interest) to the purchaser an amount equal to the tax imposed by section 4043 on such fuel.

"(b) Applicable Laws.—Rules similar to the rules of section 6427(j) shall apply for purposes of this section, and any reference in subtitle F to such section shall be treated as including a reference to this subsection."

(c) Conforming Amendments.—

(1) Subsection (a) of section 6675 of such Code is amended by striking "or" before "6427" and by inserting after "purposes)" the following "or 6428 (relating to fuel not used in international commercial water transportation)".

(2) Subsection (b) of section 6675 of such Code is amended by striking "or 6427" and inserting "6427, or 6428".

(3) The section 6714 of such Code added by section 13242 of Public Law 103-66 is redesignated as section 6715.

(4) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by redesignating the item relating to the section 6714 that was added by such section 13242 as relating to section 6715.

(5) The table of sections for subchapter B of chapter 31 of such Code is amended by adding at the end the following new item:

"Sec. 4043. Fuel used in international commercial water transportation."

(6) The table of sections for subchapter B of chapter 65 of such Code is amended by adding at the end the following new item:

"Sec. 6428. Fuel not used in international commercial water transportation."

(d) Effective Date.—The amendments made by this section shall apply to fuel sold on or after January 1, 1995.

SEC. 213. LIMITATION ON CONTRACT AUTHORITY.

(a) Limitation on Contract Authority.—The Secretary of Transportation may not obligate more than $1,000,000,000 in total contracts under the Maritime Security and Competitiveness Act of 1993 or this Act between October 1, 1994, and September 30, 2004.

(b) Limitation on Outlays.—The Secretary of Transportation shall not enter into any agreements under the Maritime Security and Competitiveness Act of 1993 or this Act that would result in total payments under such agreements for any fiscal year in excess of the limitations in the following table.

In the case of fiscal year:	The limitation (in millions) is:
1995	$56
1996	$70
1997	$70
1998	$72
1999	$121
2000	$123
2001	$124
2002	$124
2003	$126
2004	$126.

(c) Coordination With Title III.—Subsections (a) and (b) shall apply notwithstanding title III of this Act; except that such subsections shall not apply to the extent additional amounts are provided by appropriation laws (including section 302 of this Act).

TITLE III—FUNDING FOR MARITIME PROMOTIONAL PROGRAMS

SEC. 301. CONTRACT AUTHORITY.

The Secretary of Transportation shall expeditiously enter into agreements under the Maritime Security and Competitiveness Act of 1993. However, the Secretary may not obligate more than $1,700,000,000 in total contracts between October 1, 1994, and September 30, 2004, except to the extent additional amounts are provided by appropriations laws (including section 302).

SEC. 302. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to amounts otherwise available, there are authorized to be appropriated to the Secretary of Transportation such amounts as may be necessary for entering into and making payments under agreements under the Maritime Security and Competitiveness Act of 1993.

SEC. 303. CONTINUING AVAILABILITY.

Amounts available or authorized to be appropriated under this title shall remain available until expended.

The CHAIRMAN. No amendment directly or indirectly changing title II of the substitute, as modified, is in order except the amendment printed in part 2 of House Report 103-646. That amendment may be offered only by a Member designated in the report, shall be considered as read, shall be debatable by the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, and shall not be subject to amendment.

Are there amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new section:

SEC. . PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. All this talk about a superpower. There are no superpowers that continue to use trade deficit, my colleagues, and I do not know what our program is around here, but it sure, as hell, is not helping my district. I do not even see any common sense in what we do as a Congress at all, at all.

Mr. Chairman, I think we ought to just turn the damn budget over to Japan who keeps our products out, and we have people here that laugh on these committees with jurisdiction.

I think it is getting to be a joke.

Mr. Chairman, I want to commend the gentleman from Massachusetts [Mr. STUDDS] and the ranking member, the gentleman from Texas [Mr. FIELDS], for the bill, for their willingness to stand up in their committee of jurisdiction, do what they have to do to finance a program and a mechanism that will ensure there will be a few American flags flying once again in the oceans of the world.

Mr. Chairman, I plan to support the bill even though I had my reservations pursuant to the arguments made by the fine gentleman from Texas [Mr. ARCHER]. We are in one tough mess. My amendment does not go far enough, and with this new GATT business, Mr. Chairman, it will even throw out some of this. We do not even recommend any more consumers buy American products. The crime bill, because of one Senator, is going to throw out a fraudulent label provision for the first time in our history.

Mr. Chairman, Congress does not govern. Congress meets and sends out press releases. I say, you have a small group of conferees that draft all our laws, and we sit here, and we wallow in a quagmire of grayness and do not even know where we are going, and the trade deficit with Japan keeps going. We drive the dollar down, and it is so low it could walk under a closed door with a top hat on.

Nothing is happening. I wish my colleagues would accept the amendment.

That speech is long enough, Mr. Chairman.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I thank the gentleman from Ohio [Mr. TRAFICANT]. We have examined the amendment, and we are perfectly prepared to accept it.

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Chairman, we have had an opportunity to examine the amendment offered by the gentleman from Ohio [Mr. TRAFICANT]. We have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BATEMAN

Mr. BATEMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BATEMAN: Section 102(a)(6) is amended by striking "$50,000,000" and inserting "$200,000,000".

Mr. BATEMAN. Mr. Chairman, I would like to make my colleagues aware that the thrust of this amendment is to increase the authorization level for funding for the title XI loan guarantee program. This is a program which is worked with some modest success. It has, unfortunately, been a very modest success, but it does have the potential, if utilized, to assist us in staying alive in the shipbuilding industry.

There are pending before the Maritime Administration more requests for loan guarantees than the amount of money that is presently authorized would permit. The purpose of this amendment is to increase that amount as an incentive and as a hope that we will again begin to build ships in American shipyards.

Mr. Chairman, reference has been made to the fact that we in the United States have not subsidized shipbuilding since 1981, and that is indeed the case, and I think it fair to point out that since we no longer subsidize ships after 1981, a total of three contracts for the construction of merchant ocean-going vessels have been constructed in American shipyards, only three, and those all for our Jones Act or our internal trade within our coastal waters, nothing for international commerce. Certainly, if we are going to purport to remain a maritime power, we cannot let American shipbuilding die. It needs this assistance, and I would urge the approval of this amendment.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I thank the gentleman from Virginia [Mr. BATEMAN], and I indicate to him that we support his amendment. I hesitate to elaborate too much on that because it may pain the gentleman in the way in which I support it.

Let me just observe, if the gentleman will allow, that in the event that the gentleman from Florida is correct, that an international agreement should come into effect which precludes the STP shipbuilding subsidy program which we had hoped to do, at the very least we would have the alternative and, to date, very successful method of the title XI loan guarantee program by the Maritime Administration. As the gentleman may know, very substantial contracts have been announced pursuant to that program.

Mr. Chairman, I think the gentleman is doing precisely the right thing. We fully support it.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. STUDDS], and let me comment briefly within the remaining time I have that I believe he is correct. I do not believe, and I want to make it clear, that, by offering this amendment, I do not offer it in the sense that it makes unnecessary the serious transition payments which is the program which American shipbuilders look to as their brightest and best hope for survival to play on that level playing field.

Mr. Chairman, this is a proper step. I hope the amendment will be adopted, but not at the sacrifice of the serious transition program.

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Chairman, I just want to rise in support of the gentleman's efforts and point out to the House that he and others, and particularly this gentleman, have been in the forefront of the efforts to revitalize ship construction in this country, and I think the gentleman is to be complimented, and I also want to take the time to compliment the gentleman from Illinois [Mr. LIPINSKI] and the gentleman from Massachusetts [Mr. STUDDS] for the way in which they worked with the gentleman from Virginia and others in a bipartisan fashion.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman from Texas [Mr. FIELDS] for his comments, and I would hope the amendment would be accepted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. BATEMAN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

Mr. ANDREWS of Maine. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my colleagues, last night the rock group the Rolling Stones were in Washington, DC, and they have a song, a popular song, in which they sing the words: "You can't always get what you want, but, if you try, sometimes you just may find that you get what you need."

Well, my colleagues, for the past several years the shipbuilders in this country have not been able to get what they want, a level playing field, a chance to compete fairly with competitors around the world. But there is one thing that those shipbuilders need. They need a government that is on their side. They need a Congress that is on their side. They need an administration that is on their side so that they can get what they want, a fair chance to take advantage of the tremendous opportunities that we are looking at right now in this country, and that is the promise of shipbuilding contracts to meet the demands of a potential explosion of orders to meet this tremendous opportunity of international trade.

The fact of the matter is, my colleagues, that we have watched the elimination of 120,000 good-paying shipbuilding jobs in this country over the last 10 years because the shipbuilders of this country have not had a government on their side willing to stand firm with them and for them to give them the chance to compete fairly.

□ 1510

As a result, we have lost good paying jobs to our competitor nations overseas. And despite the fact that we are looking at the promise of new opportunities and new shipbuilding orders that could create good paying jobs in this country, we understand that some are projecting a further loss of 180,000 more jobs unless we are able to turn this unacceptable situation around.

Some analysts have projected a $356 billion commercial shipbuilding trade opportunity over the course of the next 10 years. We have to decide in this Congress whether or not we are going to give our shipbuilders what they need, a fair opportunity to compete for that market. And if we are serious about giving them what they need, then we have got to give them a lot more than a bunch of political platitudes and hot air in the halls of Congress. We have got to give them the resources to do the job. We have got to stand up and say yes, we are going to provide you with the loan guarantees that will make you competitive; we are going to stand up and help you to modernize your shipyards so that you can be competitive; we are going to be willing to provide you with the tools and the resources and the investment that you need in order to compete on a level playing field now that we are finally making progress and leveling the international trade playing field across this planet.

The shipbuilders of this country are not asking for a lot. They are asking for fairness. They are pointing to their competitors, and their competitor nations, that have been on their side for the last 12 years, who have been on their side with unfair subsidies and investments, who have been on their side taking away our jobs. And all our shipbuilders are asking is for their government, our government, to be on their side as well, to give them the chance to compete, to give them the chance to succeed, to give them the chance to have good paying jobs not only remain in this country, but grow in this country, to be able to take market share, and be able to build first class ships with innovative designs and technology to meet this growing demand internationally.

Is that too much to ask? Is that too much to ask? I do not think so.

Mr. Chairman, I hope that when we finally cast our votes on this very important issue that we will be willing to go to the wall and do what needs to be done to provide our shipbuilders with what they need, a Congress that is on their side, and with what they want, a fair chance to compete.

Mr. DIAZ-BALART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to take 5 minutes. I wanted to, nevertheless, go on record in strong support of the effort of the Committee on Merchant Marine and Fisheries, which I think has really been extraordinary and truly bipartisan in nature due to its leadership on both sides of the aisle. I am grateful both to the chairman of the committee and the subcommittee, as well as the ranking members, for the way in which they have made the work of this committee truly inclusive.

I think that this legislation, obviously any analysis of the status of our Merchant Marine, will bring us to the conclusion that it is truly in a crisis, and that the trend must be reversed.

I think it is very important when we get to the issue of deciding on which of the proposals before us today we embark on, that we focus upon the strengths of the Studds-Fields amendment to this legislation, H.R. 4003. It provides twice as many ships as the other plan that we could decide on today, and would help American shipyards compete, and strictly meets the pay-go requirements, as well as being consistent with all international agreements.

I think this is a very serious effort. So I am in support of this legislation, as hopefully it will be amended by the Studds-Fields amendment.

Mr. MANTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, later today, the House will consider title II of H.R. 4003, legislation to provide emergency assistance for a critically ill industry.

At that time, we will hear about pay-go Gramm-Rudman, and the Ways and Means text. All of this discussion should not obscure the most critical fact—that the Ways and Means funding language will only ensure a merchant fleet of 26 vessels. The Merchant Marine and Fisheries Committee bill will guarantee a fleet of 52 liner vessels—twice as many as Ways and Means.

While some of my colleagues are concerned about the cost of H.R. 4003, I urge them to not look on this as discretionary spending. If we could delay passage of this legislation until we get the deficit under control, I would support that approach; however, that is not the case. This is an emergency that can no more wait for an appropriate response than an injured accident victim. Perhaps the accident victim's family cannot afford medical care, but they cannot accept the option of doing nothing. The U.S. maritime and shipbuilding industries are in a critical state and failure to act could kill these essential industries and the thousands of jobs they generate.

These key industries are confronted by foreign competitors which receive extensive government subsidies and hire cheap foreign labor. The special problems facing our maritime and shipbuilding industries were recognized long before any of us came to Congress and our national response was to create an assistance program that is currently embodied in the Merchant Marine Act of 1936.

As we prepared for World War II, Congress and the President recognized that a nation which depends on foreign ships is at the mercy of others. Without a viable U.S. Merchant Marine, we would have to rely on foreign vessels to transport our troops in time of war and industrial and consumer goods in peacetime.

In regard to the role of the merchant marine in war, we need look no further back than Operation Desert Storm. That victory was a victory of logistics and quick response.

The U.S.-flag fleet moved the equivalent of a midsize city to Saudi Arabia in a matter of weeks. True, we had to rely on some foreign vessels, but could we have relied totally on foreign vessels? Do we want to rely on foreign traders who might not share our goals?

As for the merchant marine's peacetime mission, we all know that competition benefits the consumer. Our merchant fleet provides the competition to foreign fleets that helps keep shipping costs down. Ocean shipping costs are a fraction of the costs of U.S. imports and exports and that is in large part due to the competition among carriers. Eliminate the U.S. fleet and shipping costs will go through the ceiling.

Regrettably, during the early 1980's in an attempt to reduce government spending, Congress unfortunately allowed the elimination of shipyard assistance programs. This action cost jobs and turned taxpaying workers into wards of the state.

We also allowed the U.S. fleet to decline to historically low levels—less than 400 vessels.

Now is the time to correct the mistakes of the past. Title II will fund the emergency assistance needed for these important industries, maintain jobs and lead to a more efficient and streamlined Merchant Marine.

Chairmen STUDDS and LIPINSKI are to be commended for their fine work on this important issue.

I strongly urge a yes vote on this important measure and support for the proposed advanced by the Merchant Marine and Fisheries Committee.

Ms. CANTWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to urge my colleagues to support the Maritime Administration and Promotion Reform Act and the Merchant Marine Committee language. These provisions would levy tonnage fees on ships that call at U.S. ports and use the money to rebuild America's merchant marine fleet—as directed by the vital maritime reform measures passed overwhelmingly by this Congress last year.

America must act quickly and decisively to rebuild its merchant fleet. The percentage of America's international oceanborne commerce carried on U.S.-flag ships has decreased from 42.6 percent in 1950 to only 4 percent today. Since 1981, 50 American shipyards have closed; today we have only 16 shipyards capable of building ocean-going vessels.

This steady decline of U.S. shipping and shipbuilding has put our Nation's security at risk. We must act now or face the prospect of losing forever the skills and industrial infrastructure necessary to make the United States a major maritime power again.

But for maritime reform to happen, Congress must also pass a budget offset that meets pay-as-you-go requirements. The Studds-Fields amendment gives us a solution that provides the money necessary to rebuild America's merchant fleet. I urge my colleagues to vote for H.R. 4003 and the Studds-Fields amendment.

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Ms. SCHENK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just returned from the White House where the President announced a $22.8 million loan guarantee to the National Steel & Shipbuilding Co. in my San Diego district.

NASSCO and the other shipyards will use these loans to invest in advanced shipbuilding technologies, the first time in recent memory this has occurred

Mr. Chairman, we were once a great commercial shipbuilding nation, but for over a decade this critical industry was allowed to languish as it was starved for new capital. So much so, that since 1988 this country completed only one commercial ship—only one.

Meanwhile, our foreign competitors were subsidizing and modernizing and building ships.

The significance of the shipbuilding industry to our national security and to our economic security, is beyond reasonable question.

Shipbuilding may not capture the imagination as does the space program, but it is as vital to fulfilling the American dream of the next century as it was to the last.

If our country is going to retain its leadership in building fighting vessels and regain its leadership in building commercial vessels, we need to expand program, such as title XI Mr. Bateman's amendment would do just that, and I commend him for bringing it to the floor the title XI shipyard program is proving more successful than anyone envisioned when this Congress approved it last year. The number of innovative proposals for improving ship and shipyard technology coming to the Maritime Administration exceeds all

expectations. This is a program that is working. Let us give it our support.

But our Nation's shipyards need support beyond the title XI program, and that is why I urge my colleagues to also support the Studds-Fields amendment coming up later this afternoon. Since 1980, 50 U.S. shipyards have closed. Only 16 yards are still capable of building the large ocean-going commercial vessels on which world trade depends. Only one such yard remains on the west coast. The decline of our shipbuilding industry threatens our national security, as Navy orders decline, the only way for our Nation to retain the skills necessary to build the new vessels for the military we will someday require is to build commercial vessels of peace and compete in the international market.

Fifty-seven other maritime nations support their shipbuilding industries with subsidies. All of our competitors have shipbuilding subsidies today. We were told that they have promised to give them up, but the seed is not the fruit. We have not as yet even seen the language of this OECD agreement, and some nations are openly antagonistic to it.

My motto is to hope for the best but plan for the worse. There is nothing in the OECD agreement to prohibit our support for our shipbuilding industry between now and the agreement's final implementation. In 1999 if our competitors give up their subsidies, that's great. But they are not going to drop their subsidies between now and 1999, why should we not be prepared if the OECD agreement falls apart.

Last fall, this House passed the first real comprehensive maritime reform bill since 1936. Today we are called on to find the funds to implement that reform. The Ways and Means language fails adequately to meet that challenge. With the Studds-Fields amendment we can live up to the promises we made last year. I urge my colleagues to support the Studds-Fields financing amendment as it did the Bateman amendment on title XI authorization.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the opportunity to come and to speak today in favor of this bill that has been presented by the gentleman from Massachusetts [Mr. STUDDS] and those on the Committee on Merchant Marine and Fisheries. As chairman of the Maritime Task Force, industry task force, we have spent many hours deliberating the needs. We have discovered the needs, and we have discovered the fact that the U.S. shipyards can be competitive if we play on a level field. This presents an opportunity for us to play on a level field.

There is no one today that has come before this committee and said that there is no need for this bill. There are some that argue there might be a better way. But I submit to my colleagues that the task force that I chair and the Committee on Merchant Marine and Fisheries have done yeomen work in this effort. This is the best route to take at this time.

I would encourage my colleagues to support this legislation, to revitalize the shipbuilding industry in America, and to make this a stronger country and a needed, needed Navy force that some day may arise.

Mr. GENE GREEN of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to ask my colleagues to support a very important piece of legislation, H.R. 4003, the Maritime Administration and Promotional Reform Act of 1994 by voting and supporting the Studds-Fields amendment.

The Committee on Merchant Marine and Fisheries has worked hard to prepare a bill that has bipartisan support. The Studds-Fields amendment not only has bipartisan support but is also supported by a variety of groups, such as labor organizations and businesses in the shipbuilding industry.

I ask members of the Texas Delegation to support the amendment our colleague, the gentleman from Texas [Mr. FIELDS] is offering, along with Chairman STUDDS. Southern States stand to benefit from the Studds-Fields amendment because of the significance the shipbuilding industry has in these States. Since 1981, 50 American shipyards have closed; today there are only 16 yards capable of building oceangoing vessels. This amendment helps American shipyards compete and most importantly includes programs for ship construction and support for ship repair.

We know our maritime industry has suffered tremendously, H.R. 4003 will restore and strengthen our American maritime industry. I urge my colleagues to vote to support the Studds-Fields amendment.

We must have a strong domestic merchant marine fleet employing U.S. seamen.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment printed in part 2 of House Report 103-646.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STUDDS: Strike title II and title III and insert the following:

TITLE II—TONNAGE DUTIES

SEC. 201. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Coast Guard—

(A) will spend over $400,000,000 in fiscal year 1995 conducting search and rescue operations far into the Atlantic and Pacific Oceans and the Gulf of Mexico to protect life and property on United States and foreign-flag vessels;

(B) inspects vessels of all nations to ensure their compliance with international treaties and conventions;

(C) will spend over $470,000,000 in fiscal year 1995 providing navigational aids to vessels from around the world through the operation of—

(i) LORAN, OMEGA, and the Differential Global Positioning System; and

(ii) over 46,000 lighthouses, buoys, daybeacons, fog signals, radar reflectors and Vessel Traffic Service systems; and

(D) will spend over $86,000,0000 in fiscal year 1995 providing icebreaking services for vessels from all nations.

(2) It is reasonable for vessel owners of all nations that benefit from these services, including owners of United States-flag vessels, to pay tonnage duties to help offset the cost of providing these services.

(b) PURPOSE.—The purpose of this title is to increase the tonnage duties imposed on vessels entering the United States to help offset the cost of providing Coast Guard services to those vessels.

SEC. 202. INCREASE IN TONNAGE DUTIES.

(a) INCREASED DUTIES.—Section 36 of the Act of August 5, 1909 (46 App. U.S.C. 121, 36 Stat. 111), is amended—

(1) by designating the first paragraph as subsection (a) and amending it to read as follows:

"(a) TONNAGE DUTY IMPOSED ON CERTAIN ENTRIES.—

"(1) DUTY IMPOSED.—There is imposed on a vessel making an entry described in paragraph (2) before fiscal year 2005 a duty of 38 cents per ton, except that for any vessel the duty under this paragraph shall not apply with respect to more than 25 entries by the vessel in any 12-month period.

"(2) ENTRY DESCRIBED.—An entry referred to in subparagraph (A) is any of the following:

"(A) FORMAL ENTRY FROM FOREIGN PORT OR PLACE.—A formal entry in any port of the United States from any foreign port or place, other than an entry by a vessel that is in distress or is not engaged in trade.

"(B) OTHER ENTRY.—An entry by a vessel that departs a United States port or place and returns to the same port or place without being entered in the United States from another port or place, other than—

"(i) an entry by a vessel of the United States, a recreational vessel, or a barge (as those terms are defined in section 2101 of title 46, United States Code); and

"(ii) an entry by a vessel that is in distress or is not engaged in trade.

"(3) OFFSETTING RECEIPTS OF COAST GUARD.—Amounts received by the United States as duty imposed under this subsection shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities."; and

(2) by designating the remainder of the section as subsection (b).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1994.

SEC. 203. CONTRACT AUTHORITY.

(a) REQUIREMENT TO ENTER AGREEMENTS.—The Secretary of Transportation shall expeditiously enter into agreements under the Maritime Security and Competitiveness Act of 1993. However, the Secretary of Transportation may not obligate more than $1,350,000,000 in total contracts under the Maritime Security and Competitiveness Act of 1993 or this Act between October 1, 1994, and September 30, 2004.

(b) LIMITATION ON OUTLAYS.—The Secretary of Transportation shall not enter into any agreements under the Maritime Security and Competitiveness Act of 1993 or this Act

that would result in total payments under such agreements for any fiscal year in excess of the limitations in the following table.

In the case of fiscal year:	The limitation (in millions) is:
1995	$105
1996	$105
1997	$105
1998	$105
1999	$155
2000	$155
2001	$155
2002	$155
2003	$155
2004	$155.

(c) LIMITATION ON APPLICATION.—Subsections (a) and (b) do not apply to the extent additional amounts are provided by appropriation laws.

SEC. 204. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to amounts otherwise available, there are authorized to be appropriated to the Secretary of Transportation such amounts as may be necessary for entering into and making payments under agreements under the Maritime Security and Competitiveness Act of 1993.

SEC. 205. CONTINUING AVAILABILITY.

Amounts available or authorized to be appropriated under this title shall remain available until expended.

The CHAIRMAN. Under the rule, the amendment is not subject to amendment.

The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. GIBBONS. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. GIBBONS] will be recognized in opposition to the amendment.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment on behalf of the bipartisan leadership of the Merchant Marine and Fisheries Committee.

The Studds-Fields amendment asks for a total of $1.3 billion over 10 years, exclusively through an increase in fees paid by vessels calling at U.S. ports.

The Studds-Fields amendment represents a compromise between the funding levels approved by the two committees. As reported from our committee, the bill would raise $1.7 billion solely from an increase in tonnage fees; as reported from the Ways and Means Committee, it would raise only $1 billion through a combination of tonnage fees, a new penny-a-gallon diesel fuel tax on ships, and an increase in the cruise ship passenger departure tax.

The Studds-Fields committee amendment accomplishes several important goals, two of which need to be emphasized.

First, it provides the bare minimum required to retain the current size fleet of 52 U.S.-flag carriers which need Government assistance to compete with subsidized foreign fleets.

As a result of the mysteries of the budget bean counting process, the provisions approved by the Ways and Means Committee would allow only 26 ships to participate in the new Maritime Security Fleet Program. Clearly not enough in anyone's mind.

Second, it provides the opportunity to make some help available to American shipyards as they make the transition from building military to commercial vessels.

Last year, when the House approved H.R. 2151 and 3 months ago, when the Merchant Marine and Fisheries Committee approved this funding mechanism, the international commercial shipbuilding world was a much different place. It was heavily subsidized and just to get our yards in the game, we proposed our own program.

Today, we are on the brink—we hope—of a new international shipbuilding age. An age of ships built without subsidy, without the financial assistance of their governments. The agreement negotiated by the United States and every other shipbuilding nation in the world to end subsidies, is a long-sought, long-necessary change in policy.

While the agreement is still under review and not yet signed, if what we believe is true is in fact true, it is not our intent, nor will it be our result, to include in our final maritime reform package any program which would violate either the spirit or the letter of that agreement.

If we cannot provide the assistance envisioned by our original Series Transition Program, we can still help shipyards modernize and compete through the title XI loan guarantee program. The availability of $100 million in loan guarantees would translate into $1 billion in ship construction. Every dollar we add to the pool of money available to maritime reform is worth tenfold when it is applied to the title XI program.

Passage of the Studds-Fields amendment, to this bill, this session, is possibly the only hope we have to ensure that this Nation has the ships, the trained merchant mariners, the shipyards, and the skilled shipyard workers we need to protect our national and economic security.

Anything less than the funds provided by the Studds-Fields committee amendment will send U.S.-flag ships to foreign registries, and close the doors on even more American shipyards.

Don't let it happen. Support our American maritime industries. Vote for the bipartisan Studds-Fields Merchant Marine and Fisheries Committee amendment.

□ 1530

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I rise in opposition to the amendment, and I yield 5 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, like any Member in this Chamber, I favor a strong domestic maritime security fleet and a competitive U.S. maritime industry. And no one would accuse me of ducking the tough votes when it comes time to either cut spending or raise the revenues necessary to pay for worthy programs.

The merchant marine and fisheries bill, however, lacks any sense of balance and fairness. The original proposal—a tripling of the tonnage tax in order to subsidize roughly 52 U.S.-flag cargo vessels—imposes a tremendous financial burden on many regions of the country, especially the port of Chicago and the Great Lakes ports. Indeed, even though there are no U.S.-flag ocean-going vessels providing services to the Great Lakes, these ports would see their taxes tripled in order to support these services.

For example, according to the Federal Marine Terminals in Chicago, a vessel calling at this facility currently pays $22,887. Under the merchant marine and fisheries original bill, this same vessels would be forced to pay $95,146 in annual taxes.

Because such an increase would have a devastating impact on the region, costing jobs, reducing competition and ultimately increasing prices to American industries and consumers, the Committee on Ways and Means crafted an alternative funding mechanism. This compromise sought to maintain a viable ready defense fleet while spreading its cost more fairly among beneficiaries.

The Studds amendment before us now continues to impose significant hardship on the port of Chicago and the Great Lakes ports. More than any other region, the Great Lakes faces significant trade diversion to Canada. United States and Canadian Great Lakes ports are fiercely competitive. To use the Chicago terminal example again, a vessel calling at this facility currently pays $22,887. Under the Studds amendment, this same vessel would see its annual taxes raised to $68,218.

An increase of this amount in the tonnage tax will increase the cost of U.S. goods sold competitively in international trade. Most of the Great Lakes trade is in bulk or heavy cargoes such as grain. Price increases of a few cents a ton can make the difference as to who gets the sale—a U.S. supplier or a foreign supplier. Lost sales of U.S. export products will lead to lost jobs in many U.S. industries.

Furthermore, Canadian ports, which impose no tonnage tax, provide an easily accessible alternative to the port of Chicago for shipment of United States products. This amendment gives our Canadian neighbors our business and related port and longshore jobs.

Mr. Chairman, I urge my colleagues to oppose the Studds amendment.

Mr. STUDDS. Mr. Chairman, I ask unanimous consent that the gentleman from Texas [Mr. FIELDS] be allowed to manage one-half of my time, 7½ minutes.

The CHAIRMAN. Without objection, the request is granted.

There was no objection.

The CHAIRMAN. The Chair would note that the gentleman had 11 minutes remaining, which would mean that the gentleman from Massachusetts [Mr. STUDDS] has 5½ minutes remaining.

Mr. FIELDS of Texas. Mr. Chairman, I thank the gentleman from Massachusetts for granting me the time, and I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Studds-Fields bipartisan committee substitute amendment.

As we have heard today, the House authorized the most comprehensive maritime reform program last fall when we overwhelmingly passed H.R. 2151. Today, we consider the method of funding that program. In our opinion, this compromise amendment to title II of H.R. 4003 would provide the fairest, most reasonable method of raising the revenues necessary to fund that program.

Our substitute amendment acknowledges the concerns raised by many that our original tonnage fee proposal would have imposed hardships on various maritime sectors. This substitute would establish a flat tonnage fee of 38 cents per net registered ton. In addition, it would increase from 5 to 25 the number of transits, or calls, to U.S. ports when the fees would be collected.

This proposal would raise approximately $1.3 billion over 10 years, which is $400 million less than our original measure, and $300 million more than the alternative suggested by the Committee on Ways and Means.

Approval of our substitute amendment will provide adequate funding for a maritime reform program that will ensure that essential military equipment is carried on U.S.-flag vessels; that trained seafarers will be available, not only for the private sector commercial fleet, but also for the Government's Ready Reserve Force ships; and that we have shipbuilding capability in the United States.

The decision to support this increase in tonnage fees did not come easily. However, I believe that without this maritime program, the future of this Nation's maritime might is in serious jeopardy. We have crafted this fee so that the predominant users of our Coast Guard's services—foreign-flag shipping—pay the bill. That is only fair.

Mr. Chairman, we are running out of time in this Congress to make the difficult decisions that need to be made if the United States is to retain its status in the world as a major maritime power. If we do not approve this amendment, and this bill, America will lose it U.S.-flag containership fleet and the ability to construct, and repair, oceangoing commercial vessels, as well as naval combatant vessels.

Mr. Chairman, I urge all of our colleagues in this House to join us in support of our amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would also remark that the Chair misunderstood the request by the gentleman from Massachusetts [Mr. STUDDS]. The gentleman from Texas [Mr. FIELDS] began with 7½ minutes, instead of 5½ minutes. He gained 2 minutes.

Mr. FIELDS of Texas. Mr. Chairman, may I ask how much time I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. FIELDS] has 6 minutes remaining.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ARCHER], the ranking minority member of the Committee on Ways and Means.

Mr. ARCHER. Mr. Chairman, I join the chairman of the Committee on Ways and Means in strong opposition to the Studds substitute, which in my opinion makes a bad bill far worse. The amendment proposed by the gentleman from Massachusetts [Mr. STUDDS] would seriously harm American exports, particularly grain, coal, and fertilizer, anything that is a bulk item with a low-unit value.

□ 1540

Based on estimates prepared by the National Coal Association, the Studds amendment would increase coal prices by 3 to 14 cents per ton on export. By other estimates, prices for American grains would rise by 8 to 10 cents per ton. These commodities are extraordinarily competitive on the world markets where a fraction of a cent can make a difference in the sale. It is not surprising that American exporters solidly oppose the 38-cent tonnage tax rates proposed in the amendment of the gentleman from Massachusetts [Mr. STUDDS]. It could very well price them right out of the market.

When the Committee on Ways and Means took up the original merchant marine bill, it was abundantly clear to nearly all that a 53-cent tonnage tax was unacceptable. The Committee on Ways and Means recommended instead a 22-cent a ton tonnage tax which many of us opposed even at that level.

Now the gentleman from Massachusetts [Mr. STUDDS] is back asking the House to approve an amendment which supposedly represents a compromise of 38 cents. That is not a compromise, Mr. Chairman. It is a big tax increase for a big new entitlement spending program not governed by caps under the Budget Act. I urge my colleagues to reject it.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I would like to first thank the chairman for yielding some time to this Member from the Committee on Ways and Means, for I come before you to support the Studds amendment that is pending before the House.

Mr. Chairman, what is at issue here today is not whether or not we should increase the tonnage tax. At issue is what level that increase should be pegged at. Another issue before the committee is whether or not we should provide funds for shipbuilding subsidies in this country. On that question, the answer that I come up with after talking to the experts from the committee, the subcommittee chairman, the gentleman from Illinois [Mr. LIPINSKI], the answer to that is yes. In fact, in a conversation I had with the gentleman from Illinois [Mr. LIPINSKI], he indicated to me about a week and a half ago that the question on shipbuilding subsidies is not to level the playing field, it is to bring us onto the field. Even though the chairman of the Committee on Ways and Means, the gentleman from Florida [Mr. GIBBONS], indicates that a treaty is pending, there is no guarantee that that treaty will be adopted. In fact, I am already told that France is objecting very strenuously to it and the chances are it might be rejected. However, in the window that we have between now and 1999, I think it is time to worry about American jobs and American industry, and so when the bill was before the committee, I tried to provide an alternative which would provide the necessary funds for the shipbuilding subsidies. That amendment was to the committee amendment and it would have the effect of increasing the diesel tax an extra cent. The committee saw fit not to support that and so now we are down to the question of how do we best support the shipbuilding subsidies.

I look at the amendment from the gentleman from Massachusetts [Mr. STUDDS] which takes that tonnage to 38 cents, an additional per ton charge, and I say to you that is reasonable. Looking at where we have been, the administration came forth with a tonnage increase for ocean-going vessels to the tune of the highest rate being 71 cents. The committee's version was 53 cents. As a Great Lakes legislator, I think the 38 cents is a pretty decent compromise looking at the other options.

Mr. FIELDS of Texas. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I rise in strong support of the Studds Amendment to H.R. 4003, the Maritime Administration and Promotional Reform

Act of 1994. I commend the chairman of the Merchant Marine Committee for his commitment to this critical industry and for bringing his amendment to the floor of the House.

This amendment is critical to the future of this Nation's commercial shipbuilding industry as well as our national economic interests and our national security interests. In fact, the fate of the Studds amendment will determine nothing less than the survival of the American shipbuilding industry. Most importantly, the Studds amendment would provide our domestic shipbuilders with a much-needed chance to compete on the world marketplace—a marketplace that has been dominated for too long by our heavily subsidized foreign competitors.

And it is because our competitors have been playing the field with the overwhelming advantage of being subsidized that our industry has been devastated. There is no doubt that we have paid the price: In the 1950's this country was the world's greatest shipbuilding nation. but today the United States ranks around 24th in the world in shipbuilding. In 1981, the United States eliminated its direct subsidy for the shipbuilding industry. Since that time, the industry has lost 40 shipyards and about 120,000 jobs. With the decline in Navy construction, thousands of more good-paying shipbuilding jobs are at risk. And, of the 22 largest U.S. shipyards in business in 1980, only 8 remain today.

The real culprit for this decline in the U.S. shipbuilding industry is not the high cost of American labor or expensive equipment. The culprit is billions and billions of dollars in unfair foreign shipbuilding subsidies—subsidies that give a foreign-built ship a tremendously unfair advantage over similar ships built in American shipyards.

Just consider the average level of subsidies that other major industrialized nations provide to their shipyards, and it becomes crystal clear that we are sending our commercial shipbuilding industry into the global marketplace with both hands tied behind our back: South Korea—$2.4 billion per year. Germany—$2.3 billion per year. Japan—$1.9 billion per year. Italy—$940 million per year. Spain—$897 million per year. And when was the last time any commercial U.S. shipyard received any subsidies? In 1981, 13 long years ago.

But opponents of this amendment casually dismiss the facts and these numbers and instead point to a trade agreement that was signed in Paris last month between the United States and the major industrialized nations that would phase out their shipbuilding subsidy practices. Signing this agreement were representatives from the United States, Japan, South Korea, and virtually all of the major industrialized nations of Europe. It took 5 hard years of negotiating to bring about that agreement, but as a result our shipbuilding competitors have pledged to end their subsidies by 1999.

But the harsh reality is that this agreement to end these foreign subsidies is far from perfect. In fact, between now and January 1, 1996, existing foreign shipbuilding subsidy programs can continue with no budget ceilings. In addition, foreign subsidies approved before that date can be carried over until January 1, 1999. What this means is that those nations that are currently subsidizing their shipyards will have at least another 4 years to flood the world marketplace with their subsidized ships. But our commercial shipyards can't afford to play catch up in 5 years because they won't have the time or the resources to be able to play catch up. In trying to help our private shipyards for long term, we have potentially put them at a competitive disadvantage over the short term.

Mr. Chairman, one only has to look to such shipyards as Bath Iron Works in my home state of Maine to see the challenges that daunt our shipbuilding industry. Just recently, after visiting this shipyard that is the largest private employer in Maine with a tradition for excellence in quality and craftsmanship, I was briefed on BIW's 5-year plan for competitive commercial shipbuilding. The success of this plan is essential to maintaining BIW's workforce levels and to their very survival as a shipyard—a shipyard that has existed for over 100 years.

Ironically, under the terms of the Paris agreement BIW's 5-year plan falls within the time frame when our shipyards will be competing empty handed with the highly efficient, highly subsidized, modern shipyards of our competitors. How can we close BIW's window of opportunity at such a critical time? How can we turn our backs on BIW's workers when they need us most? We cannot, and we must not.

The answer to this short-term problem is to pass the Studds amendment. This amendment provides financing for the series transition payments that would provide much-needed financial aid to U.S. shipyards. These payments were authorized last year and will help our shipyards compete with foreign shipyards until the foreign shipbuilding subsidies are phased out in 1999.

Mr. Chairman, last November this body passed by a wide margin of 347-65, H.R. 2151, the Maritime Security and Competitiveness Act of 1993 which first authorized the series transition payments. The House's overwhelming passage of H.R. 2151 sent the unmistakable signal that we are committed to helping our shipyards become competitive in the world marketplace. And by passing the Studds amendment this body would be living up to that commitment, meeting the expectations of our shipbuilding industry, and fulfilling the intentions of our actions last November. I strongly urge all of my colleagues to support this amendment.

Mr. STUDDS. Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. I thank the gentleman very much for yielding me the time.

Mr. Chairman, first I would like to say that I have the greatest respect and admiration for the gentleman from Illinois [Mr. ROSTENKOWSKI]. In fact it was he who put me on this committee almost 12 years ago when he said to me, "I would like you to go on the Committee on Merchant Marine and Fisheries to try to do something about the Port of Chicago, try to help it out." I have steadfastly tried to do that over the course of the last 12 years. But we come here today and the gentleman from Illinois [Mr. ROSTENKOWSKI] and I have a difference of opinion on figures. According to the figures I have from the Maritime Administration, it is only going to cost the vessels on the Great Lakes $260,000 a year with the increase in the tonnage fees.

No. 2. Right now they pay $2,050 per ship per year. Underneath our amendment, they will pay $3,078 per year. That to me is $1,028 per vessel per year. Eighty percent of all commerce on the Great Lakes is exempt from this tonnage tax. Consequently, I have to say, I do not believe that the Port of Chicago, the Great Lakes harbors, the Great Lakes vessels, are going to be unduly impacted by this amendment or by this piece of legislation. All areas of the country will have to give up a little bit to save the American maritime industry, the operating industry and the shipbuilding industry.

My colleagues, it has been said countless times on the floor today, "If you want to have American commercial vessels, if you want to have an American shipbuilding industry creating jobs, creating economic development, vote for the Studds-Fields amendment and vote for this bill."

□ 1550

Mr. FIELDS of Texas. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, there is much more to be said about this than I have time to say. Let me emphasize two points.

On the question of structuring of the tax, fuel tax, passenger tax versus all tonnage tax, it is not so simple I would say to those who are talking about the impact of these different measures on particular lay interests. If we take the fuel tax which is paid on every ship that departs the port without limit, and add it to the tonnage tax proposed by the Committee on Ways and Means, we will have some shippers paying

more tax that way than they will under the Merchant Marine and Fisheries Committee bill.

Let me suggest that the real essence of this argument and the real logic that I hear is do not fund anything for the U.S. shipbuilding industry where as many as 180,000 jobs are involved, not even to the tune of $300 million over a 10-year period that we know is going to be more nearly 5 or less years, do not do that, but we do not object to $1 billion to save a fraction of that number of jobs. I am for saving those jobs that the $1 billion will save. But is it not preposterous to say that we cannot expend $30 billion a year to save the American shipbuilding industry and 180,000 jobs?

Mr. FIELDS of Texas. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, in the Committee on Rules I spoke about fairness, I talked about a committee that works for the betterment of the American people, and I really believed that talk and I still do. When I said a shipbuilding industry that is dying, I should have said industries. It is not just shipbuilding and ship repair, but it is the union workers, the small business workers that are working for contracts, it is the title X problems we have. And I understand the President just announced that we would have some title XI moneys which are going to San Diego.

We are trying to solve a problem, and it is in the best interest of the American people to do it in the way that Chairman STUDDS has come forward with. We look at something as to how we do not increase spending and that is budget neutral. We look at a way in which we can solve the problems of education, of maritime and our national security with our defense and the lack of the merchant marine itself, and it is not asking too much to set aside turf battles between the two committees and work for the American people.

For one of the first times in history since I have been here for 3 years this is a bipartisan bill that is working toward the American people and for the American people, not for committee strength, not for political power of a party, but for the American people. I ask Members' support and ask support for Chairman STUDDS and the gentleman from Texas, Mr. JACK FIELDS, on this amendment. Very seldom do we do something like this, and I ask for the support of the Members.

PREFERENTIAL MOTION OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. TAYLOR of Mississippi moves that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. TAYLOR of Mississippi. Mr. Chairman, in a few moments this House will make a decision about one of the most important industries not only in this Nation but every nation. Since the time of Christ, the great nations of the world have always been great maritime powers. That is not lost on our international trading partners.

This morning I had the opportunity to visit with one of our U.S. Senators, and we discussed the bill. He told me how fervently he was against subsidies. And I said to that Senator, "Well, I guess you think we ought to be like the Japanese?" And he said, "Absolutely, we should be like the Japanese."

I said, "Well, perchance we should fund our maritime industry, shipbuilding industry to the tune of $1.8 billion a year, just like the Japanese?" and he was dumbfounded. As a matter of fact, that Senator from a Midwestern State did not know that the Germans also subsidize their shipbuilding industry to the tune of $1.5 billion a year.

I went on to remind him that we give foreign aid to 16 nations that build more ships than we do. Last year the nation of Vietnam built more ships than we did. They built one.

This committee has now come up with a very modest proposal. Yes, it costs some money, and yes, we will ask those people who use our ports, because 95 percent of all of the vessels that enter our ports are foreign flag, 99 percent of all of the cruise ships that enter our ports are foreign flag, we are going to ask them to give something back to the American taxpayer that spends $4.3 billion a year making sure that there is a Coast Guard there for them should they catch on fire or start to sink or need their LORAN coordinates given to them or global positioning coordinates given to them or need a lighthouse or a buoy.

The American taxpayer has been borrowing money to make our ports available to our foreign competitors. Today the Merchant Marine and Fisheries Committee is just asking those same people who have benefited from this, who now have over a $100 billion trade surplus at our expense, to just give a little bit of it back.

The Ways and Means Committee says oh, we cannot do that. The same committee that just put a 22-cent-a-gallon tax on American recreational boaters who happen to have a diesel engine, the same committee that passed the recreational boat users fee, who said they have to pay their own way, would not even consider asking our foreign competitors to pay their own way.

Who are we running this country for? Who are we running it for? If we cannot ask those people the same things we ask of our own people, then what the heck are we doing being paid rather large sums of money to represent the people of this country?

Mr. Chairman, I do not like new taxes. No one in this body likes new taxes. I am particularly pleased to see tough guys like the gentleman from California, DUKE CUNNINGHAM, and many of my Republican colleagues lining up and saying yes, we have no alternative, we have to pay for this. We have a $4 trillion debt for which we are paying $800 million a day in interest on that debt, and we cannot pretend the money to revitalize the American shipbuilding industry is going to fall from the sky. So we are going to ask those people who benefited from America's ports to give a little bit of it back.

So, Mr. Chairman, I want to rise in support of the Studds-Fields plan. I want to make it perfectly clear to the Committee on Ways and Means that yes, you have a tough job to do. You have to finance this country. But if you are so willing to tax Americans, just this once let us tax our foreign competitors who get the benefit of our ports and industries.

Mr. STUDDS. Mr. Chairman, I rise in opposition to the motion. I have no intention of using all the time. I simply want to commend the gentleman from Mississippi for his passion. No member of our committee, I think it would be safe to say, has had a more passionate commitment to trying to see to it that this Nation does not lose this industry. I commend the gentleman.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Mississippi [Mr. TAYLOR].

The preferential motion was rejected.

The CHAIRMAN. The time remaining is as follows: The gentleman from Texas [Mr. FIELDS] has 30 seconds, the gentleman from Florida [Mr. GIBBONS] has 7 minutes, and the gentleman from Massachusetts [Mr. STUDDS], with the right to close, has 1 minute remaining.

□ 1600

Mr. FIELDS of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would ask my colleagues, particularly my Republican colleagues, to focus on one word as they contemplate their vote on the merchant marine substitute, and that is destiny, the destiny of this country, both in terms of international commerce and in terms of being able to domestically build in our shipyards. To me that word is important. It is foundational. It is important to point out our particular version does not authorize any new taxes. It authorizes only tonnage fees.

Ninety-six percent of those tonnage fees are going to be paid by ships flying a foreign flag. So it is important to support the Studds-Fields substitute.

Mr. GIBBONS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I will be very brief in closing. I think all people who realize how the market system works realize that the fees or taxes levied here will be paid out of the proceeds of goods

that are sold in this market or exported to a foreign market. Yes, they will be collected from people who fly a foreign flag, but they will be paid by us, or they will be paid in the competitive marketplace in the price of our products as they move overseas.

As I said in the beginning, I support the bill, but if it is amended as the Committee on Merchant Marine and Fisheries wishes to amend it, I cannot support it. I think the tonnage tax that their amendment would levy is excessive. The Merchant Marine and Fisheries amendment would increase the tonnage tax to 38 cents per ton, as opposed to 22 cents per ton in the bill as reported by the Committee on Ways and Means. The result of this amendment would be to increase the maximum yearly amount of tonnage fees from $2.64 per ton in the bill as reported by the Committee on Ways and Means to $9.50 per ton under the Merchant Marine and Fisheries amendment. That is a substantial increase to be borne by American products, particularly when some of these products sell for only $20 a ton.

Mr. Chairman, we export products from my area that sell for $20 a ton. There also are many tons of coal exported from the United States. I cannot give you the exact price quote, but I realize that coal sells in the international market, and that the price of a quarter of a cent per ton is a market breaker in getting coal contracts.

So miners in Alabama and West Virginia and other places around the United States could be adversely affected by this rather rapid increase in the tonnage tax.

We think that the Ways and Means revenue title was more carefully crafted. In fact, I heard of no opposition to the revenue title as we crafted it, but I have heard a lot of opposition to the straight tonnage fee increase here.

Let me say, in conclusion, that it has been a pleasure to work with Chairman STUDDS, the ranking minority member, and the gentleman from Illinois [Mr. LIPINSKI] on the Committee on Merchant Marine and Fisheries. They are all highly motivated gentlemen and did an excellent job in presenting their case. We wish them well in the jurisdiction that they control.

We would like to see the American merchant marine prosper.

As for the tax that would be to the shipbuilding subsidy, I would just like to point out that we will be the first country of all of the shipbuilding countries to violate the standstill arrangement that we entered into when we agreed to this shipbuilding subsidy. It is kind of a travesty. We have been the country who pushed the rest of the world into getting rid of shipbuilding subsidies, and now we would be the first country to violate the agreement into which we urged all other countries to enter.

Mr. STUDDS. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I return the collegial salute of the acting chairman of the Committee on Ways and Means. It has been a pleasure for all of us to work with him and with his staff.

Mr. Chairman, last fall we made a commitment to the American people in enacting the Maritime Competitiveness Act. We come here today to keep that commitment.

As Members contemplate their vote, I invite them to consider the extraordinary diversity of this House that has risen to speak with one voice on this question, and I quite frankly challenge you to think of any other subject matter in which the diversity of views, however you want to describe them, from right to left, conservative to liberal, moderate to vegetarian, we have spoken from all corners of this country; Members who rarely speak together on a matter of consequence and a matter, as you have heard, with some controversy, with one voice. It is the national security of the country. It is the economic security of the country. It is a very important thing we are about to do.

I urge your support for the bipartisan committee amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GIBBONS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 268, noes 153, not voting 18, as follows:

[Roll No. 370]

AYES—268

Abercrombie
Andrews (ME)
Andrews (NJ)
Applegate
Bacchus (FL)
Baker (LA)
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Berman
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonior
Borski
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Calvert
Cantwell
Cardin
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Condit
Coppersmith
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dornan
Dunn
Engel
English
Eshoo
Evans
Everett
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Goss
Green
Gutierrez
Hall (TX)
Hamburg
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Hoyer
Hughes
Hunter
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kildee
King
Kleczka
Klink
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Livingston
Lloyd
Lowey
Machtley
Maloney
Mann
Manton
Markey
Martinez
Mazzoli
McCloskey
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pombo
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Richardson
Ridge
Roemer
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schumer
Scott
Serrano
Sisisky
Smith (NJ)
Snowe
Solomon
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—153

Allard
Andrews (TX)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bereuter
Bevill
Boehner
Bonilla
Boucher
Brewster
Bunning
Burton
Camp
Canady
Collins (GA)
Collins (IL)
Combest
Cooper
Costello
Cox
Crane
Crapo
DeLay
Dickey
Dooley
Doolittle
Dreier
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Ewing
Fawell
Franks (NJ)
Gallegly
Gallo
Gibbons
Glickman
Goodlatte
Gordon
Grams
Grandy
Greenwood
Gunderson
Hall (OH)
Hamilton
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Horn
Houghton
Huffington
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kennelly
Kim
Kingston
Klein
Klug
Knollenberg
Kolbe
Kopetski
Kyl
LaRocco
Leach
Lewis (FL)
Lewis (KY)
Lightfoot
Long
Lucas
Manzullo
Margolies-Mezvinsky
Matsui
McCandless
McCurdy
McInnis
McKeon
McMillan
Meyers
Michel
Minge
Moorhead
Nussle
Orton

Oxley
Packard
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickle
Pomeroy
Porter
Portman
Poshard
Ramstad
Regula
Reynolds
Roberts
Rogers
Rohrabacher
Rostenkowski
Roth
Rowland
Royce
Santorum
Schroeder
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Skaggs
Skeen
Skelton
Smith (IA)
Smith (OR)
Smith (TX)
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Thomas (CA)
Thomas (WY)
Valentine
Walker
Williams
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Ackerman
Carr
Clay
Collins (MI)
Conyers
DeFazio
Dingell
Ford (TN)
Inhofe
Laughlin
Montgomery
Sharp
Slattery
Slaughter
Smith (MI)
Underwood (GU)
Washington
Wheat

□ 1627

Messrs. HEFLEY, SKELTON, BARTLETT of Maryland, SHAW, and McINNIS changed their vote from "aye" to "no."

Messrs. McDADE, BARCIA of Michigan, HASTINGS, and HEFNER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. If there are no other amendments, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FIELDS of Louisiana) having assumed the chair, Mr. WISE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4003) to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes, pursuant to House Resolution 500, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 294, nays 122, not voting 18, as follows:

[Roll No. 371]

AYES—294

Abercrombie
Andrews (ME)
Andrews (NJ)
Applegate
Bacchus (FL)
Bachus (AL)
Baker (LA)
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Bellenson
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Calvert
Cantwell
Cardin
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Coppersmith
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Duncan
Dunn
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hunter
Hutto
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Livingston
Lloyd
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Price (NC)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Snowe
Solomon
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—122

Allard
Andrews (TX)
Archer
Armey
Baesler
Baker (CA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bereuter
Boehner
Bonilla
Bunning
Burton
Camp
Canady
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Crane
Crapo
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Durbin
Ehlers
Emerson
Ewing
Fawell
Franks (NJ)
Gallegly
Gibbons
Gingrich
Glickman
Goodlatte
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Herger
Hobson
Hoekstra
Houghton
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
Kopetski
Kyl
LaRocco
Leach
Lewis (FL)
Lewis (KY)
Lightfoot
Long
Lucas
Manzullo
Matsui
McCandless
McKeon
McMillan
Meyers
Mica
Miller (FL)
Minge
Moorhead
Nussle
Oxley
Packard
Paxon
Penny
Petri
Pickle
Pombo
Porter
Portman
Poshard
Pryce (OH)
Ramstad
Roberts
Rogers
Rohrabacher
Rostenkowski
Roth
Royce
Sensenbrenner
Shays
Smith (IA)
Smith (OR)
Smith (TX)
Stearns
Stenholm
Stump
Talent
Thomas (CA)
Thomas (WY)
Upton
Walker
Williams
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Ackerman
Carr
Clay
Collins (MI)
Conyers
DeFazio
Dingell
Ford (TN)
Inhofe
Laughlin
McCrery
Montgomery
Santorum
Sharp
Slattery
Smith (MI)
Washington
Wheat

□ 1648

Ms. PRYCE of Ohio and Mrs. MEYERS of Kansas changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1650

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 4003, MARITIME ADMINISTRATION AND PROMOTIONAL REFORM ACT OF 1994

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4003, the Clerk be authorized to make corrections in spelling, punctuation, cross-references, title and section designations, and to make any other necessary technical and conforming changes.

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

There was no objection.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4003, the bill just considered and passed.

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

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon tomorrow, Wednesday, August 3, 1994.

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

There was no objection.

ANNOUNCEMENT OF REVISION OF DEADLINE FOR PRINTING OF AMENDMENTS ON HEALTH CARE BILL

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

Mr. MOAKLEY. Mr. Speaker, last week I informed the Members that they would have until tomorrow night to file amendments to the health care bill. However, because of the backup in the legislative counsel's office, it seems that it would be a physical impossibility to carry out and get all these substitutes ready during that time. Therefore, I am informing the Members that that time will be moved until Monday, August 8, at 6 o'clock p.m., at which time Members will have amendments and substitutes on the health care bill ready for printing.

Mr. HASTERT. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Speaker, just a point of inquiry. The amendments or bills that are in process will be required by Monday night at 6 p.m., and that will be all technical language, everything together? There will be no holdovers to correct, is that correct? Everything has to be completed?

Mr. MOAKLEY. That is our hope. We just finished a bipartisan meeting in the Speaker's office pertaining to technical amendments, and we may make some language possible so that they will be able to make technical amendments.

Mr. HASTERT. If the gentleman will continue to yield, Mr. Speaker, there may be some time for cleanup, technical cleanup, after?

Mr. MOAKLEY. Yes, but nothing substantial.

Mr. HASTERT. Mr. Speaker, when is it intended, then, that this bill will go before the Committee on Rules?

Mr. MOAKLEY. Mr. Speaker, I would think that with C-SPAN, and we have to get the CBO estimates, and we would probably get about 100 witnesses, so I would probably think the end of the week.

Mr. HASTERT. I thank the gentleman.

Mr. MOAKLEY. Again, that is something that the bipartisan conference is discussing.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the matter would not get to the Committee on Rules until the end of the week, then, I would ask the gentleman?

Mr. MOAKLEY. We moved the date for the substitute up until Monday, August 8, and we will meet as soon as we can after that.

Mr. WALKER. If the gentleman will yield further, the question becomes, of course, when we would end up having it on the floor. If the committee is going to hear 100 witnesses, and it probably does not start until Tuesday or Wednesday——

Mr. MOAKLEY. Mr. Speaker, all I can tell the gentleman is that the ranking member and myself will work as quickly as we can, but there is just so much time it is going to take, and the scheduling of the bill, as the gentleman well knows, it still the subject of discussion between the bipartisan group.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just say that in the bipartisan meeting we just had, that the Speaker of the House is still talking about an adjournment date of August 12, so if we do have the filing date of Monday at 6 p.m., the Committee on Rules will take it up on Tuesday or Wednesday, and then certainly there would be votes on Thursday or Friday, if we meet the Speaker's deadline.

REPORT ON DEVELOPMENTS CONCERNING NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-289)

The SPEAKER pro tempore (Mr. MANN) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection; referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of March 3, 1994, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution 778 requires U.N. member States temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq, to finance Iraq's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to

provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the escrow account are to be returned, with interest, to the member States that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the U.N. Security Council. No member State is required to fund more than half of the total transfers or contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the "Executive orders"). The report covers events from February 2, 1994, through August 1, 1994.

1. During the reporting period, there were no amendments to the Iraqi Sanctions Regulations.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. There are currently 30 enforcement actions pending. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and Iraqi Sanctions Regulations with respect to transactions involving Iraq. Three penalties totaling $38,450 were collected from three banks for violation of the prohibitions against Iraq, and noncompliance with reporting requirements and an Office of Foreign Assets Control directive license.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to the Office of Foreign Assets Control's listing of individuals and organizations determined to be Specially Designated Nationals ("SDNs") of the Government of Iraq. One Jordanian-Iraqi joint venture company prominently involved in shipments to Iraq was identified as an SDN of Iraq on May 4, 1994. A copy of the notice is attached.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution 778, on October 26, 1992, the Office of Foreign Assets Control directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On March 1, 1994, following payments by the Governments of the United Kingdom ($447,761.19), the Netherlands ($1,566,994.55), Australia ($476,110.00), and the European Community ($3,758,310.31), respectively, to the special United Nations-controlled account, entitled United Nations Security Council Resolution 778 Escrow Account, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $6,240,176.05 from the blocked account it holds to the United Nations-controlled account. Similarly, on March 22, 1994, following the payment of $525,182.50 by the Government of the Netherlands, $2,478,089.89 by the European Community, $2,352,800.00 by the Government of the United Kingdom, $444,444.44 by the Government of Denmark, $1,204,899.30 by the Government of Sweden, and $3,100,000.00 by the Government of Japan, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $10,105,416.13 to the United Nations-controlled account. Again on June 30, 1994, the Federal Reserve Bank of New York was directed to transfer $6,969,862.89 to the United Nations-controlled account, an amount corresponding to the aggregate total of recent payments by the governments of other Member States: European Community ($1,042,774.31), United Kingdom ($1,570,804.48), the Netherlands ($1,062,219.51), Kuwait ($2,000,000.00), and Sweden ($1,294,064.59). Cumulative transfers from the blocked Federal Reserve Bank of New York account since issuance of Executive Order No. 12817 have amounted to $130,928,726.04 of the up to $200 million that the United States is obligated to match from blocked Iraqi oil payments, pursuant to United Nations Security Council Resolution 778.

5. The Office of Foreign Assets Control has issued a total of 496 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 52 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, food intended for humanitarian relief purposes, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexistent intellectual property rights in Iraq.

6. The expenses incurred by the Federal Government in the 6-month period from February 2, 1994, through August 1, 1994, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $2.3 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

7. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraqi's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. Four years after the invasion, a pattern of defiance persists: a refusal to recognize the international boundary with Kuwait or to account for missing Kuwaiti detainees, sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors, and ongoing widespread human rights violations, among other things. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continued to violate basic human rights of its own citizens through systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by United Nations Security Council Resolution 688. For more than 3 years, Baghdad has maintained a complete blockade of food, fuel, and medicine on northern Iraq. The Iraqi military routinely harasses residents on the north, and has attempted to "Arabize" Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its military artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring States.

In 1991, the United Nations Security Council adopted Resolutions 706 and

712, which would permit Iraq to sell up to $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. The resolutions also provide for the payment of compensation to victims of Iraqi aggression and other U.N. activities with respect to Iraq. The equitable distribution within Iraq of this humanitarian assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. Nearly a year ago, the Iraqi government informed the United Nations that it would not implement Resolutions 706 and 712.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions require that the Security Council be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraqi's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1994.*

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE REPORT ON H.R. 4822, MAKING CERTAIN LAWS APPLICABLE TO THE LEGISLATIVE BRANCH OF THE FEDERAL GOVERNMENT

Mr. ROSE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration have until midnight tonight to file its report on the bill (H.R. 4822) to make certain laws applicable to the legislative branch of the Federal Government.

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

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to simply inquire of the gentleman from North Carolina [Mr. ROSE] whether or not we have some assurance that in September, the rest of the congressional reform package will come to the floor.

As the gentleman well knows, Mr. Speaker, the congressional compliance bill that he is seeking to bring to the floor in the next few days was one part of the total congressional reform package that came out of the Hamilton-Dreier committee. We were somewhat concerned about separating the package, because there are a number of other reforms that we think need to be taken up.

Mr. Speaker, I would ask the gentleman, can I get some assurance that we will see the rest of the package and we will have an opportunity to amend that package on the floor sometime in September?

Mr. ROSE. Mr. Speaker, the remainder of that package, as the gentleman knows, does not come through my committee, but I have been assured by the Speaker, and the gentleman has seen his assurances, that the remaining portion of the package will come to the floor in September.

Mr. Speaker, it is my understanding and belief that the answer to the gentleman's question is yes, we will have it up in September. It will be brought to the floor. It should be brought to the floor in such a way that it can be amended as the gentleman has suggested.

Mr. WALKER. I thank the gentleman for his information and for his courtesy on that.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

IN SUPPORT OF THE CRIME BILL AND H.R. 4050, THE REEMPLOYMENT ACT OF 1994

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

Mr. RICHARDSON. Mr. Speaker, the crime bill is coming up, and because of special interests, whether it be the gun issue or others, the outcome may be in doubt. If there is one issue that our constituents want us to act on, it is crime. Let us not let gridlock prevail. Let us make sure that we can govern. That is the question on the crime bill.

Mr. Speaker, the President has a lot of initiatives that have been politicized: health care, welfare reform, Haiti policy. But when it comes to crime, let us ensure that we do not politicize this issue, and the vote on the rule and the vote on final passage in the next couple of days will determine whether Congress can govern.

Another good initiative the President has is the Reemployment Act, a jobs bill that helps self-employed workers, makes them eligible for training. Ranchers and farmers in rural areas benefit.

Mr. Speaker, the President has a lot of good initiatives out there. Let us act on them.

Mr. Speaker, our country is the greatest nation in the world because the men and women of this country have a commitment to hard work. A healthy work force is the lifeline to maintaining the health of America.

I am a cosponsor of the Reemployment Act because it is the medicine that small towns across America need to ensure their wellness into the 21st century. In a fast paced, high turnover job market the Reemployment Act makes sure that hardworking Americans have the skills they need to be a part of the work force.

A large part of the people that I represent live in small rural towns and villages. The Reemployment Act is good for my rural district because it helps farmers and ranchers. The Reemployment Act specifically identifies farmers and ranchers as self-employed workers and makes them eligible for income and training if they become unemployed as a result of general economic conditions. In addition, part-time and seasonal workers, who are a large part of the rural work force, will have access to the training that they need if they suffer permanent job loss.

Small town economies can be devastated by one plant closing or layoff. Dislocated workers in these areas will have improved employment options by better access to labor market information on job openings, and the option of receiving unemployment insurance benefits while starting a new business, or training to upgrade their skills.

Mr. Speaker, we owe the men and women of America the tools that they need to be a part of the greatest work force in the world and we can do that by supporting the Reemployment Act.

GATT

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

Mr. ROHRABACHER. Mr. Speaker, as a free trader, I was a strong supporter of NAFTA. Normally I would be an enthusiastic vote for GATT. But there are stealth changes, imbedded in the GATT implementing legislation, that will make it impossible for me to support this trade deal. I am talking about the patent harmonization provision that if implemented will drastically dilute our inventors' patent rights.

Our patent system has ensured the primacy of our country in biotechnology, electronics, environmental, and other futuristic industries. Protecting patent rights in the United States has been a mainspring of job and wealth creation.

Now, the Japanese, and our own multinational corporations, are scheming to insidiously change our patent law.

The big guys, Japanese and American, are using GATT as a cover for legalizing their own grand theft of the little guys inventions. Worse, these changes are not necessary for this trade deal, totally unnecessary to be in compliance with GATT.

I ask my colleagues to oppose GATT unless the powers-that-be back off on this attack on our patent rights.

Mr. Speaker, I include for the RECORD the following:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 29, 1994.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We urge you to reconsider including the administration provision in the GATT implementing legislation

that will fundamentally change our present patent system.

The proposed changes in the law go beyond the General Agreements on Tariffs and Trade (GATT) agreement, which was signed by Vice President Gore in Marrakesh on April 15. The changes would limit U.S. patents to 20 years from the date of application; would provide for provisional applications giving a U.S. filing date even though the application was filed in a foreign language without claims or named inventors; and would publish all applications 18 months after filing.

These changes have been demanded by Japan and are supported by many multinationals. Neither the inventor, the small businessman, nor the government will profit from this critical change in American patent law. However, it will benefit foreign companies who will able to copy technology with impunity.

For a number of years, Foreign governments have pushed to have the American patent system weakened because patents are one measure of a country's economic strength and future. The New York Times, reports that high quality patents, (which are patents most often cited in patent filings), are seen as a symbol of a nation's future prosperity signaling the emergence of important new technologies which will be under a patent holder's exclusive control for many years. In 1993, the United States led the world in influential patents with 59,588, which is almost twice as many as Japan, Italy, the United Kingdom, France and Germany.

This system, protected in the Constitution under Article I, Section 8, Clause 8, must not be harmonized with foreign systems without hearing the voice of the small inventors and entrepreneurs in Congressional hearings.

We urge you to reconsider the need to change our system to accomodate these foreign companies. Americans have had the incentive to forge ahead and develop many revolutionary inventions that have made America a technology leader.

This system, which protects the intellectual property of the inventors and the American people must not be change without adequate hearings. It is the secret of America's success in job creation and industrial strength.

Thank you for your prompt consideration.

Sincerely,

Helen Delich Bentley; Dana Rohrabacher; Terry Everett; Ed Royce; Ken Calvert; Marcy Kaptur; G.L. Poshard; Bernard Sanders; Tom Lewis; Duncan Hunter; Peter DeFazio; Mike Bilirakis; George E. Brown, Jr.; James Traficant, Jr.; Barbara F. Vucanovich; Dan Burton; Lucien E. Blackwell; James H. Bilbray; Cass Ballenger; Elton Gallegly; Jill Long; Gene Taylor; Bob Walker; Ron Klink; Sherrod Brown; Chris Cox; John J. Duncan, Jr.; James Sensenbrenner; Robert K. Dornan; Jerry Solomon; Rod Grams.

□ 1700

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MANN). Under the Speaker's announced policy of February 11, 1994, June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

THE BILLION-DOLLAR QUESTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I guess we are being asked to make a very big stretch these days in this country. The United Nations has just declared that Haiti is a threat to regional peace and security under Article 7 of the U.N. Charter. It is a little hard for me to imagine just how Haiti is going to be a threat to our peace and security, to our borders in any way, but nevertheless the administration has convinced through negotiations and wheeling and dealing in New York apparently other countries to declare now that Haiti is a threat to regional peace and security and, therefore, subject to some type of an invasion or any action it will take to bring that situation under control.

I wonder if there is anybody in this country that actually believes that this friendly neighboring country which is very, very poor, has very, very few amenities to it, has trouble feeding itself, is really a threat to anybody except its own self? I wonder if there is anybody who really believes the postulate that has been put out there that Haiti is a central linchpin in the international drug cartel corridors.

If Haiti is, I wonder, what does that say about our friends in Colombia and Ecuador and Peru and the Bahamas and other countries like Jamaica where we know we get cooperation in drug trafficking and drug interdiction efforts and it is a big, big problem that we have to keep working on.

The question has been raised, are there United States citizens in danger in Haiti? Well, that is a very serious question and one we want to take a good, close look at. But the most recent information we have from our embassy in Port-Au-Prince, is that they acknowledge there is no clear indication of any threat to United States citizens presently in Haiti.

The next question is, well, it must be then that the security question goes to the mass immigrant exodus. Why is this happening? When we look into the exodus, we discover that it has slowed down. There are not as many refugees leaving Haiti these days as there were. It turns out, the reason is that the Haitians who were leaving thought they were going to get to the United States to a better way of life. Now that that message has been sent that that is not going to happen, that they are going to put into a safe haven in Guantanamo or some other Caribbean country, the desire to leave Haiti has waned a little bit, even though the situation there is truly miserable and even though there is political persecution, human rights violations, and tremendous economic despair, no jobs, and all kinds of suffering and humanitarian problems going on with food and medicine and so forth.

I guess the question then has to be, and it is a billion-dollar question: Why in the world is the United States of America talking about invading Haiti and going to the United Nations to go through all these machinations to declare that they are a danger to our national security and to the region's peace and security?

I think that it is a billion-dollar question and perhaps several billion because we are told that if this thing works right, that the idea is that our troops will go in there, they will be there about 6 months, and that is going to cost, well, just hundreds of millions, we do not know exactly how many, but they will be out in about 6 months. Then we are going to go and we will ratchet down from 12,000 to 15,000 troops who are going to go through the countryside and assist in the disarming of the army and the people there. Then those people are going to leave and we are going to have 6,000 other troops, at least 30 percent of them will be United States, and they are going to stay there until February or January 1996, something like that, and all this is going to be funded out of the DOD budget except the part that will be funded out of the State budget. When you add it all up, it comes to over $1 billion. Some of that money is needed for other higher priorities where there are some real problems and some real defense needs and some real State needs.

I think what we have got now is some very poor explanations for some indefensible actions that are being taken to support a policy which is bankrupt and does not work.

I am going now to a statement in the Washington Post of May 5, the statement of Larry Pezzullo who was previously the Special Adviser on Haitian affairs, and I want to quote a little bit if I can because it is so relevant. This is the solution, it is the solution we should be pursuing today and the only reason that Mr. Pezzullo is not there today pursuing this solution is because this is a politically incorrect solution:

> On the political front, Aristide's own prime minister and political ally, Robert Malval, took the initiative, convincing Aristide that his political alliance should be broadened to include legitimate political parties represented in the legitimate parliament. But Aristide soon reversed himself, and rejected Malval's idea as power-sharing with the military. Malval resigned in December.

We will continue this, because the answer lies in a negotiated settlement around the people like Malval who want to solve the problem without warfare.

HOLLOWING OUT OUR FORCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I am here to talk tonight about the continuing degradation of America's security and national defenses, but before I do that, I would like to comment 1 minute on the announcement by the majority that they are going to be bringing up the so-called health reform bill shortly and just comment that at least as one Representative who has talked to his people for the last year or so about this prospective bill, then called the Clinton package, it takes a while for the American people to understand what is in this package. I think what defeated the President's initial effort was the fact that the people saw the package. I think it is appropriate for the majority to give the American people a chance to see it, to see the package, a chance for small business to look at the mandates that they will be operating under, decide whether or not they are going to have to lay off people as a result of those mandates, decide how many people they are going to have to lay off, talk a little bit to their employees, some of whom will be the prospective folks who will be laid off as a result of these burdens, and let the American people analyze this, what I call the Clinton II health care package. Because it was the people, not this House and not people in Washington but the people of the United States who essentially defeated the President's first attempt to socialize medicine. They should certainly have a chance to look at this second attempt before we vote on this bill.

Mr. Speaker, let me talk about an issue that was a very important issue in the late 1970's and is becoming important again because it is becoming an issue of some urgency, and that is the security of our country. It is the degradation in the readiness of our Armed Forces to carry out our national security policy and to enforce our foreign policy. Disturbing trends are coming out of the Pentagon right now. They are coming from all the services. The Army, the Marines, the Air Force, and the Navy are all reporting that it is more difficult now for them to recruit qualified personnel, a problem that we had in the hollow military of the late 1970's before President Reagan was elected and rebuilt national defense with the Republicans. We are seeing a degradation in our repair rates for equipment. The operation and maintenance rates, major repair of large pieces of equipment is now down to about 62 percent of what we need to be doing.

We have an ammunition stockpile that is deteriorating. We saw, at least with respect to the report that I have examined, the expenditure of almost all of our smart weapons, those weapons that can zero in on a small target and be guided very accurately to their target. We have seen that stockpile reduced to the point where in a regular conflict, in a medium-sized conflict, all those smart weapons would be used in about 1 day.

We have seen transportation problems. We understand now that we do not have a good ammunition port on the west coast, that it might be very, very difficult to bring all of our Reserves up in time to start moving transportation of heavy equipment and supplies to a regional conflict. And the recent reports on readiness that have been coming from the Defense Science Board and from the Pentagon itself say that it is going to be, very, very difficult to handle two regional conflicts at the same time.

President Clinton has decided to cut $129 billion out of national security over the next 5 years and that is below the $50 billion cut that then-President Bush, then-Secretary of Defense Dick Cheney and then-Chairman of the Joint Chiefs Colin Powell decided to make a couple of years ago. So they went $50 billion under the projected 5-year plan and then President Clinton came along, having been elected, and decided to cut $129 billion below that plan and that, my colleagues, is hollowing out our forces.

Remember that phrase in the 1970's, the hollow forces? We are hollowing out right now America's military capability.

□ 1710

Back in the 1970's we had young Navy families that were on food stamps. They were being told by their commanders not to be ashamed to line up and get food stamps to supplement the hard-earned pay they received for sometimes working 10, 12, and 18 hours a day.

Well today our military families are up to $27 million annually usage of food stamps. They have gone up $3 million in just the last year.

I will continue this special order tomorrow and get into other areas.

SMALL BUSINESS ADMINISTRATION PROMOTION OF EMPLOYER MANDATES

The SPEAKER pro tempore (Mr. MANN). Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, when I came here 2 years ago as a former small business owner, I thought that I would have an opportunity to work to help small businesses. Unfortunately, that doesn't seem to be the case.

This morning, I was going to offer an amendment to a bill—H.R. 4801—which was scheduled to be debated and voted on today, but suddenly the entire bill was removed.

My amendment was simple: It would prohibit the Small Business Administration from spending taxpayer dollars to promote employer mandates.

This amendment is necessary because the SBA spent over $100,000 in fiscal year 1994 funds to promote employer mandates—telling small business owners that employer mandates would be good for them. The SBA has also spent appropriated funds to send Erskine Bowles, the SBA Administrator, to town hall meetings to spread the word about the benefits of employer mandates.

What is disturbing about this is that the SBA is promoting employer mandates in spite of the fact that employer mandates will hurt the very small businesses that the SBA is supposed to represent.

In case you have any doubt about this fact, just look at the evidence: Almost every credible study predicts substantial wage and job loss as a result of employer mandates. A study by the CONSAD Research Corp., for example, predicts that over 1 million workers could lose their jobs as a result of employer mandates. Another study, done by the State of California, predicts that over 3 million employees will lose their jobs.

The evidence also shows that the owners and employees of small businesses are overwhelmingly opposed to employer mandates. For example, in six out of seven White House conferences on small business, held in seven different States, small business owners voted overwhelmingly to reject employer mandates.

In other words, the SBA has spent taxpayer dollars to promote a policy which the evidence shows will be bad for small businesses and which the owners and employees of small businesses overwhelmingly oppose.

My amendment would address this shameful situation by prohibiting the Small Business Administration from spending funds authorized by H.R. 4801 to promote employer mandates.

Then, the Rules Committee, which decides what amendments are allowed to be offered on the floor, voted to prohibit me from offering my amendment—even though the amendment was ruled perfectly germane by the House Parliamentarian.

In response to this ridiculous situation, I was going to offer a motion to recommit before the vote on final passage. This motion would have forced the House to vote on my amendment.

Not surprisingly, just as I was preparing to offer my motion, the Democratic leadership—without any warning—suddenly decided to pull H.R. 4801 from the floor—despite the fact that we had already started to debate the bill last Friday.

Why did they do this? The answer is simple: They are terrified. They are terrified that if the issue of employer mandates comes up for a vote in the House, this body might vote to reject this job-killing proposal. In fact, they are so terrified that they won't even

let my amendment—which is a simple amendment dealing with the activities of the SBA—come to the floor for a vote.

This is an example of why the American people are so frustrated with Congress. This body is supposed to debate issues, but we give the American people the impression we avoid tough questions by delaying and hiding behind parliamentary rules.

For this reason, I urge the leadership of this body will come to its senses and allow us to vote on my amendment. I think we owe that to the owners and employees of small businesses.

GUARANTEED HEALTH INSURANCE ACT OF 1994

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, last week the leadership of this House presented the Guaranteed Health Insurance Act of 1994, the final version of a bill which Congress has been working on for almost 2 years.

When compared to some of the earlier proposals, I believe this bill offers more of what the American people want and less of what they do not want.

First and foremost, as this chart illustrates, this plan will guarantee health care that can never, even be taken away, not when you lose your job, not when you are struck by a serious illness, not when the insurance company wants to cancel your coverage.

I had a town meeting in Taylorville, IL, about 10 days ago. A gentleman was standing by the side of the room and he said to me, "Do I look to you like I am unhealthy?" I said no, not at all. He said, "Well the fact is, despite my young age, I had a stroke 4 or 5 years ago." He said "it was very minor. He said, "It has not affected anything I can do, but the fact that I have had a stroke means that I cannot buy hospitalization insurance."

If you think that is a exception, I am afraid it is not. There are 81 million Americans today who have a preexisting condition. They have been treated for cancer. They may have had some back surgery. They may have had a heart problem. They may be diabetic, a series of different things that might disqualify them from hospitalization insurance or in fact cause them to pay premiums their families cannot afford.

The interesting thing about the health care reform debate is that so many Americans, fortunate as I am and the other 9 million Federal employees who have Federal health insurance programs, we tend to tune out this debate and say this is somebody else's problem. This is an issue for somebody else to worry about. But in fact, each of us is an illness away from being as vulnerable as the man who came to my town meeting.

What we are trying to do with health care reform is say once and for all to the health insurance industry: You cannot do this to the American people. You have to put us all together in community rating, the same pool, spread the risk and not cut off a family because the child that is going to be born to them may be born with a problem. That to me is not only fair, it is sensible, and it is the kind of reform we will achieve with the health care reform act before Congress.

It makes sure in this plan that every single American is covered. That is the only way we can control costs. We have got to get every American under the tent paying their own way as best they can.

Today, 37 million Americans are uninsured. People show up for treatment when they are in serious trouble, and we end up shifting the cost of this treatment to someone else.

The gentleman from California who spoke before me said small businesses should not be required to insure their employees. I beg to differ with him. Those employees of small business who do not have health insurance today are being protected by the rest of us who are paying premiums and taxes and are in fact picking up the cost of those businesses which do not cover their own employees. I do not think that is fair, and it certainly does not give any peace of mind to the employees of small businesses.

I do believe, and this bill believes that we should help the smaller businesses which may face serious problems in paying for health insurance so if they have a lower number of employees we give them a helping hand to pay for that insurance. But it is only fair that every business accept a shared responsibility, employers and employees, and that this become the American way of doing things. Too many Americans think the 37 million uninsured are poor, unemployed young people. All three are wrong. The poorest in America are already taken care of by Government health insurance.

□ 1720

Eighty-five percent of the uninsured in my district work for a living at a job that does not provide health care benefits. They are not young people. Over half of them are over the age of 30.

I did a television show last week with a colleague of mine in Illinois. We made this point on the air. When it was finished a young lady at the studio nearby came up afterward and said, "I am glad you made that point, Congressman. I am a single mother, two kids, no health insurance for 6 years. I show up every day behind that camera and do my best to make a living."

Those are the folks who should be protected. Those children should be protected. This plan will make sure that that happens.

It is going to guarantee our freedom to choose our own doctor. I want that freedom. I want to make sure I can pick the right doctor for me, the right doctor for my family. I also want to make sure that I can afford that doctor, once making that choice, and this health care reform plan will do that. It also says if you are set about changing jobs, insurance will stay with you.

Do you know that two-thirds of the American people when asked say they are afraid to change jobs for fear of what it might do to their health care benefits?

I would conclude by saying this health care reform plan we are proposing meets the basics the American people are looking for. I implore my colleagues and all those listening to listen closely to this debate during the next several weeks.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Haller, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 2457. An act to direct the Secretary of the Interior to conduct a salmon captive broodstock program; and

H.J. Res. 374. Joint resolution designating August 2, 1994, as "National Neighborhood Crime Watch Day."

The message also announced that the Senate agree to the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 868) entitled "An Act to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales with a telephone, and for other purposes".

THE 50TH ANNIVERSARY OF THE WARSAW UPRISING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise tonight to pay tribute to the courageous people of Poland on their upcoming 50th anniversary of the Warsaw Uprising. This is the fifth in a series of special orders I will give this week to bring attention to this event. I will continue this evening by reading to the membership, excerpts from the book, "Forgotten Holocaust: The Poles Under German Occupation, 1939–1944," by Richard Lucas.

The turning point of the uprising was the Polish defeat in Old Town, which began in earnest on August 19 and went on until September 2.

One source estimated that during the two-week battle 3,500 to 4,500 tons of shells fell on an area three quarters of a square mile, perhaps the largest amount of steel to be expended in so small an area during the war. The buildings of the sector soon became the collective graves of thousands of men and

women who were buried alive. By the third day of the struggle, out of the 1,100 buildings in Polish hands, 400 had been completely destroyed and 300 had been burned.

There was only one way left for the 1,500 defenders of Old Town to get out. That was the sewer. There never had been anything but a small detachment which made the trek through the sewers before. And to evacuate the entire detachment would mean leaving Old Town totally undefended while the men retreated underground. To make matters worse, if the Germans discovered what was afoot, a few well-placed bombs would decimate the group. And how could the 1,500 men be concealed from the enemy when the manhold they had to use was only a few hundreds yards from German positions? For Bor, it was one of the most difficult decisions he had to make during the uprising. On the night of September 1, 1,500 soldiers, 500 civilians and 100 German prisoners began the 1,700 yard trek through the slime. Old Town was defenseless. If the Germans had attacked, there would have been no opposition. Fortunately, the Germans did not enter the sector until the next day.

The level of violence increased so much during the first two weeks of September that the Germans suffered 5,000 causalities.

The atrocities returned. German soldiers used women as a screen for their advance into Powisle. There were reports that German soldiers ordered patients from the hospitals into bomb craters and then machine gunned them.

"All other wards, as well as the staircase, were on fire; the smell of burning corpses, indescribable thirst; the wounded seized medicine bottles for lack of water, one of my neighbors mad from the heat and thirst; seized a bottle of iodine and drank the contents, poisoning himself to death; for myself, together with some others, I moistened my lips with peroxide solution. So we lay until the morning of the following day when, with a superhuman effort, we managed to creep out from the burning rains."

They hoped that recent British and American diplomatic pressures on Moscow might force the Soviet Army to roll again, or at least give the AAF permission to use Russian bases for relief of Warsaw.

Ever since September 9, Bach-Zelewski substantially increased artillery barrages to convince the Poles to capitulate. Seeing Soviet military activity increase steadily, the Poles allowed General Reinhardt's deadline to pass and opted to continue the struggle, lasting political and military victory, the Poles—incredibly—put their faith in the Soviet Union for the second time in two months, and the bloodbath continued. It was to be August all over again.

Russian planes flew several times over the area but dropped their loads frequently without parachutes. The consequence was that the supplies were so damaged as to make much of them useless. The Soviet drops, however, came in time.

The Red Army had the Germans on the run.

The series of attempts to cross the river in mid-September ring of Stalinist cynicism: He used Polish troops who were expendable in an operation that he probably never intended to support strongly enough by Soviet artillery and aircraft and by effective liaison with the AK. To Stalin, the crossings were a gesture only, not a genuine effort to take Warsaw from the Germans.

After repeated pleas from the Poles to the United States to aid them and Soviet refusals to allow the AAF to use their bases, which were essential for B-17s to drop supplies over Poland, Washington waited helplessly as the Germans relentlessly pounded the Varsovians. After Stalin's belated effort to aid the Polies early in September, he finally dropped his opposition to AAF use of Soviet bases, knowing by then that Polish surrender to the armada, consisting of 110 B-17s and three groups of P-51s, took off from English airfields. The big planes, flying between 14,000 and 17,000 feet, dropped 1,284 containers with multicolored parachutes. Approximately, 288 of them reached Polish hands.

The people had been on starvation rations for days. People searched vainly for the few remaining dogs to eat.

Bor told London, "Warsaw has no longer any chance of defence. I have decided to enter into negotiations for surrender with full combatants rights, which the Germans fully recognize."

On October 2, 1994, Polish representatives worked out the final surrender terms: AK soldiers were to be treated as prisoners of war. On October 5, Bor inspected his security platoon for the last time. There had been 128 of them on August 1. Now there were 36. By 9:15 AM the Home Army was ready to march out with their arms and surrender to the waiting Germans, just a few hundred yards away. A woman darted from the crowd and gave Bor a medal from the Polish insurrection of 1863. It was an emotional moment, heightened by the fact that Bor began to sing the Polish national anthem. Jeszcze Polska Nie Zginela ("Poland is Not Yet Lost"). The crowd was in tears.

No one knows for certain how many people perished in Warsaw during the two-month inferno that began on August 1. Various estimates abound. The official history of the Polish armed forces estimates that there were 21,600 military casualties in Warsaw—10,000 killed, 6,600 wounded and 5,000 missing in action. The same source places German casualties at 26,000—10,000 killed, 9,000 wounded and 7,000 missing in action. Bach-Zelewski himself estimated German casualties at 20,000. On the other hand, a respected German scholar estimated that the Germans suffered 11,000 casualties—2,000 killed and 9,000 wounded. Total losses, military and civilian, in Warsaw appear to have amounted to approximately 200,000.

The Warsaw Uprising doomed the Poles in the capital to defeat and destroyed the heart of the political and military institutions of the Polish underground, a goal that Stalin needed to accomplish before his armies occupied Warsaw and installed his own political proteges as the rulers of Poland.

NAPOLEON OF THE OZARKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I want to do, or I am signed up to do, God willing, two special orders tomorrow and the next night, and two on Wednesday and Thursday of next week.

I am getting so many requests for special orders, so I want people to know when I am going to do them and when other Republicans are going to do them and what the subject matter will be.

Tonight, during these 5 minutes, I want to touch on Haiti, but I will be doing another special order Thursday night for the better part of an hour, also on foreign/military affairs.

Tomorrow, I am going to discuss Joycelyn Elders and why I even went so far as to consider drawing up articles of impeachment against this Clinton official. Instead, I will suffice to do a special order and ask that she be removed or resign.

My title for that discussion tomorrow will be "The Condom Queen***," a title she does not seem to mind, or "The Condom Queen Must Be Deposed."

My title for the Haiti-Cuba-Rwanda-North Korea special order on Thursday, and I consider each of those nations in ascending importance, with North Korea being dominant, I will title that one, "An Indecisive Non-Leader for the New World Disorder."

On Wednesday of next week I hope to do one called "Feeding Christians to the Media Jackals." this, of course, will cover the whole Christian-bashing issue with emphasis on some of the attacks in this town by sitting Members of both gender in this House against my beloved denomination in the Christian faith.

And then on Thursday of next week I will do a special order that is a quote from Clinton's December 3, 1969, letter to Colonel Holmes, a Bataan death march survivor and one-time head of the Arkansas Reserve Officer Training Program. I will lift a line from that letter, beginning with an ellipsis "*** come to Loathe the Military." It will discuss what is now 15 specific Clinton or Clinton staff insults to uniformed military personnel. A subtitle might be "Loathe to Command, an Unworthy Chief."

Tonight I would call, taking a line from an article by Samuel Francis, which I will ask unanimous consent to put in the RECORD at the end of my remarks, "Napoleon of the Ozarks," and it is about this rush to invade Haiti.

Mr. Speaker, here is the concurrent resolution that I was an original cosponsor of, by the gentleman from Florida [Mr. GOSS], who spoke to this subject earlier tonight, called Consideration of U.S. Military Action Against Haiti. It reads:

> It is the sense of Congress the United States should not undertake any military action directed against Haiti unless the President first certifies to the Congress that there exist a clear and present danger to the citizens of the United States and the United States' interests require such action.

Today, there are dozens of sponsors of this concurrent resolution.

That sentence is very understandable, "clear and present danger," which is the title of a movie that is about to open soon that will probably be another Tom Clancy runaway box office hit, but we mean this quite seriously. Where is the clear and present danger?

What I will bring out on Thursday night is that Haiti is important but

fades in importance next to Cuba, a dictatorship where there are far greater massacres, far more political prisoners, far more torture, and far more cancer in this hemisphere, the Western Hemisphere.

And don't forget Rwanda, with far more loss of life, a far more compelling issue: 500,000 murdered by machetes, and 18,000 still dying of disease many of the families of those murdered by machete killers, innocent women and children, dying in and around Goma, Zaire.

But, as bad as that issue is, one North Korean nuclear weapon unleashed at South Korea, Japan, or even our ships at sea, would produce a far larger death toll in a microsecond than has been killed in Rwanda, tragically, since April 5, when the massive killings started there.

Mr. Speaker, I would like to put in the RECORD, again for about the eighth time, my 10 commandments expanded upon what I call 7-year Secretary of Defense Cap Weinberger's 6 commandments. He did not call them commandments. He called them suggestions. I say they should be commandments, expanded to 10, on the use of U.S. combat forces.

Mr. Speaker, in closing, let me say that I am putting in the RECORD at this point the Dornan 10 commandments urging Clinton to avoid military intervention in Haiti and two columns by Samuel Francis and the brilliant Charles Krauthammer, on why we should not invade Haiti.

(From Congressman Robert K. Dornan)

DORNAN OFFERS 10 COMMANDMENTS ON USE OF U.S. COMBAT FORCES

WASHINGTON, D.C.—The United States should not send its troops into combat unless 10 stringent conditions are met, states U.S. Rep. Robert K. Dornan (R-CA/46), a member of the House Armed Services Committee.

"The potential for armed conflict in violence-ridden areas such as North Korea, Haiti and Bosnia necessitates a reasoned, sound approach for the use of American military forces," says Dornan, a former Air Force pilot.

"The first year and a half of the Clinton presidency has painfully demonstrated the fallacy of using public opinion polls to determine U.S. foreign and defense strategy. Judicious policy, not politics, should be our guide, especially when American lives are at stake."

The first six commandments were adapted from a November 1984 speech by Caspar Weinberger, the seven-year secretary of defense during the Reagan administration. Weinberger last month agreed with Dornan on a seventh commandment regarding foreign command of U.S. troops. The congressman had previously authored similar legislation. Dornan developed the last three commandments after visiting U.S. troops in Somalia a few days after the October 3 and 4 "firefight from hell" in which 18 young soldiers were killed in action.

The 10 commandments for committing U.S. combat forces are as follows:

(1) Thou shalt not commit U.S. combat forces unless the situation is vital to U.S. or allied national interests;

(2) Thou shall not commit U.S. Combat forces unless all other options already have been used or considered;

(3) Thou shall not commit U.S. combat forces unless there is a clear commitment, including allocated resources, to achieving victory;

(4) Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives;

(5) Thou shall not commit U.S. combat forces unless our commitment of these forces will change if our objectives change;

(6) Thou shall not commit U.S. combat forces unless the American people and Congress support the action;

(7) Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty;

(8) Thou shall not commit U.S. combat forces unless properly equipped, trained and maintained by the Congress;

(9) Thou shall not commit U.S. combat forces unless there is substantial and reliable intelligence information, including human intelligence; and

(10) Thou shall not commit U.S. Combat forces unless the commander in chief and Congress can explain to the loved ones of any American soldier, sailor, Marine, pilot or aircrewman killed or wounded why their family member or friend was sent in harm's way.

CONCURRENT RESOLUTION CONCERNING CONSIDERATION OF UNITED STATES MILITARY ACTION AGAINST HAITI

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United States should not undertake any military action directed against Haiti unless the President first certifies to the Congress that there exists a clear and present danger to the citizens of the United States and that United States interests require such action.

(From Congressman Robert K. Dornan)

CLINTON URGED TO AVOID MILITARY INTERVENTION IN HAITI

REPRESENTATIVES SAY NORTH KOREA IS GREATER SECURITY THREAT

WASHINGTON, DC.—Military intervention in Haiti would be an ill-advised diversion from the situation in North Korea, which poses a greater threat to U.S. national security, says U.S. Rep. Robert K. Dornan (R-CA/46).

"Foreign policy and military decisions should be made using a sound, well-reasoned approach based on the vital interests of the American people," Dornan says.

"Even though Clinton and his political advisors are addicted to public opinion polls, it's not the proper way to govern, either on domestic or foreign affairs issues. I hope the president will avoid this tendency regarding Haiti and North Korea."

Dornan and over 20 of his House colleagues are urging President Clinton to avoid sending U.S. troops to solve Haiti's political crisis. The president has not ruled out military intervention in Haiti, and the Navy is sending four amphibious assault ships to the area to assist in any evacuation efforts.

"We believe that an invasion of Haiti would be a tragic mistake, not only in and of itself, but in the context of the looming crisis in Korea," the representatives write in a letter to Clinton.

"We strongly believe that the greatest threat to our security at this point is North Korea, and that this is where our military attention should be focused. Regardless of our negotiating strategy with the North, the need for a buildup of the combined U.S.-South Korean forces is critical, for both deterrence and to save lives in the event of hostilities. This buildup will require a significant amount of manpower, equipment and financial resources."

The representatives say military intervention is not the answer to the situation in Haiti. "In the overall scheme of things, Haiti must rank lower than North Korea as a U.S. military priority," the letter to Clinton states. "The tragedy in Haiti certainly deserves our attention, but it does not lend itself to military solution."

HOUSE OF REPRESENTATIVES,
Washington, DC, June 17, 1994.

Hon. BILL CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT, we are deeply concerned over reports that an invasion of Haiti is imminent and urge you in the strongest possible terms to refrain from any such action.

Mr. President, we feel that an invasion of Haiti would be a tragic mistake, not only in and of itself, but in the context of the looming crisis in Korea. We strongly believe that the greatest threat to our security at this point is North Korea, and that this is where our military attention should be focused. Regardless of our negotiating strategy with the North, the need for a comprehensive buildup of the combined U.S.-South Korean forces is critical, for both deterrence and to save lives in the event of hostilities. This buildup will require a significant diversion of manpower, equipment and financial resources. With the defense build-down, diversion of defense funds to non-military purposes and multiple commitments around the world, we fear that our forces may already be stretched too thin. And needless to say, should hostilities break-out in Korea, it will demand all of our attention and resources. Thus, we don't need diversions.

Invading Haiti, in our view, would be a diversion. In the overall scheme of things, Haiti must rank lower than North Korea as a U.S. military priority. The tragedy in Haiti certainly deserves our attention, but it does not lend itself to military solution. The junta in Port-au-Prince, however repugnant to our ideals, poses no military threat to us. They have no military ambitions outside their borders. And even if we can vanquish the junta, what next? Any military campaign in Haiti would involve us in the complex politics of this historically undemocratic country and, we fear, bog us down there indefinitely. "Nation-building" or any variant thereof would be futile and may end in a Somalia-like disaster.

Mr. President, we in Congress stand ready to work with your administration to resolve both of these issues. However, we are implacably opposed to an invasion of Haiti. It would represent a massive perversion of our priorities. We implore you to drop any invasion plans for Haiti and to immediately order a comprehensive buildup of our forces in Korea.

Sincerely,

GERALD B. SOLOMON.
ROBERT K. DORNAN.
PORTER J. GOSS.

[From the Washington Times, July 12, 1994]

EXCUSE FOR A MILITARY INVASION OF HAITI

(By Samuel Francis)

William Gray hastened to say it wasn't so. "There is no military invasion imminent,"

he pronounced. The next day the New York Times reported recent military maneuvers by U.S. Army Rangers involving the simulated seizure of the Port-au-Prince airfield. Haiti being such a perennial menace to our national security, probably the Rangers just practice invading it as a routine matter all the time.

Meanwhile, U.S. refugee policy was also wobbling, with the president abandoning the more liberal approach he started a few weeks ago by announcing that no longer would we accept Haitian boat people for resettlement here. Last month, he announced we would consider their refugee claims aboard navy vessels and settle those who convinced us they really were refugees. That proved to be such a boondoggle that Mr. Clinton was forced to impose the no-admissions policy last week.

Somehow you get the impression that on Haiti the president doesn't know what he's doing—as opposed to all those other areas of grand policy in which the Napoleon of the Ozarks is such a star.

The proximate cause of the Haiti catastrophe is the insistence of the U.S. government that the country's military despots abdicate and let poor little Father Jean-Bertrand Aristide return to his democratically elected position as president. The despots, of course, have no intention of letting that happen. Whatever else may be said of them, they know something about Haiti that few Americans, liberal or conservative, seem to grasp.

One thing they know is that letting Father Aristide return will do nothing to advance "democracy," let alone justice, which is not necessarily the same as democracy. What the good father really wants to do is to make use of his mass political base to smack around the Haitian oligarchy the despots represent.

That is more or less what he did in the few months he was in power, when he presided over, if he did not actually encourage, the most vicious butchering and terrorization of his political opponents, and today he would have even more scores to settle than then. The insistence of the Clinton administration, following the Bush administration, that all would be swell if the mean old despots departed and the good father returned is nothing more than a legend born of a childishly excessive credulity in what "democracy" can accomplish.

The despots also know that the very concept of "democracy" in Haiti is a joke. I am not quite prepared to say that in the 200 years since black Haitian slaves chopped up as many whites as they could lay their hands on, only one Haitian head of state has actually managed to die in his bed naturally, but after searching various encyclopedias on the subject, I am unable to name any more who did.

That one, possibly the most brutal of the whole bunch, was the late Francois "Papa Doc" Duvalier, who achieved this triumph of Haitian statecraft by making certain everybody who even looked like a political rival died before he did. Hain has not seen statesmanship of his caliber since.

I do not say Haiti is not capable someday of evolving a stable and decent government, and maybe democracy too. I say only that there is no evidence that it can, that what Father Aristide offers is not that and that to base a "policy" (if that is the proper term for the dismal and disastrous record of incompetence Mr. Clinton has so far chalked up) on "restoring," "creating" or "building" "democracy" on the island, and to involve American troops in a war to do so, is irresponsible.

In the United States in the 1990s, we talk about going to war with a different country just about every month and for the most banal of reasons; but in Haiti, it's beginning to look like Mr. Clinton might do more than just talk. If he's serious about an invasion, he needs to be stopped now, and Congress and the American people need to let him know he will be.

[From the Washington Post, Aug. 2, 1994]

GOODBYE MONROE DOCTRINE

(By Charles Krauthammer)

The Clinton administration, preparing for a possible invasion of Haiti, went to the United Nations to ask for prior approval. Sunday it got it. Seems like a simple act of international propriety. On the face of it, Clinton is merely aping what George Bush did before the gulf war.

But Iraq is very different from Haiti. Iraq is far away. It had a formidable army that threatened serious fighting. The United States needed allies to share the perhaps considerable burdens ahead. It needed Saudi territory to stage a counterinvasion. To induce others to sign up, it needed international cover.

Cover, leverage, allies: In Haiti none of this applies. It is a pushover perched on a tiny nearby island. The invasion will be almost unopposed. There is no need for allied soldiers or foreign staging rights.

In fact, the appropriate analogy is not Bush in Iraq but Bush in Panama. Bush determined that Noriega was a threat to American interests. Confident that he had right, power and American interests on his side, he did the job and asked questions later.

The Clinton administration is deeply uncertain about right, distrustful of American power and disoriented regarding American interests. It is, accordingly, the first administration in U.S. history to ask United Nations approval for intervention in our own hemisphere.

And Clinton did not just ask permission. He had already dealt away American interests in order to get it. In a deal largely unremarked except by Lally Weymouth in The Post [op-ed, July 24], the United Nations last month quietly approved Russian "peacekeeping" troops in formerly Soviet Georgia. Russia had threatened to veto U.N. approval of a Haiti invasion if refused a free hand in its former colony.

These are the same Russian troops that stirred up the Georgian trouble they are now charged with pacifying. Their role is less to keep peace than to restore a small piece of the old Soviet empire and signal Russia's intent to reestablish hegemony over the rest.

The Russians might restore their hegemony regardless, but they covet international recognition of their power grab. And in the Security Council we gave it to them. In return for what? For Haiti—a living hell for which we have no desire and even less need.

Only last month, Clinton led off a string of justifications for intervention in Haiti by saying, "First of all, it's in our back yard." One does not ask permission to put out a fire in one's own back yard.

We come here to the root weakness of the Clinton foreign policy: It has no conception of the prerogatives of power. It appreciates the obligations of power—in Rwanda, for example, the world cries out for someone to "do something" and Clinton (rightly) rushes in. But with obligations come prerogatives. And to these prerogatives the administration is dead.

It is the prerogative of a great power to do what it must to secure its interests without asking. China sends warships to secure a South China Sea oil patch it claims from Vietnam. Deng Xiaoping does not ask for U.S. approval. Yet Clinton, absurdly, seeks Deng's approval to act in Haiti. (Sunday, at the Security Council, he got an abstention.)

Moreover, unlike China, we are a global superpower. We shoulder unique responsibilities. We are not a country like any other. Yet the Clinton administration, running around the U.N. gathering signatures for our Haitian send-off, acts as if we are.

Such thinking comes naturally to the lawyers who make up the Clinton team. After all, here everyone is equal under the law. When Warren Christopher represented his clients, the rules applied to everyone.

But the international system is utterly different. In that arena, the players are radically unequal, the law is but a piece of paper, and there is no outside source of enforcement. In fact, the only enforcer is the big guy on the block, the superpower, which in this post-Cold War era happens to be us.

It is we who take the risk to restore order when disorder arises. It is we who bear the brunt of war to secure the oil supplies of Japan and Germany and the world's other free riders. It is we who mount the great air relief to Rwanda.

We are not an ordinary player. We are the world's fireman, on whose exertions the rest of the world rides free. In return, we are entitled to certain prerogatives. When our interests are threatened, we have well earned—from those who benefit from our actions elsewhere—room to maneuver. A nation with such global burdens both needs and is owed the prerogative to act expeditiously and independently to secure its own interests.

A great power does not ask for such prerogatives. (Once you've asked for it, you've forfeited it.) A great power feels it, asserts it, exercises it. Yet this administration does not move unless the United Nations nods, Micronesia applauds and a dozen allies hold our hand.

I happen to believe that invading Haiti is a bad idea. But if Clinton thinks Haiti is an important national interest, he should act. Scrounging for prior approval from Security Council members Djibouti and Oman is not an act of propriety. It is an act of flaccidity. It betrays not just a lack of self-confidence but a profound misapprehension of America's place in the world.

THERE HAS TO BE A BETTER WAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MANZULLO] is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, we learn oftentimes that the slogan "There has to be a better way" is more than a slogan. It should be a lifestyle for the Members of Congress in both this House and in the other House. We oftentimes will take a very complicated approach to something that, in reality, could be quite simple.

Mr. Speaker, that is why this evening I rise in support of H.R. 4592, which is a bill that I have cosponsored along with the gentleman from Wisconsin [Mr. SENSENBRENNER]. This bill is called the Tax Rebate to Fight Crime Act. It is very simple. It goes on this philosophy: that the best people who know how to fight crime are those who

are closest to it, the local sheriffs, chiefs of police, mayors, county administrators, county boards, city councils, and eventually the Governor, of course.

This bill recognizes the fact that this body is not in a position to preempt the wisdom and knowledge of, for example, the chiefs of police on how to fight crime.

What does this bill do? Mr. Speaker, this bill says that 2 percent of all of the individual Federal income taxes that are paid by each State is rebated back to the State by an automatic check as soon as the money comes in to the Federal Government, to the Department of the Treasury.

That means, for example, the State of Illinois would receive somewhere between $600 and $700 million each year with no strings attached, a continued amount of money obviously that will increase as the economy grows and more income taxes are paid.

Now, what can the State and local government officials do with that money? First of all, there are no Washington strings attached, and today we have the ignominious splendor taking place in this country where the American taxpayer sends a tax dollar to Washington where it is legally shrunk by 41 cents, and the remaining 59 cents is held up and waved by a Federal bureaucrat to the State and local officials who are saying, "If you want this money, which really belongs at home anyway, then you must apply for a grant and at our discretion," at the bureaucrats' discretion, "then the money will go back to the States from whence it came initially."

□ 1730

This bill says eliminate the bureaucrats in Washington and let the people back home determine how to spend that money. The problem with the present crime bill, the $33 billion crime bill, is that it sets up a huge group of programs; in fact, 50 of the new programs being set up are programs that are already in existence of the some 600 Federal programs already available to the States and local governments.

What does this bill do? It says the State and local officials can use the money to pay police officers, to build and operate prisons, to pay criminal court judges, prosecutors, criminal defenders, or even rebate the money back to the taxpayers.

Mr. Speaker, this is a very simple bill based upon a very simple concept: that chiefs of police, mayors, law enforcement officers are in a much better position to know how to spend taxpayer dollars than 535 people located here in Washington, DC.

A unique approach, yes, but it speaks of something called federalism, the division of power, the separation of powers of the Federal Government from the State and local governments. It empowers State and local officials to use the taxpayer dollars, keep them at home and battle crime.

When I talk to the States' attorneys back home about how a bill like this would work, they say, "Hooray, we need something like that," because in many instances the money that a State's attorney will need will be to hire clerks in the circuit court's criminal division to take care of the amount of paperwork. Some States' attorneys, chiefs of police want to increase jail space, some want to have more probation officers, some need more prosecutors, some need more cops. But leave those decisions, leave all those decisions, let us put feet to the proposition that crime is local, that crime is best fought at the local level. Let us empower our State and local officials with the money and means, without red tape, to fight crime.

The documents referred to are as follows:

[From the Heritage Foundation Issue Bulletin, Aug. 2, 1994]

THE CRIME BILL: FEW COPS, MANY SOCIAL WORKERS

INTRODUCTION

Congress this week will vote on final passage of a crime bill which purportedly puts 100,000 new police officers on the beat, funds the construction of new prison space, and directs billions in federal funds toward "crime prevention." In reality, the bill provides funding to increase the number of uniformed police officers by only 3 percent nationwide, places a huge new unfunded mandate on the states, and will finance an expensive new layer of social welfare programs.

Specifically, the bill:

Guarantees full funding for only 20,000 permanent new cops over the next six years, or one-fifth the number claimed by the bill's supporters. This is equivalent to adding about one new officer to every police department in the nation.

Assumes state and local governments will pick up as much as $33 billion in new expenditures over the next six years if the bill is to meet the target of 100,000 officers.

Gives the Attorney General the discretion to decide which cities and states receive the Community Policing funds. This invites handouts to politically connected big-city mayors and politicians.

Adds at least $8.7 billion in new social spending, and nearly 30 new social programs, to a welfare system which has cost taxpayers over $5 trillion since the War on Poverty was created in 1965.

Will put two new social workers on the street for every new cop it fully funds.

In short, the crime bill turns out to promise more cops on America's streets. In reality, it means few cops, a big tab for cities, and plenty of new social programs and social workers.

WHY THE NUMBERS DO NOT ADD UP

The most publicized portion of the crime bill is the $8.845 billion Community Policing grant program. The White House claims this measure will put 100,000 now cops on the street over the next six years. But a closer inspection of this claim reveals that the figures simply do not add up.

The intention of the Community Policing grant program in reality is to provide "seed" money to local governments to hire 100,000 new police officers, not to fully fund these positions. So the bill assumes that once these new officers have been hired with Washington's help, state and local governments will find the billions of new dollars to keep them on permanently. The bill actually provides just one-fifth of the funds needed to keep 100,000 new cops on the street for the next six years, leaving the states with the massive cost of fulfilling the bill's promise. Even worse, the bill allows local governments to use some of these Community Policing funds for purposes other than hiring new cops, so there is no guarantee that even 20,000 new officers' positions will actually be funded and cops hired.

Based on salary levels for police officers and overhead costs reported by police departments, the cost of putting one new cop on the street for one year in a high-crime area is estimated at between $70,000 to $80,000.[1] Therefore the actual cost of putting 100,000 cops on the street is at least $7 billion per year, or a minimum of $42 billion over the six-year life of the bill. But the crime bill provides only $8.845 billion over the six-year period, or $1.475 billion per year. Thus in order to permanently place 100,000 new police officers on America's streets over the next six years, state and local governments who apply for Community Policing grants will have to supplement Washington's contribution with some $33 billion of their own funds.

This highly publicized crime bill provides only one-fifth the necessary funding for 100,000 permanent new police. If cities do not cut back on other services or raise taxes, the funds provided in the bill can keep at most just 20,000 permanent cops on the street over the next six years. There are some 600,000 uniformed police officers nationwide, so 20,000 represents an increase of just 3 percent, or the equivalent of adding just one new officer for every police department in the nation.[2]

Another way to look at this financial sleight-of-hand is to calculate how much funding the bill provides per police officer per year. On average, the bill authorizes $1.475 billion per year for 100,000 new officers. This amounts to just $14,750 per cop per year—roughly the poverty level for a family of four. Since it is ridiculous to think that quality police officers could be hired for minimum wage salaries, state and local governments would have to absorb the remaining roughly $60,000 per year cost of hiring and keeping each of these new cops. To meet the 100,000 target, local governments would be responsible for some $6 billion per year in total new costs.

Supporters of the bill no doubt will argue that local governments will not be stuck with a big tab. They might say, for instance, that the bill caps at $75,000 the amount local governments may spend initially to hire a new cop and it also limits the federal share of this cost at 75 percent. But this changes the real-world scenario very little. If, for instance, Chicago were to spend $75,000 to hire a new cop and contribute 25 percent of this cost, the federal share of this new hiree would be over $56,000. Now, dividing this amount into the $1.47 billion the bill provides annually for new police would mean it funds only 26,222 permanent new cops. This is still far short of the 100,000 promised.

However the computation is made, the result is the same: the bill actually funds only a small fraction of the promised new officers.

An often overlooked detail, moreover, is the fact that the bill does not require local governments to use all of these Community

Footnotes at end of article.

Policing funds to hire new cops. Indeed, 15 percent of these funds can be used for a variety of social or community activities only tangentially related to law enforcement, and 20 percent of the remaining funds can be spent on equipment, computers, and overtime for existing officers.

For example, cities may use the funds in the following ways:

To enhance police officers' "conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community";

To "develop new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime"; and

To "develop and establish new administrative and managerial systems to facilitate the adoption of community-oriented policing as an organization-wide philosophy."

Cities actually have an incentive to use Community Policing funds for other purposes because such programs will not add the future costs of a police officer's pension and other benefits to the municipal budget. Spending the money on items other than new police officers means a city does not have to find ways of covering a funding shortfall after the first year of the bill. Such an incentive system virtually guarantees that fewer than 20,000 new cops will be hired, let alone the purported 100,000.

Supporters of this bill, moreover, have been less than forthcoming in noting that 75 percent of these Community Policing funds can be distributed at the discretion of the Attorney General. This means that there is no guarantee that the funds will be targeted toward cities that are in greatest need of new police. It does mean, however, that the Administration may play politics with these funds and reward politically loyal mayors and local politicians, rather than addressing areas of greatest need.[3]

SOCIAL WELFARE PORK

Roughly $8.7 billion of the funds in the crime bill is dedicated to creating nearly 30 new "crime prevention" programs ($7.4 billion for programs identified as "prevention" and $1.3 billion for new "Drug Courts"). It turns out that many of these new programs are little more than social welfare pork barrel, adding a new layer of programs onto a welfare system that already costs taxpayers at all levels of government over $310 billion per year.[4]

Unlike the Community Policing grants, these new grant programs are permanent and will not require matching funds by local government or the private social service organizations who receive the funds. This means that recipients will have more incentive to apply for these funds than the grants intended for new cops. Thus new social service workers will be much less costly for jurisdictions to hire than new police officers. Indeed, if all this new social welfare money goes toward hiring new social workers, the bill will add a minimum of 40,000 social workers per year—at least two social workers will be hired for every cop the bill puts on the street.[5]

The assumption behind these new social programs is that potential criminals can be steered away from a life of crime by targeted government initiatives aimed at altering their environment. In other words, crime will be reduced if government provides community development aid, social services, job training, and recreational activities.

This argument may sound attractive to many taxpayers. But it belies the fact that society has spent $5 trillion on the War on Poverty since 1965, yet the national crime rate stands at its highest level ever. As shown in Chart 1, welfare spending since 1965 has grown in real terms by 800 percent while the number of major felonies per capita today is roughly three times the typical rate before 1960.[6] While these two sets of statistics may not be directly correlated, welfare spending appears to have little impact on reducing the crime rate.

Chart 2 shows that government already has spent lavishly on programs identical to the ones created in the new crime bill. Since 1965, government has spent $161 billion on community development and economic aid programs, $202 billion on social service programs, $204 billion on job training programs, and $292 billion on targeted education programs. These are exactly the types of federal assistance boosted in the crime bill. They have not cut crime. Moreover, the new programs created by this bill will duplicate at least 50 existing federally funded "crime prevention" grant programs. Among other things, this will compound the overall problem of duplication and overlapping programs identified last year by Vice President Al Gore's National Performance Review. The Performance Review found that:

Some "14 separate government departments and agencies invest $24 billion a year, through 150 employment and training programs."[7]

Washington spends "about $60 billion a year on the well-being of children. But we have created at least 340 separate programs for families and children, administered by 11 different federal agencies and departments."[8]

"Much of Washington's domestic agenda, $226 billion, to be precise," is allocated to state and local governments "through an array of more than 600 different grant programs."

Ten such examples of the 30 new programs added to the current 600, include:

1) Local Partnership Act. This new community aid program will hand out $1.8 billion to local governments on a formula basis. The formula is written to reward areas with high tax rates, high unemployment, and low personal income. In other words, cities which have overtaxed their residents will benefit most from the Local Partnership Act.

2) Model Intensive Grants. This program gives the Attorney General the discretion to award $895 million to 15 high-crime areas. These funds are intended to accomplish the vague goals of relieving "conditions that encourage crime" and providing "meaningful and lasting alternatives to involvement in crime." In reality, this is likely to be a traditional pork barrel program because priority will be given to areas marketed by the "deterioration or lack of public facilities, inadequate public services such as public transportation, street lighting * * * or employment services offices."[9]

(3) Youth Employment Skills (YES). This problem will spend $650 million to "test the proposition that crime can be reduced * * * through a saturation jobs program." The 150 job training programs already being funded seem to have done little to reduce the crime rate. The bill's supporters assume spending more will have an impact.

(4) Ounce of Prevention. This program creates a new interagency council to distribute $100 million for summer and after-school programs, mentoring and tutoring programs, substance abuse treatment, and job placement. This program duplicates dozens of established federal programs and countless programs run by local governments and nonprofit organizations.

(5) Family and Community Endeavor Schools (FACES). This program authorizes the Secretary of Education to dole out some $270 million to "community-based" organizations. These organizations can use the funds for activities such as "work force preparation, entrepreneurship, cultural programs, arts and crafts," dance programs, and supervised sports programs. However, community organizations "may not use such funds to provide sectarian worship or instruction."[10]

(6) Midnight Sports. This well-publicized $40 million program directs the Secretary of Housing and Urban Development to establish so-called midnight basketball leagues. The bill specifies how many teams must be in a league, how many players must be on each team, and requires that at least half of the players must live in public housing. Youth involved in this program must live in an area with a substantial drug problem, high crime rates, large numbers of people infected with AIDS, and high illegitimacy rates. One problem apparently overlooked by those supporting the midnight league is that many of the cities toward which this program presumably is targeted have curfews for adolescents.

(7) Violence Against Women. This $1.8 billion program funds an array of grant programs intended to assist law enforcement agencies and nonprofit groups develop strategies to prevent crimes against women. A large portion of these funds must go to "nonprofit nongovernmental victim services." The bill establishes the Attorney General's Task Force on Violence Against Women at a cost of $500,000. The Task Force may hire an Executive Director at an annual salary of some $69,000 (GS–15 level) and pay consultants up to $200 per day.

(8) Drug Courts. Though not officially designated a "prevention" program, this $1.3 billion grant program is no different from the other new social programs. The Drug Court grants are to be used by local governments or private organizations involved in "continuing judicial supervision over specified categories of persons with substance abuse problems, and that involve the integrated administration of other sanctions and services." These "other services" include: substance abuse treatment, health care, education, vocational training, job placement, housing placement, and child care or other family support services.[11]

9) Juvenile Drug Trafficking and Gang Prevention Grants. This $125 million program authorizes the Director of the Bureau of Justice Assistance to make grants to local public and nonprofit organizations for projects intended to steer young people away from gangs and drug activities. Such projects include "school programs that teach that drug and gang involvement are wrong," and "programs such as youth sports and other activities, including girls and boys clubs, scout troops, and little leagues."

10) Missing Alzheimer's Patients. The bill approves $3 million in grants to establish a Missing Alzheimer's Disease Patient Alert Program. Many Americans may approve of such an effort, but it is unclear how this would eliminate violent crime in America's streets.

CONCLUSION

The crime bill conference report Congress will act on this week does not live up to supporters' promises to put 100,000 new police officers on the beat. At best the bill will fully fund only 20,000 permanent new cops. Most

likely it will mean far fewer because of the strong incentive it gives local governments to use the Community Policing grants for other programs. Still, the bill is good news for social workers: the bill funds a massive expansion of the social welfare system and could put two social welfare workers on the street for every new police officer officer.

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The Crime Bill's New Social Welfare Programs

New social program

	Six-year cost ($ millions)
Local partnership act	1,800
National community economic partnership	300
Model intensive grants	895
Ounce of prevention	100
Child-centered activities	630
Family and community endeavor Schools (FACES)	270
Violence Against Women	1,800
Youth Employment Skills (YES)	650
Prison Drug Treatment (State)	300
Prison Drug Treatment (Federal)	125
Juvenile drug trafficking gang prevention	125
Midnight sports	40
Community youth academies	40
Hope in youth	20
Gang prevention services	20
Anticrime youth councils	5
Boys and girls clubs	30
Police partnerships for children	20
Safe low-income housing	10
Triads	6
Olympic youth development	50
Youth violence prevention	50
Child visitation	30
Gang resistance education and training (GREAT)	22
Missing Alzheimer's patients	3
Family unity	22
Urban parks and Recreation	5
Safe seniors corridors	2
Prevention total	7,370
Drug courts	1,300
Total new social welfare programs	8,670

Fifty current programs duplicated by the crime bill—dollars in millions

CFDA number	Program	*Estimated fiscal 1994 funding*
16.001	Law Enforcement Assistance—Narcotics and Dangerous Drugs—Laboratory Analysis	3.73
16.004	Law Enforcement Assistance—Narcotics and Dangerous Drugs Training	5.79
16.005	Public Education on Drug Abuse—Information	3.59
16.304	Law Enforcement Assistance—National Crime Information Center	7.73
14.218	Community Development Block Grants	2,871.00
16.300	Law Enforcement Assistance—FBI Advanced Police Training	13.74
16.540	Juvenile Justice and Delinquency Prevention—Allocation to states	72.11
16.541	Juvenile Justice and Delinquency Prevention—Special Emphasis	8.89
16.542	National Institute for Juvenile Justice and Delinquency Prevention	13.90
16.544	Juvenile Gangs and Drug Abuse and Drug Trafficking	5.60
16.547	Victims of Child Abuse	8.00
16.548	Title Delinquency Prevention Program	13.00
16.550	Criminal Justice Statistics Development	2.20
16.574	Criminal Justice Discretionary Grant Program	0.15
16.575	Crime Victim Assistance	65.46
16.576	Crime Victim Compensation	60.68
16.577	Emergency Federal Law Enforcement Assistance	0.22
16.579	Drug Control and System Improvement—Formula Grant	358.00
16.580	Drug Control and System Improvement—Discretionary Grant	24.76
16.601	Corrections—Training and Staff Development	2.03
16.602	Corrections—Research and Evaluation and Policy formulation	0.22
16.603	Corrections—Technical Assistance/Clearinghouse	3.50
17.201	Apprenticeship	16.52
17.250	Job Training Partnership Act (JTPA)	2,412.35
27.004	Federal Employment For Disadvantaged Youth—Summer	
36.001	Fair Competition Counseling and Investigation of Complaints	92.66
84.013	Chapter 1 Program for Neglected and Delinquent Children	35.41
84.014	Follow Through	8.48
84.047	Upward Bound	182.94
84.184	Drug-Free Schools and Communities—National Programs	15.00
84.186	Drug-Free Schools and Communities—State Grants	372.97
84.188	Drug-Free Schools and Communities—Regional Centers	15.60
84.207	Drug-Free Schools and Communities—School Personnel Training	13.61
84.233	Drug-Free Schools and Communities—Emergency Grants	24.55
84.253	Supplementary State Grants for Facilities, Equipment, and other Program Improvement Activities	
93.102	Demonstration Grants for Residential Treatment for Women and their Children	29.23
93.122	Cooperative Agreements for Substance Abuse Treatment and Recovery Systems for Rural, Remote and Culturally Distinct Populations	4.00
93.144	Demonstration Grants for the Prevention of Alcohol and Other Drug Abuse Among High-Risk Youth	57.38
93.580	Family resource Centers	5.91
93.600	Head Start	3,326.29
93.608	Child Welfare Research and Demonstration	6.47
93.645	Child Welfare Services—State Grants	294.62
93.647	Social Services Research and Demonstration	13.83
93.648	Child Welfare Services Training Grants	4.44
93.657	Drug Education and Prevention for Homeless Youth	14.60
93.660	Youth Initiative/Youth Gangs	10.65
93.671	Family Violence Prevention and Services	27.68
93.67	Community-Based Prevention Program	5.27
93.902	Model Comprehensive Drug Abuse treatment Programs for Critical Populations	40.21
93.903	Model Criminal Justice Drug Abuse Treatment for Incarcerated Populations, Non-incarcerated populations and Juvenile Justice Populations	31.00
	Total	10,605.98

FOOTNOTES

[1] According to the Census Bureau's March 1993 Current Population Survey, the nation-wide average salary for a police officer is $36,366, and for larger cities the figure is closer to $40,000. A fiscal officer in the San Francisco Police Department reported in a telephone interview that the actual cost of putting a new officer on the street is at least $71,000. Salary and benefits for this officer are some $61,000 and the cost of recruiting, examination, and background checks is at least $10,000. Moreover, for every three new officers hired a typical department must purchase one new police vehicle. This and other administrative costs are not included in the above figure. These one-time costs mean the costs of the typical officer rise to over $71,000. In addition, quotas and other hiring practices—which are mandated in the crime bill—will make the cost of hiring new officers very expensive, reports the financial officer in the San Francisco Department. To hire 50 qualified officers meeting the quota standards, that department assumes it must recruit, screen, and test at least 200 applicants.

[2] But the impact of this additional officer will be slight. Because of rotational schedules, most large city police departments require at least five officers to cover a beat in a 24-hour period.

[3] Last year, Congress passed an emergency supplemental bill which included $150 million in aid to hire 2,000 new police officers. Nearly 45 percent of these funds went to four states: California, Florida, Illinois, and Texas.

[4] Robert Rector, "A Comprehensive Urban Policy: How to Fix Welfare and Revitalize America's Inner Cities," Heritage Foundation Memo To: President-Elect Clinton No. 12, January 18, 1993, p. 17.

[5] According to the Current Population Survey, the typical social worker earns less than $23,000 annually—fully one-third less than the average police officer. Most social workers, especially those working in the non-profit agencies largely funded by the bill, do not have as generous benefits packages as unionized police officers or the training costs (The typical recreational worker earns less than $12,000 annually). This calculation assumes that the value of a social workers benefit package is half-again as much as their salary, or some $12,000, for a total cost per social worker of $36,000.

[6] Rector, op. cit.

[7] The National Performance Review, Creating a Government that Works Better and Costs Less (Washington, D.C.: U.S. Government Printing Office) September 7, 1993, p. 49.

[8] Ibid., p. 51.

[9] This specific language was contained in the House version of the crime bill (H.R. 4092) pages 111–112. The Conference Committee language was not available at the time this analysis was written.

[10] H.R. 4092, p. 120.

[11] H.R. 4092, p. 149.

THE ROLE OF TELEMEDICINE IN HEALTH CARE

The SPEAKER pro tempore (Mr. MANN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Idaho is recognized for 5 minutes.

Mr. LAROCCO. Mr. Speaker, several months ago at a hospital in St. Maries, a small town in the northern panhandle of Idaho, emergency medical technicians were concerned about a boy who had been injured in a serious car accident. Unfortunately, a radiologist is available in St. Maries only twice a week, and the accident has not happened on one of those days.

Instead of driving 90 minutes to the nearest radiologist, however, the boy

was given a cervical x ray in St. Maries. The x-ray film was then put through a phone line digitizer and sent to the town of Couer D'Alene, where a radiologist accessed the image on the screen of his personal computer and examined it.

The radiologist called the St. Maries hospital with good news: There was no fracture. What could have been a much more costly and painful experience for the boy was avoided through teleradiology, a combination of health care expertise and modern communications technology. An x-ray technician in St. Maries told me later, "It was not a life or death situation for the boy. But it was wonderful because so much time was saved. And, best of all, the family was reassured."

This situation is not unique of Idaho—or to other rural areas in America. In rural America, communication can mean the difference between life and death. That is why it is important for Congress to move on this issue.

This year, Congress has a unique opportunity to improve both the Nation's health care and communications infrastructures. We can then take emergency medical services to places that, until now, have been considered off the path. Doing so will require a major commitment on the part of businesses, educators, libraries, health care providers, and all levels of government.

Mr. Speaker, Idaho's First Congressional District, which I represent, is the 19th largest in the country. It stretches 530 miles up the west side of Idaho, from Nevada to Canada. It contains the largest wilderness area in the lower 48 States. By some standards, it is one of the most rural districts in the country.

Its rural nature lends advantages: Fertile farmland, beautiful landscapes, some of the best fishing, skiing and hunting in America. There are also disadvantages, not the least of which is impaired access to health care. Idaho faces an acute shortage of primary care physicians, a lack of health care infrastructure, and vast distances to overcome. The drive to a tertiary care center is often a matter of hours, sometimes on bumpy roads that can cause excruciating pain or exacerbated injuries to a patient.

In 1994, with the advanced technology that exists to create the concept of long-distance telemedicine, there is no excuse for rural residents to keep paying for unnecessary services. There is no excuse for them to keep making unnecessary 100-mile treks.

Telemedicine may not always make the difference in saving lives. But it will make an enormous difference in saving time and money. A 1992 study by the international consulting firm, Arthur D. Little, estimated that a nationwide telecommunication infrastructure for high-speed, high-resolution video, image and data exchange among medical centers could cut the Nation's health care bill by as much as $36 billion.

The bulk of this, about $30 billion, will be saved through electronic management and transport of patient information. It has been said that for every dollar spent for health care delivery, four are spent for administration. Improved access to patient information would help cut some of those administrative dollars.

This would go hand-in-hand with Vice President GORE's initiative to create an information superhighway. But as the example of the St. Maries patient demonstrated, we do not have to rely on future technology to improve access. We can use technology that already exists. In constructing a rural telemedicine infrastructure, we should use as many off-the-shelf components as possible. We should avoid committing large amounts of capital to innovations that will be obsolete in the near future. We cannot wait for the perfect high technology development. We need to start trying and demonstrating now. We need to be building modest networks that work and fit together. We need to put the little pieces together right; then we need to connect them.

Connecting these little pieces of rural America will lead to secondary benefits: First, it will keep money flowing into small, local hospitals and allow them to stay open. Second, physicians will be more willing to practice medicine in rural areas when they know they have increased access to backups from specialists in urban areas.

All of these benefits will only be realized after Congress takes initiative. That is precisely why I introduced the Rural Telemedicine Development Act, which would establish three grant programs to encourage development of telemedicine. The first program would help create rural health care networks, with the goal of producing more of the successes that have been experienced in St. Maries, ID. The second program would strengthen the link between existing rural health care networks through interactive video consultation. The third program would help link more networks to fiber optic cables.

I am working for the inclusion of these telemedicine provisions into the health care reform legislation we will soon be considering. If our goals in reforming health care are to provide increased service and more efficient spending, then taking advantage of existing telemedical facilities offers the perfect vehicle. The health of rural Americans depends on this. As one Idahoan told me, "In rural and frontier areas, telemedicine is no longer just an option. It's a necessity."

Mr. Speaker, I know it will serve my constituents, and all of rural America, if we accept the opportunity that has presented itself and focus on rural health care delivery. I urge my colleagues to come together and create a telecommunications model for the future.

LET US MOVE FORWARD WITH HEALTH CARE REFORM

The SPEAKER pro tempore. Under he Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Maryland [Mr. HOYER] is recognized for 60 minutes as the designee of the majority leader.

Mr. HOYER. Mr. Speaker, I want to congratulate the gentleman in the well who just spoke, the gentleman from Idaho [Mr. LAROCCO] for his idea. It is obviously a way to save money and give better health care. That is what we are about in the Congress this year.

Mr. Speaker, I am pleased to take this time to talk about health care reform. There is no more important issue confronting this Congress. In fact, in the next few days the Members of this House, Members of the Senate will probably have the opportunity to vote on the most important bill that they will vote upon during course of their career, a bill which will have a substantial positive impact on the quality of life in this country. We in the Congress have been talking about health care reform for some 4 or 5 years now. As a matter of fact, as the President pointed out, President Nixon himself back in the early 1970's proposed a very substantial health care reform bill, much along the lines of the bills that we will consider on the floor.

Prior to that, two decades before, President Truman said that we needed to give health care assurance to all Americans.

□ 1740

Notwithstanding that timeframe in which we have considered health care reform, families in America, those who work hard for a living and are having a tough time making ends meet, and businessmen and women who are seeing a larger and larger part of their payroll going to cover insurance premiums, and taxpayers across the country who feel an ever-growing bite taken out of their tax dollars for Federal, State, and local health care costs; they, too, have been talking about the problems with health care systems for years, even before we started intensively reviewing this subject some 4 or 5 years ago.

Today, Mr. Speaker, we take the floor to talk about solutions, talk about what the American people sent us here to do, take action to solve real problems confronting real Americans, not rich Americans, not poor Americans, but every American, and particularly the hard-working middle class that makes this country what it is. They go to work every day. They perform services for their employers, for

their neighbors, for their communities, which make a difference. They, as we have pointed out, play by the rules, and they need to be assured that they and their families will have health care that will always be there.

The solution offered by House Democrats, Mr. Speaker, is the result of the input of literally hundreds of thousands of Americans who, over the past 5 years, have met with Members of both sides of the aisle, talking to them about their concerns, their problems, and the problems confronting their families. Democrat Representatives have held thousands of town meetings, and Republican Members have as well, to get a grasp of the problem their constituents face every day and to learn their priorities for a comprehensive solution. As caucus chairman, I have presided over nearly 40 meetings of the House Democrats on health care over the last 5 years to compare our notes and work together towards a real solution, one that builds on the current system, a comprehensive solution that works.

The package House Democrats presented last week is that solution, Mr. Speaker. First, it builds, as I said, on the current system. Most Americans who work for a living are not sure, and more than 8 out of 10 of the uninsured either work or have someone who works in their family. Eighty percent of the uninsured, a work-related context, they or their family members, but they cannot afford insurance, and their employers do not provide insurance, and their families are at risk. This reform will extend health security to each and every one of the 250 million Americans that sent each of us in this House here, who said to us:

> Go to Washington. Don't just talk. Don't point fingers at one another. Don't carp. Don't play partisan politics with my family's well-being.

They said: "Go to Washington. Put your heads together," and, as my kids used to tell me, "Be real. Do something for us that will make a difference for the security of our families."

This reform, of which the majority leader will speak in just a few seconds, this reform guarantees, not as an afterthought, but as a fundamental principle, the same or better choice of doctor and hospital than we in this House have today. This reform cuts the rapid growth in health costs through competition so that health insurance remains within the reach of average working families, average working families, average working families. They are not average at all, and, as we say, the common man is indeed a very uncommon person who has made this country what it is, but who is now concerned that the hard work he or she has extended on behalf of themselves and their families can be lost overnight with an illness that can devastate their family. The majority leader will, perhaps, speak tonight of the family crisis that he confronted when his son was stricken with cancer.

Mr. Speaker, I have a daughter. She is now 23 years of age. Two and half years ago, Mr. Speaker, she was diagnosed with a heart problem. She had an extra electrical conduit in her heart, and it made her heart beat too fast. It was life threatening. She had an operation at Johns Hopkins University, one of the great health care centers in this country, and they took out that extra electrical charge. During the course of that operation, which took 5½ hours, they went inside her heart. They never had to cut her open. With high technology, two catheters up her legs and one through her shoulder blade, they first found that extra electrical charge, and then they burned it out. She is fine today. Her mother and I did not care what that procedure cost. It was irrelevant. Thankfully we were covered by health care insurance. Thankfully she is 100-percent healthy today because of that high technology, expensive though it was, life changing, life saving and giving to our family and to that young woman's assurance of health.

Mr. Speaker, this reform guarantees, as the majority leader will point out, a minimum benefits package so that Americans, like all of us, get the care they need, and the costs are borne fairly by all, the American family. That is the concept we share, and the concept of insurance of course, Mr. Speaker, is that we share. Well, not all who are at risk have a loss or health-care-crisis-causing expense, but we surely know that some of us will, and we need a system to ensure that all of us will be covered in that event.

This reform, Mr. Speaker, achieves our goals without new Government bureaucracies, as the majority leader is going to point out, without new broad-based taxes. Democrats feel that we spend enough on health care already. We have to spend it smarter, however. For most Americans, Mr. Speaker, those with steady jobs and good health coverage, there will be little change in how we get coverage. What will change is that the cost of our premiums will not rise as fast and as far. What will change is the choice of coverage; options will be retained or expanded, and the choice will be ours to make, each and every one of us. Each and every one of us will have choice, not simply the choice of the employer, but the employee as well. What will change is that, when we go to bed at night, we need not worry that a child's cough is our first step toward financial ruin because we will be covered, covered even if that cough develops into a serious illness, even if one loses their job or changes their job.

When Members of the House of Representatives first started to focus on the problems that our constituents were having with health care several years ago, the gentleman from Missouri [Mr. GEPHARDT] was already working towards solutions. Indeed since his first days here in the House in the 1970's, Mr. Speaker, he has been a leader on health care reform engaged in making sure that average Americans were not forgotten by the system. Those years of hard work, Mr. Speaker, culminated in the crafting of a comprehensive solution to those problems, one that will not only address the specific problems of average Americans, but one that will control the ever-growing numbers of tax dollars that go to pay for health care through Medicaid and Medicare both at the Federal level and at the State level.

□ 1750

Because just like at the family table, when we sit down to plan the Federal budget each year, an ever growing percentage of the pie is going to pay for health care. That is money that is not going to critical education programs. That is money that is not going into student loans, more police, to build better roads, or to repair our bridges.

Mr. Speaker, at this time I yield to the majority leader. No one in this House has been more responsible for making sure that the House of Representatives addressed this critical problem for Americans.

I want to congratulate the gentleman for his work, and yield for a more expansive explanation of the program that resulted, as he will point out, from the work of major committees of this House, and literally every Member of this House has had input into the creation of this plan.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding. I thank the gentleman for taking this time tonight. I know we have a number of Members who want to be involved in this discussion.

This issue of health care is coming soon to the floor of the House of Representatives, and we hope and believe that this will be a historic debate in the House over the next weeks, as we in the House, and as all Americans, are about to try to make a decision about where we want to go with our health care system, whether we need to change it, whether we want to make it better, or whether we would continue the status quo.

As the gentleman has well said, our committees in the House, the Committee on Ways and Means, the Committee on Energy and Commerce, the Committee on Education and Labor, and other committees, have been working for almost a year to put together the legislation that we announced on Friday and that we will bring to the floor in the next weeks.

I would like to start tonight, before I describe our plan in some detail with some charts, I would like to kind of back up and try to explain what this really is all about.

We hear a lot of terms that are confusing to people. Americans have been saying to me, people I have seen in my own district, people around the country have been saying, this thing is so complicated. There are so many issues, there is so much fine print, there are so many different provisions. They hear words like triggers, mandates, universal coverage, and lots of issues that most people do not know what they mean. They do not know what we are talking about.

So, to begin tonight, I would like to get us to all back up for a minute and talk for a moment about really what this is all about.

We all know what health care is, we all know what doctors are, hospitals, illness, But what is our health care system and how do we pay for it? How do we get health care?

Before World War II in this country, we got health care by going to a doctor usually. And if we went to the doctor, we had to have money, and we paid the doctor for whatever needed to be done. If you did not have the money, you probably did not go to the doctor, because you could not afford it.

In the thirties, we decided that we did not want people to be dying and going into their old age with no money. We did not want that. So we said we would have a pension system called Social Security. Because at the time we passed Social Security in the thirties, lots of elderly people, after their productive years, had no savings, had no money. Many died destitute, without anything. So we made a decision as a country that we would have a Social Security System. We decided that in the mid-thirties. We put together a requirement, some would call it a mandate, a requirement that every employer in the country and every employee would pay a certain amount a month so that when you retired, you would have a pension called Social Security. And it has worked. It has worked wonderfully. It is the most popular program in America. Anyone who would suggest we get rid of that requirement would really be in trouble in our political system, because it is a popular program.

Then in the sixties we found that about half the American people, when they hit 65 and after, they again did not have any active income coming in, were not able to see a doctor. Half the elderly in America in 1965 did not have the money to go and see a doctor. So we made a decision as a country that we would have another requirement on employers and employees that there would be a tax paid, a Medicare tax, and that every senior citizen in the country would have prepaid insurance that they could use if they got sick and needed to see a doctor. Now almost every American citizen who is retired can go and see a doctor and know that Medicare will be there to pay for it.

Now, in 1994, 30 years after Medicare, we are discussing whether or not we should have a requirement in our society that every employer and every employee should pay something as prepaid insurance so that when we get sick, there will be something there to help us pay the doctor and the hospital to get us well.

Now, after World War II, a lot of Americans who worked decided that we needed to have prepaid insurance, and a thing called Blue Cross and Blue Shield came into being. It was set up by doctors and hospitals, and it was offered to ordinary Americans to prepay their health insurance costs. I will never forget when my mom and dad, my dad was a milk truck driver in St. Louis, my mom was a secretary, they both worked, and my dad got the Blue Cross. I was a young kid, but I remember him coming home and saying we are now in Blue Cross and Blue Shield to pay the doctor. It was a wonderful day. We were in Blue Cross and Blue Shield, and I knew that if I had to go to the doctor, we would be able to pay. It wasn't just dad getting out the wallet to see what he had. We would be able to pay through our insurance.

But then we got sophisticated, and smart insurance companies and employees figured out that if we got more well people in our plan and we segregated our people into a plan with only well people and young people, we could get a cheaper rate, because we would not have to pay for the sicker, older people. And then someone else figured out that if we could get well people together and young people together, if we could keep the cancer patients out and the heart patients and the tuberculosis patients, and all the people that had illnesses, if we could kick them out of the plan, we could have a cheaper plan.

Then we figured out, some people figured out, well, gee, I am young and healthy, I don't even need a plan. Why should I pay anything? I will just stay out of the plan because I will pick the plan up when I hit 50 years old, or maybe I will just wait for Medicare. Maybe I will be lucky and never need to prepay for health insurance, so I will just stay out. And we got more and more sophisticated and more and more smart, and we got everybody in little-bitty groups and got all fragmented and isolated and pulled apart from one another. And the whole idea of insurance from the beginning was not that we would all get fragmented, but that we would all be in the same pool. And if you are in the same pool, then you do not have to pay as much, and it is like that fire extinguisher, all of you know about fire extinguishers. You know about a fire extinguisher. When you need it, you need it. You really need it.

We have a fire extinguisher in our house, and I go by it every night and I look at it and I do not even think about it. I do not care about it. It never crosses my mind.

But if we have a fire in the House, boy, am I going to want to have that fire extinguisher. It is going to be the most important thing in my life, to get the fire out.

□ 1800

That is health insurance. You do not need it until you need it. And it has to be affordable. It has to be a fire extinguisher that you can always afford. But what we have done over the last 40 years is segment and isolate and fragment and get everybody into a different group, and we have lost the idea of community that was the basic idea of insurance.

So the main reason for this bill and the reason that we want the American people to understand and to be for this bill is that the bill is about getting everybody back into the pool, back into the prepaid health pool, on a level playing field, paying more or less the same amount of money so that when you need that plan, it is there for everybody.

Now, this is not just about rights. We Democrats are known for talking about rights. We are good at that. We believe people do have rights. And I believe people have a right to an insurance policy. But I also think to have rights you have to have responsibilities. You have to be responsible. And a lot in this bill is about responsibility as well as rights. Because we are not going to have any rights if we are not all responsible.

One of the tenets, the basic tenets of this bill is that everybody pays and everybody gets. We do not want that young person to be able to decide anymore, I do not need to afford insurance, I am well, I do not need it. You may need it. You may get sick. You may be a burden on the rest of society. So you need to pay; you need to be responsible. And employers need to be responsible.

This bill is more about responsibility than it is rights, but it is about both.

Now, let me, if I can, give an explanation of what our bill does, what it does not, address some of the concerns, some of the special areas of concern so that have everyone who is watching and in the hall tonight can understand.

First, it ensures that everyone will have a health insurance policy by January 1, 1999. Now, there are some that would say, do it tomorrow. There are some who would say, do it next year. We will get a huge debate about when to start this. I understand that.

The effort here is to find a date that is reasonable. This is a big change. We are asking people to get involved in health insurance. And I know they cannot do it overnight. And I am thinking about my small business people in St. Louis and Jefferson County, Saint Genevieve County, MO. I do not want to

ask them to do something they cannot do. I want to give them time.

So we picked a time that we thought was reasonable. Two years for companies over 100; 4 years for companies below 100. So we give the small companies the longest time to get ready for this change. But on that date, it has to happen.

Now, why is it important that this requirement happen? We hear all kinds of arguments: Well, let us put in a trigger. Let us take time. Let us see what can happen.

Let me tell you why it is important. It is important because people want and deserve certainty. Business people tell me all the time, I do not care what the rules are but just tell me what the rules are. Do not keep me up in the air. I need to plan my life. I have got to plan my business. If you tell me this is something that we are all going to do, that is fine. But tell me when it is going to happen. Do not put something out there and leave it totally uncertain and we never know what is going to happen.

So I think we need to plant the flag. We need to let people know what the requirement is.

Now, we need to help, and we will get to that in a moment, small employers who are going to have some difficulty doing this. We understand that. We are not going to ask someone to do something that is impossible or unreasonable. But we need to make it certain so it is, in our bill, certain.

Second, we accomplish everybody being involved in health care coverage through employer/employee shared responsibility. And we ask employers to contribute 80 percent and employees 20 percent. Why do we pick those numbers?

Well, again, it is a reasonable solution. There are some employers that pay 100 percent today. There are some that pay 90; some who pay 80; some pay 75; some pay 70; some pay 50; some pay none.

We have got people at all different places on the racetrack. And if we are going to ask everybody to do the same thing, then we have got to find a consensus. You may say 70 would be better. Somebody else may say 50 would be better.

One of the problems we have is that a lot of people are at 80. A lot of people that have insurance are at 90, and a lot are at 100. If we go to 50, then they are going to get worried that their employers will say, well, the national standard now is 50. You need to come down from 90 to 50.

All the time today, when I go home, people who have insurance are saying, what does this bill mean to me? What is going to happen to me? Am I going to have my insurance reduced? Am I going to have to pay more? That is a very legitimate question.

So we believe if we go below 80/20, employer/employee share, that a lot of people who have insurance will feel disadvantaged, and they will be asked by their employers to go to a lower amount. So we have tried to pick what we feel is a consensus and an area that is reasonable in splitting the difference between what exists today.

Third, as I said, we have subsidies for small employers and families. I will explain more in a moment exactly how those work. But obviously, if we are asking employers and employees who have not been involved in health insurance, hey, you have to get involved, we have to help them at least for a period of transition, of 5 years, so they have the wherewithal to be involved.

Fourth, we have a program that is an option called Medicare Part C. Why have we gone to this? The reason we have gone to this is because there needs to be a place where small employers, where Medicaid patients, where unemployed people, part-time people, seasonally unemployed people, in other words, where people who have had trouble getting insurance can be certain that they can get insurance. And that is Medicare Part C. It is like the Medicare program, but it is not the same as the classical Medicare program for the elderly.

It would allow people in that program to make choices. First of all, you will have a choice if you even want Medicare C. Second, if you are in Medicare C, if that is your choice, you still have choices. You can buy a managed care plan, an HMO, as many senior citizens do today and like it very much and get a very good deal. Or many of the people in Medicare C will be able to have a voucher and be able to go out and but any fee-for-service plan. That is a plan where you can pick any doctor you want, or they can go by some other managed care plan. Or many in Medicare C will be able to buy health care exactly as the Members of Congress and other Federal employees do, through what we call the Federal Employees Health Benefit Plan, which has a whole array of choices that people will have.

We are not trying to limit people's choices. We are trying to increase choices. We are trying to foster competition. We are trying to get people to make choices between plans so that we get the best possible product, highest quality at the lowest possible price, which is, as in health care, what we want in everything else.

We believe, therefore, that we will constrain costs without cost controls, without premium caps by the very competition that we will foster.

Again, you get everybody back in the pool. You get everybody on more or less of a level playing field. And then let the competition start. And believe me, I believe with all my heart there will be a tremendous competition in this country for the health care dollars that will be there.

What are the options today? Some people say, well, you are going to have two-tier health care. Do you know what you have today? You have four tier, at least, private payment, Medicare, Medicaid and no pay, four different ways of payment.

Under our program, you are either going to have private or you are going to have Medicare A, B and C, the Medicare programs.

□ 1810

Believe me, Mr. Speaker, a furious competition is going on today for Medicare patients in all parts of the country, to get them into managed care in the Medicare Program. I was in an HMO in my own district where they are offering all the Medicare benefits, $1,200 worth of prescription drugs free, as an inducement to get into their HMO, and they are making money.

What does that tell you? That tells you that real competition produces real results, that people really will compete. Managed care plans will go after all of these people that will be covered under our health care system. Therefore, competition will make all policies of all people more affordable than they are today.

Mr. Speaker, the problem with the health care system has been that costs have been going up at 20 and 30 and in some areas of the country 40 and 50 percent a year, driving people out of health care, because they cannot afford it.

The reason to get everybody involved in the health care system, Mr. Speaker, and to have real competition, is to keep health care affordable for all Americans.

Mr. ABERCROMBIE. Will the gentleman from Maryland yield for a question?

Mr. HOYER. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, in that context, the gentleman from Missouri has made a point about how this competition will work for the advantage of small companies, of small business. Some businesses, small businesses, are offering their employees insurance now.

What I am interested in is, under the guaranteed health plan that we are proposing, would small companies who do comply now be disadvantaged, and/or how can we get those companies that will have the period of time to phase in their coverage be given an incentive to join as soon as possible, so that we don't have some in the plan and some out of the plan?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, I think there is a clear advantage for any company and any person who has health insurance today, first of all. I'm going to talk more about that in a minute. However, the great advantage they will get is that by getting everybody involved and by having more competition, we will have lower costs and

lower cost increases for everybody who has insurance.

Small businesses today, as the gentleman knows, are getting out of health care because they couldn't afford the cost increases. Part of the reason they cannot afford the cost increases is because maybe their competitors do not provide insurance, and add their costs to their policies.

Mr. ABERCROMBIE. Isn't it a fact that many businesses are now providing insurance, and those that do not have the cost shift it onto those who are already paying their insurance?

Mr. GEPHARDT. Exactly. I often say that health care is unlike any other commodity we buy. If I go down to the corner car dealer and buy a car today, and they roll it out and I get the keys and I say, "This is great, but I don't have any money, I don't intend to pay," they will take the keys back. I will not get the car.

If I have a heart attack here in the next 5 minutes and you all take me over to the emergency room over here and I go in and say, "I don't have any money and I don't have any insurance," they will probably take care of me. Then they will add the cost of that to your policy and his policy and their policy and this gentleman's. Everybody who has a policy will have to pay for me, so I am a freeloader in that case.

It is because, as a compassionate, decent society, we are willing to say, "We are not going to have anybody die in the streets." We are going to take care of people if they have needs, even if they have no money, even if they have no insurance, and it should be that way. We are not going to change that.

As long as we allow people to not be involved in health care insurance, the people who have insurance are going to pay their bills, and it is wrong. It is wrong for them to be stuck with their bills.

Mr. ABERCROMBIE. Is it the case, then, that this plan will enable working people who cannot now afford insurance and companies who wish to be able to give their employees insurance, thus stabilizing their businesses, the opportunity to be able to get guaranteed, affordable insurance?

Mr. GEPHARDT. Absolutely. Most of the small employers that I have talked to who do not provide insurance want to provide insurance. It is not a matter of being selfish. It is not a matter of not wanting to get their people involved. They would love to do it. They just have not been able to figure out how they can afford it.

One of our main purposes here, Mr. Speaker, is to allow them to be able to afford to give their people what they both want, which is guaranteed health insurance.

As I said, we have a choice of plans. In the private sector you have to have one managed care plan, one play where you can choose your own doctor. Again, some can choose through the Federal employees' plan. Some can choose, if they want, Medicare C.

We also put an option in for a medical savings account. We have not talked much about this, but it is a very attractive option. You can fulfill your requirement in this plan by saying to your employee, "We are going to buy a $2,000 deductible major medical policy," and put the difference between buying that kind of policy and the premium for a comprehensive policy in the bank.

We get a tax deduction for doing it. It is not taxed. Then the interest can grow, and every year you can put that amount of money in the bank as the premium, instead of paying it to an insurance company, and the employee can use the savings to go pay doctors' bills. Then when they get to $2,000 a year, the insurance policy kicks in, so the options are many.

Finally, we have a nationally guaranteed benefit package. Many people have said, "Why do you have to define what the package is?"

The reason to do that is, again, if we do not get people on a level playing field, if we do not have a package that everybody is required to have, then we are going to have, again, all of the segregating going on; you know, fragmenting: "I am well, I do not need a policy," or "I will buy a little bitty policy that covers one hospital day a year, and that is it," or "I will buy a policy that really does not do anything, so I will avoid the costs."

Again, we all have to be on a level playing field, so the benefit package includes prescription drugs, hospital stays, doctor's visits, preventive care, mental health, long-term care, and it is a good program. It includes all of the different benefits that a normal, rational policy would have.

I have tried to explain this to people, and I don't know how to quite get it across. They say, "Is this a rich package or is it a meager package?" The only analogy I can think of is an automobile. I have said, "It is not a Cadillac and it is not a motor scooter." It is somewhere in between.

I guess it is a Ford Taurus, maybe. I don't want to give an ad for any car. Maybe it is a Chevy Lumina, or something. It is one of those kind of family cars that is not too big and not too little, but it works. I do not think it has a CD player in it, and it may have a radio and a heater, but it is a good car. It is serviceable, it gets the job done.

Finally, Mr. Speaker, our plan, and this is important, one of my great worries about health care is we get everybody involved and then we do not have an adequate delivery system out there to help them. They have coverage but there is no doctor in their community, there is no hospital, there is no clinic.

So we have a substantial part of our bill that is to induce doctors and health professionals to go to rural areas and to go to inner cities that are now underserved, to also build clinics in rural areas, in inner city areas, where they do not have the kind of facilities that we need. So that is a very important part of our plan.

Mr. Speaker, let me quickly go through the rest of the charts to explain. What does our plan do for the American people? It provides guaranteed health insurance that can never be taken away.

If you change jobs, you don't lose your coverage.

No preexisting conditions or exclusions.

It provides a choice of doctors.

It keep insurance costs down.

People with health coverage now stay the same or get better.

That brings me to the next chart. People, as I said, have asked, "What happens to me if I have already got health insurance. What does your plan do to me?" Your present coverage will stay the same or it will get better. There is nothing in our plan that says, "Your plan has to be reduced." If you have a good plan, you will keep it.

However, there are other advantages for passing our plan. First of all, you will not be able to lose your coverage because of illnesses, as you can today. There are a lot of plans out there that if you get sick, they boot you out. We do not allow that anymore.

Third, if you change jobs, a lot of people do not want to change jobs because the new job does not have coverage. Our plan takes care of that and says, "You will have coverage wherever you go."

Your parents in the Medicare program or your grandparents will get prescription drugs in the classical Medicare program. We are going to have a long-term care program through the States that will help us with home health care and keeping people out of nursing homes.

Again, we are going to increase the number of providers in rural and urban areas and we are going to simplify the forms.

□ 1820

A lot of people have said, how is this plan different from the Clinton plan?

First, no mandatory alliances. We listened and we learned and we decided they were not helpful.

Second, no new large government bureaucracies to run the system.

Third, no automatic price controls as Government would serve only as a backup to the private sector efforts.

Fourth, no disruption to the large majority of Americans who already have health insurance. And again we guarantee every American to choose their own doctor and health plan and we establish a Federal safety net insurance plan to ensure that an affordable plan is available to every American.

A lot of our Members have said, "This sounds great, but golly, what does it do to the Federal budget? Doesn't it bust the budget?" Well, no, it does not. The plan is paid for and I will explain in a moment how we do that, but our preliminary estimates from the Congressional Budget Office is that we reduce the deficit by $2 billion in the first 5 years and by 15 additional billion dollars reduction in deficit in the second 5 years. So the plan is not going to hurt the budget, it will help get the deficit down.

How will the plan be paid for?

First, from slowing the growth of Medicare and Medicaid which saves money that we can use for this plan.

Second, a gradual and moderate increase of 45 cents in the tax on tobacco products.

Third, we eliminate a present tax subsidy for what are called cafeteria plans, plans with many options in them that few, but some, employers have.

And, fourth, a 2-percent surcharge on private health insurance premiums.

Many have said: What does this mean to me? How do I come out if I have a family plan? If I am an employer, what are my obligations going to be?

On this chart we have example 1, a single-parent working family with 1 child with different income levels, $11,000 down to $27,600. We then have what the annual family premium would be under our plan. It would be about $800 per family. That would be the family cost. But the actual premium owed because of the subsidies for the individual families would go from zero dollars if you are a low-income family, the highest as you can see would be $69 for a family earning $27,000 and up. That would be $69 a month. For two-parent working families we can see different income levels. Again, $16,000 to $38,000. We see what the family premium is. About $1,100 per year. But with the subsidies, depending upon their income, their monthly payment would be a range from zero dollars to a maximum of $49 a month.

The next chart shows the protections for low-wage workers and other low-income individuals. Here we have different income level individuals. For these people, individuals about $7,000 a year, single parents $11,000 a year, two-parent families, $16,000 a year, they would have no premiums, no premium obligations, no cost sharing and a comprehensive package for children. If they earned more than that, $7,000 to $17,000 as an individual, $11,000 to $27,000 as a single-parent family, or $16,000 to $38,000 as a two-parent family, they would have premium subsidies, they would be helped on a sliding scale. There would be no cost sharing for pregnant women, children, and cash recipients. Again, a comprehensive benefit package for children.

Some people have asked me: Give me a hypothetical. Talk to me about a small company in my district and what would happen to them. So we picked out the Acme Shoe Co., employing four low-wage workers, what would happen to them if this bill became law? In 4 years, they would have 4 years in which they would have to do nothing. But on January 1, 1999, they would be required to cover 80 percent of their employees' health insurance. They could do it by enrolling employees in Medicare Part C, or offering a choice of at least two private plans, one where you choose your own doctor, one managed care. They could buy a medical savings account for the employee, $2,000 deductible, put the rest in the bank. Or they could put them into the Federal employees type plan. So there are options.

These payments are fully deductible to the company, they can write them off their income tax, and Acme would be subsidized for 50 percent of their employees' health care costs. So that rather than paying 80 percent, they would only pay 40 percent. Because again for 5 years we would be helping them be able to pay for their employees' health care costs.

Small business people have been very concerned about this package, and with good cause. Many of them are basically getting by, they are worried about new costs. We reduce again their premiums, depending on their size and the low-wage mix, by up to 50 percent of their requirement to buy these policies. In a minute, I will show exactly in dollars and cents what they would owe. But they also get some other benefits.

We are going to community rating. A lot of small businesses today have to pay much higher rates than large businesses because they do not have the buying power. They do not have enough people to bring to the plan. We have thrown that out. We say a small business under our plan has just as much buying power as a huge corporation. So that is a big benefit for all of our small business people.

Third, we have included a change in workers' compensation, so that we are now going to require that the health insurance be the place where we get workers' comp injuries taken care of. That is going to lower workers' compensation insurance premiums for our small employers, another benefit for small businesses, of passing our plan.

Fourth, they are going to have access to this Medicare C program. Again, they do not have to choose it. It is an option. But it is a good option for many small businesses because it is a reasonable insurance premium.

Fifth, they can buy this medical savings account again. They do not have to buy any insurance plan, they can put the money in the bank, buy a high deductible policy and help their people that way.

Finally, self-employed individuals who today get a zero tax deduction when they buy their health care under our plan will get an 80-percent tax deduction for the cost of their health care policy.

The next chart is very specific and tells exactly what our small employers and other employers would have to pay. What we did on this chart was take 18 hypothetical firms, we put down the number of employees in each firm, so we have firm 1 has 5 employees, firm 3 has 100 employees, and on down. Then we put the average wage in that firm, the first 6 firms have a low average wage, $11,000 a year, the second group of firms have a higher wage, $25,000 average a year. Then the third firms come in at about $40,000 a year. Then we have put the exact annual average employer payment per worker with the subsidies for these firms. Firm 1 would have to pay about $1,200 per year per employee. Or to analogize it to a minimum wage increase, 61 cents an hour is what it would cost them. Firm 2 would have to pay 78 cents an hour. Firm 3, $1.26 an hour, then on down, they are at about that level. So for about $1.26 an hour, firms who today do not cover people could cover their people.

We did a minimum wage increase in 1988 of about 90 cents an hour. I know a lot of small employers found that a hard thing to do, but they did it. If we are able to pass this health care plan, we are not going to have a minimum wage increase for 4 years, maybe longer. Why would we? We are asking firms to come up with the analogy of a minimum wage increase, $1.20 an hour, or 61 cents an hour or 78 cents an hour. There would be no reason to have a minimum wage increase. We would not do that, because they are being asked to do this. So it really is asking small employers to do little more than a minimum wage increase, to get all their people covered. I think it is a good deal. Plus the subsidy would go to firms who now cover as well as to those who do not now cover. For the 70-percent of small business that now buys insurance, they would get the subsidy help. We would lower their costs of insurance for the people that are already doing what they have been asked.

The next chart talks about the needs of rural America. I will not go through every part of it. Suffice it to say that we have got lots of inducements for doctors and health professionals to go to rural areas and we have got money in the program funded to build bricks and mortar and health care clinics throughout rural America.

For senior citizens, a new prescription drug benefit would be added to the Medicare Program, would provide unlimited prescription drug coverage with a $1,000 cap on out-or-pocket costs per year.

□ 1830

Finally, I do not think the alternative plans that we are hearing about

will work. If I thought they would, I would be for them.

The reason is this: If we just do insurance reform, all we are doing is saying to everybody, "Hey you cannot get in that little fragmented group anymore. You have to pay for the cancer patients. We are not going to keep them out of your plan anymore. You have to pay for them." That is going to add to everybody's costs.

I do not want to pass a bill that just says to most Americans, "Hey, you are going to pay more of a health care premium. Congratulations. That is health care reform." We have to do something more than that. We have to get everybody in the pool. If all we do is say you cannot kick out the cancer patient anymore, we also have to say we are going to bring in the people that do not have coverage. If we are going to raise your premium because we are making everybody be in the pool who is sick, we will then have to bring in the people who have opted out of the system because they do not want to pay premiums so that as the premium goes up, it comes back down because we get the people involved who have opted out of the system.

So these alternative plans that say we can do this incrementally, slowly, I think are wrong. I think we will have another catastrophic bill out here where we make a lot of pretenses about what we have done, and then the people find out it does not work, we have to take it back out.

Let me sum up with this: I think this issue is the most fundamental issue that we will face while we are in the Congress. This question is about who we are and what we are for.

The gentleman from Maryland [Mr. HOYER] has told the story of his daughter. When my son was 2 he had cancer. They gave him no hope, said he would not live for 6 weeks. We could not even talk to him. He was too young to understand what was wrong with him and why he hurt so badly. We were lucky. Like STENY, we had health insurance. We were very lucky. We had wonderful doctors and nurses who helped us. We prayed. We had people who helped us in our church, at my work, at my wife's work. Everybody got behind us to help us get through this crisis.

Many a night in the hospital I met with parents. You know when you are in that kind of a situation you pour your heart out to somebody who has gone through the same travail. I would sit there as he got the chemotherapy and the drip treatment and I would talk to other fathers and mothers. Many of them were from rural Missouri, rural Illinois, St. Louis, workers. These are workers. These are not people that did not work. These are workers who did not have health insurance. They told me their great worry was not that their kid was going to die of cancer. Their great worry was that their kid was going to die because they did not have the $200 or the $300 for the next chemotherapy treatment.

Nobody in this country should be awake at night worrying that a loved one is going to die, not because of the disease but because they do not have the wherewithal to get the therapy to solve the disease.

We can do this. This is a great country, it is a just country, it is a decent country. Just as in 1935 we did Social Security and said elderly people will not die in poverty, and just as in 1965 we said elderly people will be able to go and see a doctor and will not be denied health care, in 1994 we have to say that every American has the right and the responsibility to have decent, just, fair health care. We can do this. We can get the votes for this. We can make this decision. The American people want this to happen, and we must stand in an active sense and with common sense and courage and vote for it in these next weeks.

Mr. SKAGGS. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Speaker, I really want to congratulate the leader on his presentation of a very, very complex and far-reaching proposal. I think all of us are particularly sensitive to the plight of small businesses in this country right now. They are the biggest source of job creation. I know when I am home in Westminster, CO, what I hear about a lot with regard to health care reform is how is small business going to handle what they see as another cost in a world that is already squeezing them real hard.

How under the plan that you have just outlined are small businesses, who now cannot afford insurance, going to be able to handle this additional requirement?

Mr. GEPHARDT. First, again, they will have 4 years to get ready to do this. There is no requirement until 1999.

After 1999 there are 5 years in which they will be subsidized up to 50 percent of their costs by the way the plan works. In other words, they will not have to pay the full costs of their employees' policies. They only have to pay half the cost that they would ordinarily have to pay.

Third, because we are getting everybody involved, everybody's health costs will be held down. The cost increases that we have experienced in the last 10 years will not happen anymore in the future, because through real competition, everybody's costs will be held down so that the small employer who has been unable to do this, who has wanted to do it, will now find it affordable and be able to do this with their employees.

Mr. SKAGGS. Long lead time, phase-in, subsidy, cost containment.

Mr. GEPHARDT. Exactly. Now we need to start remembering also not just the people who do not do this now, we also need to remember the 70 percent of small businesses that do this. They are here too, they are Americans too, and they are asking us tonight and in the days ahead to get everybody involved. They do not want to be disadvantaged. They do not want to be competing against people that are not doing this when they are doing it. They want everybody in the pool. They want fair rules. They want everybody on a level playing field.

So it is right to be worried about those who are not doing it and what we are asking them to do. But it is also right to find a way for them to be able to afford this so it does not threaten their business. I think we have done that.

But we also need to think of the majority of small businesses that are doing this today, that are playing by the rules, that are doing the right thing and have found a way to do it.

Mr. HOYER. Mr. Leader, I thank you for your statement and for the job you have done. Our time is just about up, but in closing you might want to reference something that we discussed, and that is the cost of doing nothing.

The gentleman talked about a 2-percent premium tax. Right now the average American who has insurance is paying about an 18 percent to 25 percent premium tax for those people who are not in the system, for the so-called uncompensated care people who go to the emergency room and do not have any insurance. But somebody picks up the bill for the heat, and for the lights, for the doctors, for the nurses, for the instruments and everything, and of course it is the premium payers, whether they are business or individuals, the premium payers.

Mr. GEPHARDT. One way to say it is that we have universal treatment in this country, but we do not have universal coverage. It goes back to the story that if I have a heart attack and I go to emergency room, and I do not have any money for coverage, I get taken care of, and then it is tacked on to everybody else's bill.

The head of Aetna Insurance told me recently that he thinks in the last 10 years, 12 years, or 15 years that at least half of his price increases on health insurance have been because of uncompensated care. So half of the reason, roughly half of the reason all of us have seen all of these cost increases in our health insurance is because we have been unable or unwilling to find a way to get everybody involved in health care insurance.

Mr. HOYER. Of course, that is being made worse by the fact that thousands of people a month now are losing their health insurance, and as they lose their health insurance the number of people having uncompensated care will go up

and, therefore, the cost of those of us who have insurance inevitably goes up.

Mr. GEPHARDT. So it cannot be insurance reform alone. If all we do is reform the insurance system, everybody's costs will go up. They did that in the State of New York, and instead of having 83 percent of the people covered, more people got out. So if all you do is insurance reform, you are going to reduce the number of people that are covered rather than increase it. We need to get everybody involved.

Mr. HOYER. Mr. Leader, I thank you for your statement. We will be discussing this some more as the week goes on.

□ 1840

SOCIAL SPENDING AND THE CRIME CONFERENCE REPORT

The SPEAKER pro tempore (Mr. MANN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Illinois [Mr. HYDE] is recognized for 60 minutes as the designee of the minority leader.

Mr. HYDE. Mr. Speaker, the subject tonight that I would like to talk about concerns the crime bill that recently emerged from a conference committee and which we expect to debate and vote on this Thursday on the floor.

We are all baffled and angry at the dramatic increase in the crime rate. Lots of well-meaning people spend lots of effort and money searching for the root causes of crime. Some of these causes are uncontrollable. For example, the age of our population, the more young males, the more young crime; crime also might be blamed on trends that could be changed perhaps in the long run, but certainly not in the short run, such as the loss of authority over the young by families, churches, schools, and communities.

Traditional root causes are poverty and ignorance, envy, and just plain wickedness but to the criminal, the cost of crime is the risk of punishment, the real risk, not the threatened risk. The actual risk of punishment is distressingly small, and therein lies the problem.

This legislation that we recently dealt with in conference by providing for more police and more prison space does help a little, but at a disproportionate cost, an irresponsible cost, and that is what I would like to discuss this evening.

On Thursday of last week the House and Senate conferees on the crime bill completed work on a $32 billion, that is billion dollars, package. Since the conferees first met in mid-June, their role was to carefully set priorities both in policies and spending, to achieve the goal of keeping violent criminal offenders off the streets and away from innocent citizens.

Unfortunately, whatever good this legislation accomplishes is heavily offset by about $9 billion in social welfare spending, all gratifying to the root-cause school of criminology, but excessive and duplicative of existing programs.

Some have said that for every police officer this bill funds, its also funds two new social workers. You can call it money to fight root causes, you can call it revenue sharing, or you can call it crime pork. No matter what you call it, we have been investing in social welfare programs since the days of Franklin Delano Roosevelt. Since 1965 we have spent almost $5 trillion dollars on the War on Poverty and urban aid, and we still cannot say which of these programs have proven effective in fighting crime, if any of them have. We just do not know.

We do know the situation they are supposed to cure, the poverty and the crime, are worse, not better.

The conferees have funded almost $9 billion in social spending in this bill under the heading of prevention programs. Not only do these programs duplicate existing programs already in operation, we are double- and triple-funding the same programs in the bill for arts and crafts classes, self-esteem classes, and have funded multimillion-dollar grant programs based on untried and untested notions that have very little to do with crime or even crime prevention.

Society has not ignored crime-ridden inner cities. Government has showered these areas with programs and money, and too many of them are costly failures, and here our answer is more of the same.

I will focus on just one example: job training. The bill that we are talking about creates a new $900 million program, Youth Employment Skills. YES is the acronym, YES, Youth Employment Skills, and it is to "test the proposition that crime can be reduced in neighborhoods with high incidences of crime and poverty through a saturation jobs program."

But just a moment, as this chart shows, prepared by my friend, Senator ORRIN HATCH, the Federal Government already funds 154 different jobs programs at a total cost this year of almost $25 billion. Remember, a billion is a thousand million dollars. Lest you say that there may be 154 jobs programs, but none for at-risk populations targeted by crime-prevention programs, youth and the economically disadvantaged, let me inform you today nine jobs programs specifically target the economically disadvantaged at a cost this year of $2.66 billion, and if you look at this chart, you will see that 16 jobs programs specifically target youth at a cost of $4.5 billion.

The next chart will show that 6 of these 16 programs were enacted in the last 5 years. So what is wrong with adding another program? Program No. 10 or No. 17 or No. 155? What is wrong is that everyone agrees we have got too many programs as it is, and this duplication has driven up costs and reduced quality.

Vice President GORE's National Performance Review finds that the Federal Government should, and I quote, "consolidate training programs for unemployed people." In recent months the General Accounting Office, the GAO, has repeatedly attacked the proliferation of jobs training programs. In testimony before the House Government Operations Committee, Clarence Crawford, Associate Director for Education and Employment Issues of the GAO's Health, Education, and Human Services Division, states that, "The current fragmented system of employment and training programs is not meeting the needs of workers, employers, or administrators, and thus is not helping the United States meet the challenges of increased global competition." Crawford goes on to say the more than 150 programs providing employment training assistance have well-intended purposes but collectively they create confusion and frustration for their clients and administrators, hamper the delivery of services tailored to the needs of those seeking assistance, and create the potential for duplication of effort and unnecessary administrative costs.

He concludes that, "A new system consisting of significantly fewer programs affords the best opportunity for improving the quality of employment training services."

So in this bill are we helping or are we hurting? The National Commission for Employment Policy and Welfare Simplification and the Coordination Advisory Committee, both creatures of Congress, urge that Federal jobs programs stop proliferating, that they be consolidated. The Vice President, Congress' General Accounting Office, and Federal Commissions are urging streamlining and consolidation, and yet the Democrats in Congress, with the support of the President, want to create an entirely new $900 million jobs program. Incredible.

Let us focus on the nine current jobs programs for the economically disadvantaged. We will fine-tune this.

Linda Morra, director of education and employment issues of the GAO's Health, Education, and Human Services Division, finds, "The overlap we found among the nine programs serving the economically disadvantaged is an example of how overlap can occur at each level of government, Federal, State, and local, and potentially add administrative costs."

Clarence Crawford reports that seven of these programs often share common goals, serve the same categories of clients, provide overlapping services, but are administered through five separate Federal agencies, each with its own structure.

You have to ask yourself are we crazy here? Do we just proliferate programs and throw money around as though it is bacteria?

How much overlap is there? Well, one of these charts, chart D: Of the nine jobs programs for the economically disadvantaged, these are already existing jobs, not what we are going to superimpose on it, six of them assess clients' employability skills, five teach adult basic education, five tutor clients for the high school equivalency test, six provide classroom vocational skills training, five provide employer-specific training, five provide job-search training, and six provide life-skills training.

Gee, one or two programs would do fine. But do we need five and six of them all competing for the same clientele? Besides adding to costs, this duplication confuses and frustrates potential clients.

Mr. Crawford finds that, "The current patchwork of employment training programs can create confusion for those seeking assistance, because it has no clear entry point and no clear path from one program to another. The minutiae that those seeking services must master is flabbergasting."

□ 1850

In determining who is economically disadvantaged and thus eligible, there are six different standards to define low-income levels, five different definitions for family or household and five schemes of what is to be included in income.

Looking at the youth job training programs, the lower age limits range from 11 to 16 and the upper limits range from 19 to 27. This is not only confusing to clients but to administrators as well. There are now 21 separate Federal and State committees or councils to try to coordinate different programs. And it is confusing to employers wanting to hire program graduates. Clarence Crawford notes, and I quote, "Employers also experience problems with the fragmented system of employment training programs. Employers want a system that is easy to access and provide qualified job candidates. Instead, employers must cope with many programs that provide job referral and placement assistance." The competition for bodies can result in job seekers being placed in inappropriate programs. Mr. Crawford states, "For job seekers to get the most from the assistance provided, the services must be tailored to their specific needs. However, because local service providers who are under contract with local employment training programs often do their own outreach and have a financial stake in directing clients to their own program or are isolated from one another, little attempt is generally made to refer clients to other programs."

With all these programs, no one knows which are effective. Mr. Crawford states that, "Another concern with the fragmented system is that fragmented efforts to monitor the program performance and outcomes are difficult because some programs cannot readily track participant progress across programs, and sometimes within programs." Is that not marvelous? Billions of dollars for these programs, and we cannot monitor them. They overlap, they are redundant, they are duplicative, and we just keep throwing the money out, throwing the money out. It seems everyone agrees we have to reduce the number of Federal jobs programs, everybody but the Democratic drafters of this crime bill. They should jettison their ill-conceived youth employment skills program. If they just read the reports put out by their own administration, by their own legislative colleagues and pay attention to them.

Let us look at some of the big-ticket items in the bill.

The Local Partnership Act provides $1.8 billion in formula grants for direct funding to localities around the country for drug treatment, education and jobs, oh, yes. The formula takes into account the community's relative affluence, unemployment levels and rate of taxation. Larger grants would be awarded to areas with higher taxes as a percentage of their citizens' income. So the Federal Government will be rewarding communities which tax their citizens the most, a rather perverse incentive, I would say.

The model intensive grant program will distribute $895 million—see what a bargain. If it just went up another $100 million, it would be $1 billion. That is for model crime prevention programs targeted at high-crime neighborhoods.

Under this program, the Attorney General may award grants to no more than 15 chronic high-intensive crime areas to develop comprehensive model crime prevention programs that "attempt to relieve conditions that encourage crime" and "provide meaningful and lasting alternatives to involvement in crime." If they could do that, it would be well worth the money, but do not hold your breath.

Priority is to be given to proposals that "are innovative in approach." That is a favorite word of drafters of grant programs, "innovative in approach" and "vary in approach."

The purpose of this program—I guess helping the churches and the communities and helping preserve the family is too old-fashioned and traditional, not innovative enough. The purpose of this program is to see which model programs work so that the Federal Government can pump more money into them in the future—$895 million is a lot to spend on experimental efforts that lack guidelines and are terminally vague.

Now we have the Community Economic Partnership, which will give $300 million—a pittance—to the Secretary of Health and Human Services, for lines of credit to community development corporations to stimulate business and employment opportunities for low-income, unemployed and underemployed individuals, to improve the quality of life in rural and urban areas. This sounds remarkably like President Clinton's defeated fiscal stimulus program. And so, like Dracula at sunset, here it comes again.

Money is scattered everywhere without any thought of duplication, whether the program has been successful in the past or whether the taxpayer will really get any return on the spending. Here is a sampling of the "youth" programs in the bill:

The Community Youth Services and Supervision Grant Program Act of 1994 provides $630 million for after-school, weekend, and summer programs in athletics, culture, education and arts and crafts. This program is supposed to provide children with positive activities and alternatives to the street life of crime and drugs.

I imagine if some of this money could be differently allocated, a lot of these youngsters could go to Harvard with this money.

The bill gives $270 million to the FACES program, the family and community endeavor schools. I do not know how they think of these titles. I would have run out by now with these repetitive programs. Under this program, local entities chosen by the Education Secretary and the Secretary of Health and Human Services are given money to "improve academic and social development by instituting a collaborative structure that trains and coordinates the efforts of teachers, administrators, social workers, guidance counselors, and so on."

Grants also go to community-based organizations to supervise various activities, including sports, arts and crafts—our favorite words back again—"social activities and," yes, "dance programs."

There is a $125 million grant for the Attorney General to make grants to assist children who have "come into contact with gangs," to "reach their full potential as contributing, law-abiding citizens." This program is supposed to give young people positive alternatives to gangs such as—and here they are again—"music, art, and drama activities, physical fitness training, life skills training and mental health counseling."

Now, there is an additional $40 million for a program known as "community youth academies." The Attorney General will make grants to organizations to provide residential services to youth aged 11 to 19 who are at risk of dropping out of school or coming in

contact with the juvenile justice system to increase their self-esteem, assist them in making healthy and responsible choices, improve the academic performance of such youth and provide them with vocational and life skills.

Believe me, I do not ridicule the objects of these programs, I am just awestruck at their proliferation, at the repetition, the overlapping, the redundancy and the billions that they cost. Somebody ought to look at this, put this together, spend a month, 2 months, and study these and get rid of those that duplicate those that are not effective and work on the ones that are effective. But this explosion, this cornucopia of programs, all at high expense, is absurd.

Now there is also $5 million to establish "youth anticrime councils," to give students a structured forum to work with community organizations, law enforcement officials, Government and media representatives, to address issues regarding youth and violence. In other words, to sit around the gym and talk about these things, somebody gets $5 million. The councils must be composed of not more than five students and meet at least once a month. Thank goodness, there are some guidelines there.

Finally, there is the GREAT Program. GREAT stands for "gang resistance, education, and training." This program will provide $22 million for the establishment of at least 50 additional gang resistance, education, and training projects by the Secretary of the Treasury.

This bill is a grab-bag of programs worthy of the wildest fantasies of the most imaginative social workers. My point is not very complicated: Some of these programs may have merit, many may not; all are expensive. If we in Congress are to be responsible and accountable, we ought not spend $9 billion so casually.

I would support some model programs and demonstration projects tests that are carefully chosen and carefully supervised. I fear, however, that we are acting out the old banality of throwing money at a problem in hopes that it will go away.

□ 1900

We all know that this Congress and this country do not have unlimited financial resources. We must carefully and critically choose programs that will have the greatest effect in protecting our citizens.

I am afraid that this conference report is not something that we can proudly present to the American people. I would hope that we can take this bill back to the conference and get rid of its duplicative, redundant, overlapping programs and fund those that we can agree on have a real chance to work. As this bill now stands, it is not as the President said, the toughest, smartest crime bill in history. It is a bloated, extraordinarily overpriced tradeoff to every faction in the Democratic Party.

Mr. Speaker, the people deserve better, and I yield to my friend, the gentleman from Pennsylvania [Mr. GEKAS], a very valued member of the Committee on the Judiciary.

Mr. GEKAS. Mr. Speaker, I thank the gentleman from Illinois [Mr. HYDE] for yielding, but I thank him more for the excellent presentation which he made.

I believe that the gentleman from Illinois has succeeded in demonstrating to the American people that the way we do business around here, especially with such an important issue as crime, has got to be changed. The gentleman has outlined the overlapping programs, the billions of dollars that are being thrown into these social programs, midnight basketball, and training, and arts and crafts, and all those apparent good things for the neighborhood when at the same time we have ongoing programs to meet exactly those purposes. But here is an added element which I wish to bring out with the guidance of the gentleman from Illinois, and that is this, that what we have before us is a ruse; that is, a temptation. The people who know, like the gentleman and I do, that the death penalty and strong law enforcement by the way of new and better prisons for the violent offenders, and for three strikes and you're out, and for prisons, and for a hundred thousand new policemen and so forth, the law enforcement portion of the crime bill, parts of which, or maybe all of which, we confirm and endorse, are in a dilemma because thrown into the bill are these social programs and big bucks programs that the gentleman has outlined.

What is the individual who is for strong law enforcement supposed to do? The theory is: "Well, if you want these strong law enforcement bills, you better vote for the bill, and, as an added benefit, you're going to get these social programs which we feel might be wasted." That is why we have to defeat the rule; is it not? The rule that comes up before the House will give us an opportunity to point out this difference. Some of us want strong law enforcement——

Mr. HYDE. The only way to send the bill back to conference would be to defeat the rule, absolutely.

Mr. GEKAS. Some of us want strong law enforcement, the death penalty, all these extra measures against the violent offender, and we are repelled by the social programing of the kind that the gentleman has presented here this evening.

Mr. HYDE. Let me say to my friend from Pennsylvania that it is very easy to vote yes on these programs, and then to pat yourself on the back and say, "I've really struck a blow for law enforcement." It is hard, miserable work, going through every one of these hundreds of programs and trying to oversee them, monitor them, see if they work, having to say no to people. That is the toughest thing a politician has to do, say no.

But we have not done it, and the result has been a terrible burden on the taxpayers' back, a plethora of ineffective programs that cross each other out, that neutralize each other, and the problem is getting worse. If it were getting better, I would say, "More of the same is a great idea." But the problem is worse than ever, and so obviously we are doing a lot of things wrong. We have got to find out what we can do right.

The gentleman and I know the restoration of the family is at the core of our problem.

Mr. GEKAS. Welfare reform.

Mr. HYDE. Too many kids wandering the streets, without parents watching them, latchkey kids learning their morals at the level of the street and the alley. We have horrible problems. Some of these programs are designed to give these kids something to do, but it is a terrible shame that we do not have government get out of the way of institutions that are already there, such as churches, help them once more have some authority in the community.

But I yield further to my friend.

Mr. GEKAS. I just want to point out one other thing that is a further travesty here:

The people, like the gentleman and I, and many others who support the death penalty, for instance, have before us a bill now in the form of a conference report that has been crafted—now I say this advisedly—crafted by opponents of the death penalty. That is why they have created such a structure in the jury portion of the deliberations on the ultimate penalty, death penalty, that it may well be found to be unconstitutional. Thus the opponents of the death penalty, of whom there are legion in this House and on the Committee on the Judiciary on which the gentleman and I serve, will be voting for a bill for their social programs which they want vastly to take place while at the same time voting, "Ha ha," for the folks back home, for a death penalty, showing how tough they are when they well know that it may be so entrapped with loose language that it would fall constitutionally, and thus at the end of the process, lo and behold, the liberal elements of the Congress will have voted for social programs and for a laughingly death penalty——

Mr. HYDE. Evisceration of the death penalty.

Mr. GEKAS. And the only thing left will be more spending, more——

Mr. HYDE. We conservatives have been bought off with some additional money for prisons and with additional

death penalties which are utterly meaningless because most of the murders do not occur in a post office, or on a Federal reserve, or on a military reserve. They occur out on the street and are State problems, not Federal problems.

Mr. Speaker, I say, "It's posturing to say you're tough on criminals by passing a litany of death penalties which are relatively meaningless, providing some money for additional prison space, which is good, but then, to get that much, you have to accept the rest of the baggage, which is eight or nine, properly figured, billion dollars worth of duplicative, probably hollow, social programs."

Now the hundred thousand police, which is also a carrot in front of the nose of many mayors and cities in the country, has a catch to it, as the gentleman knows. The local people are going to have to pay 25 percent of the costs the first year, 25 the second, and 25 the third, and 25 the fourth, and they will find out this is a very costly benefit that they have received because, Mr. Speaker, I say to my colleagues, "When you get these additional few policemen, there are going to have to be additional squad cars, and uniforms, and locker space, and salaries, and insurance, and so it isn't all the great boon it's painted to be, but it's great posturing."

Mr. GEKAS. One further illustration on how we are confronted with a sham of a conference bill, and that is on the death penalty itself. I speak about this because the gentleman and I have been involved in this battle for many, many years. When the Committee on the Judiciary, notwithstanding the amendments that we offer to straighten out the death penalty, pass the current—the bill which eventually went before the House, we again came to the floor, and we were successful with an overwhelming House vote to reinstate into the jury instructions on the death penalty the direction that the jury must take to take the aggravating circumstances that occurred in a killing, like the rape, or multiple killings, or the use of horrible weaponry, or the maiming, or the torturing, aggravating circumstances that could lead reasonable people on a jury to find for the defendant and then to weigh against that mitigating circumstances, the age of the defendant, the mental capacity, the tenderness of disposition, those kinds of things that can be adduced in favor of the defendant. Then the jury has the duty of weighting those against each other, and they find aggravating circumstances. Then they should bring in the death penalty.

□ 1910

What the Judiciary Committee did was forbid my amendment that would have cured that. But the House overwhelmingly voted for it. I was happy about that.

Later, in the period of time when the conference was forming for the bill, I then asked for a motion to instruct conferees and repeated that salutatory portion of the death penalty instruction, and again overwhelmingly the House voted to instruct our conferees, the House conferees, to make that point at the conference.

This just absolutely shakes me, I say to the gentleman from Illinois, it shakes me so much I almost forgot your State, but when the conferees gathered in the conference, I am told, our conferees, not only did they not adopt the Gekas amendment that passed the House during the course of the bill——

Mr. HYDE. The gentleman got rolled in conference. That has happened every year. It happens not only on the gentleman's amendment, but it happens on very significant things like habeas corpus reform. We did not even touch that this year. And a law that permits a John Wayne Gacey to be convicted and sentenced to death, and 14 years to elapse between the time of the sentence and the time of his execution is a pretty bad law. It makes a mockery of our justice system, and it burdens the families of the victims unconscionably. But we did not touch that because the Democrats did not want to, and that is another tragedy.

But the gentleman is right. The other party controls the conferences, and they determine what lives and what dies, what survives and what does not, and never mind what the Senate has passed or the House has passed.

I want to thank my friend for his brilliance, for his courage, and for his persistence on behalf of justice, as he understands it and as most people understand it. He is a very valuable and effective member of the Committee on the Judiciary. I want to thank George Fishman of my staff and Catherine Hazeem of my staff and Tom Smeeton of my staff, who worked very long and very hard to assemble the data analyzing these various social programs and, frankly, in showing how they overlap and duplicate existing programs. I think they have performed an invaluable service, and I am most grateful to them.

If the gentleman has nothing further——

Mr. GEKAS. Just one other thing. Just the way we are being tempted to vote for this because of the goodies on the other side, there are also provisions that help in women's issues that are in this bill. We are all for those. But they cannot tempt us to vote for this bill, with all its excesses and all its flaws, nor should they try to tempt us, because there happen to be good features in it for the protection of women. We all want that and will vote time and time again when issues are brought to us clearly and singularly on those issues. Do not let the American people feel that this comprehensive big bill is good for everybody. It is not.

Mr. HYDE. I thank the gentleman.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

The SPEAKER pro tempore (Mr. MANN). Under the Speaker's announced policy of February 11, 1994, the gentlewoman from New York [Mrs. MALONEY] is recognized for 60 minutes as the majority leader's designee.

Mrs. MALONEY. Mr. Speaker, I have called this special order and rise to pay tribute to a constituent of mine who recently passed away. Her name is Jacqueline Kennedy Onassis.

From the day assassin's bullets desecrated Camelot until her stroll in Central Park the weekend before she died, Mrs. Onassis embodied the strength, resilience and independence that is the very essence of America.

We live in an age when our leaders and icons are brutally assaulted by character assassins. Gentility has steadily declined into an abyss of cynicism and tabloid commercialism.

Somehow, with her graceful manner, philanthropic spirit and infinite cultural breadth, Mrs. Onassis symbolized the last of American royalty. The end of her life brought the end of an era.

Today, Mrs. Clinton is transforming the role of the First lady in the White House. In the early 1960's, Mrs. Jacqueline Kennedy transformed the White House itself.

For the first time, she invited the American people inside the White House, making it our house instead of a remote Government bastion shrouded in mystery. With her impeccable aesthetic sensibility and expansive grasp of history, she populated the White House with elegant artifacts of the past, which brought an exalted spirit to the present.

Jacqueline Kennedy's artistic passion gave rise to a White House fine arts commission, and even wowed typically cool Parisians who embraced her with open arms. After their trip to France, President Kennedy referred to himself as "the man who accompanied Jacqueline Kennedy to Paris * * *"

Mrs. Kennedy's grand elegance in Washington and blossoming, barefoot motherhood on the beaches of Martha's Vineyard contributed to a thousand days of nostalgia that many of us equate with our innocence.

Surviving a miscarriage, a stillbirth and the assassination of her husband and his brother, Mrs. Onassis looked fate square in the eye, and steadfastly refused to be pitied by anyone.

Still, she was not invulnerable. Five years after her husband's assassination, when she became engaged to Aristotle Onassis, she told a friend: "You don't know how lonely I've been."

In an age when seemingly everyone wants to broadcast their inner secrets

on TV talk shows, Mrs. Onassis treasured and guarded her privacy after leaving the White House, turning down thousands of interview requests.

How ironic that a woman who began her career as an inquiring photographer would shy away when the lens was turned toward her.

Mrs. Onassis believed that her life was a precious possession that was not to be trivialized. She refused to become anyone's property.

In everything Mrs. Onassis did, she gave a great deal of herself, but she never gave herself away.

As a book editor in later life, she was described as a writer's editor who worked with painstaking sensitivity and close interaction with the author. In an age of narcissism, she realized that there were stories worth telling other than her own.

She did create two of her own masterpieces. Their names are John and Caroline.

I feel a particular gratitude to Mrs. Onassis for the many contributions she made to local causes in the community where she lived and which I am privileged to represent in Congress. She was a driving force in her support for the historic preservation of the East Side of Manhattan. She showed unwavering dedication to the preservation of Grand Central Station, and strived for the preservation of low-cost housing, one of New York's most dire needs.

In her final years, Mrs. Onassis had the good fortune to be joined in life by Maurice Templesman, a wonderful, caring man whom many in this Chamber have the privilege of knowing.

To the world, Mr. Speaker, Mrs. Onassis lived a life of majesty and tragedy on a grand stage. But she never bought into that image of herself. Millions wanted her to live a public life, but instead she chose an inner life. Perhaps that is why so many private citizens identify with her so closely. Unlike most of the rich and famous, she was not one of them. In that regard, she was one of us.

Thank you, Jacqaueline Kennedy Onassis, for all you gave us, and all you showed us. May you sleep in heavenly peace.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today with a deep sense of sadness and sorrow over the passing of Jacqueline Kennedy Onassis. Our prayers are with her children, her grandchildren, and other members of her family.

Many of us came of age when this beautiful and gifted woman and President Kennedy held the attention of a hopeful Nation. In Jacqueline Kennedy Onassis, we had the most gracious First Lady to occupy the White House in modern times. She was the epitome of grace, charm, intellect, and beauty. Any one who can remember the week of November 22, 1963, cannot forget how she led us through that difficult period following the assassination of President Kennedy.

Jacqueline Kennedy Onassis represented the very best of America. She was a source of inspiration to millions of Americans. For many of us, her passing means the loss of a dear and special friend.

Mrs. Onassis was always charming and generous. She was a great supporter of the arts and historic preservation. Many historic buildings in New York City, Washington, DC, and all around the country are standing because of her tireless efforts.

Mrs. Onassis will be missed by millions of Americans. Her passing is a great loss.

Ms. KAPTUR. Mr. Speaker, I rise tonight to commemorate Jacqueline Kennedy Onassis who devoted her life to the enrichment of the human spirit and for this, we will always be indebted to her.

Throughout her life, Jacqueline continually gave to others, never losing her sense of self. Following President Kennedy's assassination, during times of uncertainty, Jacqueline's inspirational strength and quiet courage provided a tower of strength to guide our Nation through the dark winter of 1963. Jacqueline overcame her own personal loss in order to selflessly bind the country together as a family.

During the following years, she raised two children with character, while founding the Kennedy Library. She hoped that this library would be a living legacy to her husband. Jacqueline's love of excellence, perpetual optimism, and hope enriched the lives of millions. She never cashed in her life's story nor wore her life on her sleeve. In this day of tell all she protected her privacy and her children's privacy. She exemplified excellence by her determination to promote the arts and all that is fine in life. Her adventurous spirit and tireless search for a new and better world brightened all our lives. Her life including her research and contributions to her husband's Pulitzer prize winning "Profiles in Courage" have truly earned her a chapter in that famous book.

Throughout history Jacqueline's spirit of fortitude, adventure, and courage will always live on and fill the hearts of America.

Mr. ZELIFF. Mr. Speaker, Jacqueline Bouvier Kennedy Onassis, or Jackie, as America adoringly called her. She came into our lives and charmed not only a nation, but an entire world as well. She symbolized an America that was wide-eyed and young and fresh, and by the side of JFK she not only captured America's heart, but, said Charles de Gaulle of her remarkable composure following the assassination of her husband, "She gave an example to the world of how to behave."

Beautiful and demure, the aura of mystery which surrounded her was like an unquenchable thirst of the public who adored her. We watched as this new chapter of American history unfolded, a young, handsome President, his charming, beautiful wife and the children America has doted over almost as much as did their mother. This woman we called Jackie once said of these two, whom she adored and fiercely protected, "I want John and Caroline to grow up to be good people." An image which will be forever etched in the minds of all Americans is of young John, saluting his father, beside a beautiful, courageous widow.

Ironically, the one thing coveted above all else by this adored public figure was her privacy. She spent her lifetime shielding both herself and her family from the public who cherished them. She gracefully acknowledged the adoration of the world, often with only the flash of her brilliant smile.

John Kennedy Jr. said his mother had died "surrounded by her friends and her family and her books. She did it in her own way and in her own terms." Her image is synonymous with beauty and elegance. She has left not only America but the world as well with unforgettable memories of a time gone by, a time of innocence and charm in our country's history which will never be forgotten, a time called Camelot.

Mr. SLATTERY. Mr. Speaker, I am privileged to have this opportunity to pay tribute today to Jacqueline Kennedy Onassis. She was a woman of immeasurable intelligence and strength, who traveled life's journey on an often long and arduous path. Her distinguished sense of self, love of family, commitment to country, and belief in God forged a bond with our Nation, and carried her through her journey with dignity and grace.

Jacqueline Kennedy Onassis was a true student of history with a love of culture and a desire to bring out the best in America. She sought the beauty in life and sought to live life to the fullest. I was young, a part of the generation of hope. I admired the vision of John Kennedy. I also admired young Jacqueline Kennedy and her strong sense of human decency. Her poise and radiance, displayed even during the most adverse circumstances, inspired Americans everywhere and gave us strength.

Jacqueline Kennedy Onassis once stated that "Everything in the White House must have a reason for being there." I truly believe that there was a reason she was with us. She taught us about courage, faith, and values, a reminder for today of all that is necessary for the foundation of our dreams.

The funeral of President John F. Kennedy was a somber reminder of the vitality of youth and the seconds it takes to have it stripped away. We should all live our lives to the fullest, as if every hour on Earth may be our last. We should follow the example of Jacqueline Kennedy Onassis, remembering to seek out the beauty in life and to put faith and family first. These are the bonds which remain strong, even in death.

Individually, and as a nation, we should be extremely grateful for all of her life that was given to us.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I rise to join in this special tribute to former First Lady, Jacqueline Kennedy Onassis.

The widow of former President John F. Kennedy brought a special charm to the White House during the Kennedy years. She became a legendary part of the Presidential aura. As an individual with her own special skills, sense of culture and knowledge of American history, the former First Lady continued on in her own unique career after the President's tragic assassination.

She put her children and her family first in her order of priorities, continuing to be the gracious and loving mother she always was until the end.

In the public eye, she was different things to many Americans and throughout difficult periods in her life she never lost sight of who she was and what, in the history of this country, she meant as a public figure.

Her buoyancy in life, her appreciation of what the Presidency meant to the American people and to our traditions and values, never left her, not in the years when the youth and vigor of the Kennedy administration resonated throughout the country, nor in the tragic aftermath of the President's passing.

We still miss her and shall have her in our prayers forever.

Mrs. LOWEY. Mr. Speaker, this evening I join my colleagues in paying tribute to the life and memory of Jacqueline Kennedy Onassis. Her days, filled with great triumph and great tragedy, remind us that, in the end, character rises above circumstance.

Jacqueline Bouvier was very young when she enchanted the people of Massachusetts as the bride of their junior Senator. She was pregnant with her second child, and needed to be shielded from the campaign trail's wind and rain when her husband sought the Presidency. But in her own unique way, she still captured the Nation's imagination.

As First Lady, she made individuality fashionable, displaying a grace borne not of pretense but of confidence. She seemed the embodiment of the Nation we hoped to be—a dream made real, at least for a time. And on that terrible fall day in 1963, it was her image which most touched us, reaching to grasp the empty air, standing beside the new President, blood stains on her suit, to affirm the endurance of our democracy, and directing a tribute to her husband which enabled all of us to face the awful news, and yet move forward.

Since then, Jacqueline Kennedy Onassis has been less before our eyes, but perhaps more in our hearts. Those of us from New York thought of her as the city's first citizen, concerned always with preserving New York's special vitality, made visible in the brick and mortar of countless structures and monuments. She was a patron of the arts whose personal commitment to beauty and expression enriched the cultural experience of our entire community. She was an editor, an author, a mother, a dreamer, and a doer.

And though she never sought the glare of a public life, Jacqueline Kennedy Onassis never denied to us the warmth of her personality, or the inspiration of her example.

Mrs. Onassis lives on in our memories as a model of grace, intelligence, and integrity. Through trials that would break many men and women, she remained always true to herself, never losing sight of the values she thought so important to our nation, never dimming the spirit that shined through even the darkest experience.

We will miss her.

Mr. MAZZOLI. Mr. Speaker, today we pay tribute to Jacqueline Bouvier Kennedy Onassis, an extraordinary woman who lived in extraordinary times.

In 1960, she swept into the light of the cameras and dazzled America and the world with her charm, beauty, and elegance. As First Lady, her restoration of the White House was done with intelligence, sensitivity, and an excellent sense of history. And, today, millions of Americans can be proud of the house that belongs to all citizens of this Nation.

She was never considered average, but she strived to live a quiet and unassuming life amid all the clamor and glamour of political life in Washington. Mrs. Onassis' joys in life were simple: her family, her friends, her books, and her work. The world watched her, studied her, and admired her because of her serenity and simplicity in the midst of anxiety and complexity.

Jacqueline Bouvier Kennedy Onassis touched the lives of all Americans with her style, grace, and intellect. Mrs. Onassis will be most remembered, however, for the public courage she displayed after the assassination of her husband, the President of the United States. As the world mourned our Nation's tragedy, she bravely continued her role as mother to her fatherless children. For that act of courage, Americans will remain eternally grateful.

Mr. BILBRAY. Mr. Speaker, when I was a college student, I was asked to be a part of the effort to help elect John F. Kennedy, a distinguished young Senator from Massachusetts, to become president of the United States.

I quickly accepted and became the southern Nevada coordinator of the Students for Kennedy. I remember my dad, who was in political office at the time, told me that John Kennedy could not win because he was a catholic and not a mason. My dad was a baptist and a mason. This statement made me work even harder.

After he won the November election, I remember how proud all of us were. The First Lady, Jacqueline Kennedy gave elegance and refinement to the White House that had not been seen since Dolly Madison. I remember my wife, Mikey, making me be quiet or telling me to quit blocking the TV when Jackie was speaking or just in the picture. All of us believed we were part of something special and when the phrase "Camelot" was coined, it felt perfect. And even though I could not be considered a knight of the round table, I felt I was at least a page in the fabulous court.

Jack Kennedy was certainly Arthur and Jackie was his Guinevere.

That awful day in November 1963 when Camelot came to an end will be remembered by all of us. It will never be forgotten. Something truly important, not only to America, but to my wife and I personally, had come to an end. But we do have wonderful memories.

All of us were amazed at the grace and dignity of Jacqueline during that terrible ordeal. Over the years my wife and I have always followed her walk through history. She was grace and elegance beyond compare. There will never be another one like her. So I say in conclusion, "farewell, fair Guinevere. We do miss you."

Mr. HILLIARD. Mr. Speaker, John Doone, the 14th century English poet, wrote about the democracy of death, and I quote:

It comes equally to us all, and makes us all equal when it comes. The ashes of an oak in the chimney are no epitaph of that oak to tell me how high or large it was; it tells me not what flocks it sheltered while it stood, nor what men it hurt when it fell. The dust of a great persons' grave it speechless too, it says nothing. It distinguishes nothing.

What does distinguish us are the good deeds we do in life, and how we handle the darkest moments of our existence. During one of the saddest moments of our Nation's history, the spirit and strength of Jacqueline Kennedy Onassis illuminated our hearts and souls. Her image will be forever etched in all of our minds. To say she was memorable is superfluous. But whomever is old enough to remember Mrs. Kennedy in 1963, dressed in black, attending her husband's funeral, just two rooms over in this Capitol's rotunda, will never forget her.

Mrs. Kennedy's composure, was America's composure. Mrs. Kennedy's strength, was our strength. Mrs. Kennedy's loss, was our loss, and Mrs. Kennedy's dignity was America's pride.

A door was closed in the history of our Nation when she left us. After all, she was a link to our glorious past, as well as to the legacy of the presidential years of her beloved husband Jack Kennedy, our late, fallen President. In closing, let us remember the words of the verse that she so often quoted:

Don't let it be forgot, that once there was a spot, for one brief shining moment that was known as Camelot.

God bless you Jackie, and God bless your family. We will never forget you or Camelot?

Mr. RANGEL. Mr. Speaker, I would like to bring to the floor at this time, special words of tribute for one whom we hold so dear, to a woman who epitomized courage and grace, and to one who will forever remain in our hearts—the lady of which I speak is Jacqueline Kennedy, our former First Lady.

Long admired for her beauty, style, and grace, Jacqueline Kennedy was certainly a most gracious First Lady. Her charm was insatiable and everyone loved her, for it was easy to observe her outer beauty, and a pleasure to know the inner beauty that was there.

From her love of family to her passion for the arts, Jacqueline Kennedy was a treasure to behold. She brought vision and dignity to the White House and forever changed the way we came to think of that special residence. It wasn't long after she arrived at the White House that she focused on its restoration, and with a talent and style that could match no other, made it a cultural showpiece and shared it with all Americans as she later hosted, "A Tour of the White House with Mrs. John F. Kennedy."

While she had much tragedy in her life, it was certainly not tragic. She would rise above that dreadful day in Dallas, to enjoy a successful career in the publishing world. For all her genuineness, nobility, and depth of character, Jacqueline Kennedy Onassis will be missed—her contributions to American history never forgotten—and her legacy—an inspiration.

Thank you Jackie.

GENERAL LEAVE

Mrs. MALONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

IN-DEPTH INVESTIGATIVE REPORT ON VINCE FOSTER SUICIDE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes as the minority leader's designee.

Mr. BURTON of Indiana. Mr. Speaker, over the past several weeks there has been a lot of questions about the death of Vince Foster and the connection of his death to the Whitewater investigation, and I have had nine people on my staff at the Republican Study Committee and my personal staff and some outside sources investigating this, because the Committee on Banking, Finance and Urban Affairs here in the House that is doing the Whitewater investigation on a party line vote has limited the scope of the investigation to such a degree that one Member said that if the same principles had been applied to the O.J. Simpson case, the one thing you could ask O.J. Simpson is how was your trip to Chicago. You couldn't ask any other questions. That is how limited the investigation is. There is a deliberate attempt to minimize the investigation and, I think, to cover up a lot of the facts.

On the Senate side we have a similar problem. It is not quite as bad over there, but nevertheless a lot of the information that must come out regarding Vince Foster's death and his connection to the Whitewater matter needs to be explored.

□ 1920

So tonight, even though I have been castigated by a lot of the people in the media, even though some Members of the Senate committee and the House Banking Committee have indicated that we have made some comments that are not very understanding as far as Mr. Foster's family is concerned, I feel compelled to go through this tonight one more time with one addition. Because we have been taken to task because of things I have said on the floor, I went out and found the confidential witness, the man that found Vince Foster's body, and I got a sworn statement. He swore before God the things that I am going to read to you tonight are factual.

So I am going to go into the entire litany, the entire chronology of Vince Foster's death and the connection to Whitewater. Then I will read to you excerpts, very important excerpts. I would read the whole thing to you, but we would be here all night because it is a 50-page sworn statement. But I will read to you excerpts that verify everything I have been saying before this body.

On July 20, 1993, Vince Foster left his White House office at 1 p.m. He was later found dead by a confidential witness at Fort Marcy Park. The confidential witness is the person that gave this sworn testimony to me. Nobody knows who he is except two FBI agents, Gordon Liddy, and myself.

Emergency medical service personnel discovered the body shortly after they arrived at the park at 6:09 p.m. The confidential witness was interviewed by G. Gordon Liddy on March 27. He was interviewed by me on July 21st, and in between he was interviewed by the FBI agents who Mr. Liddy urged him to talk to.

The confidential witness told Mr. Liddy and me that he approached to within 2½ to three feet of Vince Foster's head and he leaned over and looked directly down into Mr. Foster's eyes. He stated very specifically that the head was looking straight up and that the hands were at his side, palms up with no gun in either hand.

The Fiske report quotes the confidential witness as saying that he may have been mistaken and that there may have been a gun in Foster's hands, that he did not see because of the dense foliage and the position of the hand.

The confidential witness told me that the FBI agents pressed him on the issue of the gun, asking him as many as 20 to 25 times if he was sure there was no gun. And according to the confidential witness, the FBI said, "what if the trigger guard was around the thumb and the thumb was obscured by foliage and the rest of the gun was obscured by the foliage and the hand?" In other words, the trigger guard would be around the thumb, the gun would be underneath the thumb and a leaf would be over that and you would not see it.

The confidential witness, after being asked about 20 to 25 times said, "If what you described were the case, then I suppose it could be possible because I did not count his fingers, but I am sure that the palms were definitely opened and facing up."

At this point the confidential witness still had not seen a copy of the photograph of Foster's hand that was shown on ABC news. The photo showed the right hand palm down with the thumb trapped in the trigger guard. He had not seen that. When I went to see this gentleman, I showed him the photo. He was sitting at his kitchen table, and he stood up and walked around the table twice saying, That is not the way it was; that is not the way it was. Those hands, that hand was moved.

Why did he get so angry when he saw the photo? He told me not only that the hand had been moved but some of the things he told the FBI were not mentioned in the report. For instance, the vegetation at the bottom of the body had been trampled like somebody had been walking around there. Why was no mention of the trampled vegetation in the Fiske report?

The confidential witness also reported that he saw a wine cooler bottle near Mr. Foster's body. Such a bottle was not noted in the Fiske report. We are going to talk about these wine cooler bottles a little later. There was in the Fiske report, there was a blood stain on the right side of Mr. Foster's face. Mr. Fiske's report noted that the blood stains on Foster's right cheek and his right shoulder were inconsistent with the head being upright. In other words, if the head was sitting up, how did the blood get on the cheek and the right shoulder? So somebody had to move the head.

But the problem is, before the police or anybody got there, the head was already straight up. So who moved the head? The report describes the stain on his cheek as a contact stain, typical of having been caused by a blotting action such as would happen with a blood soaked object brought in contact with the side of the face and taken away.

So at sometime his face had to be in contact with his shoulder according to the report. Mr. Fiske's report assumes that one of the early emergency personnel that came to the park moved the head. But the confidential witness said the head was already moved. And he was the first person to see the body before anybody got there.

In addition, Mr. Fiske, after interviewing all the people at the scene, fails to identify anybody that admits to touching the body and moving the head. So he assumes it was moved by somebody after the body was found, but he does not know who it was. Yet the confidential witness that found the body said it was already straight up. Why did not Mr. Fiske assume that one of the persons who arrived after the confidential witness moved his head, when the confidential witness was the first person to find Foster's body? He said the head was facing straight up at the time.

Now, the FBI did not find the bullet or skull fragments at the park. On July 20, 1993, the park police conducted a search for the bullet that killed Foster using only one metal detector. And they found nothing at all after lengthy search. Why did they only use one metal detector? This is one of the highest ranking people in the Clinton White House. They had one metal detector running around through the woods there, and this did not find anything. Then 9 months later, on April 4, 1994, 16 FBI agents and experts searched Fort Marcy for the bullet and they found 12, not one, not two, but 12 modern day bullets. But they did not find the one that killed Vince Foster.

The FBI searched immediately beneath where Foster's body was found by digging and hand sifting the soil and other debris. They excavated down a foot and half. They found no bullet and no bone fragments. In the search for the bullet, the FBI personnel marked out a grid of the most likely area for the bullet to be found after passing through Foster's skull. The area was searched using a metal detector. Once

against, 12 modern day bullets were found, but the FBI lab determined that none were the ones that shot Vince Foster or came out of his gun.

Now, I contacted a ballistics expert in California who stated that after passing through a man's skull a 38 caliber bullet should travel no more than 1,200 to 1,600 feet or about 300 to 500 yards. The FBI should have been able to find that bullet with all the people that were out there and all the expertise they had, if the bullet was in the park. So why was it not found?

Get this, once again this is very important. There were no fingerprints on the gun, and there were no fingerprints on 27 separate pieces of the suicide note. Can you imagine a suicide note torn into 27 pieces without a fingerprint on it? You would have to wear surgical gloves. Here is how he explained that. The FBI found no fingerprints on the 38 caliber Colt revolver. The Fiske report states, "the latent fingerprints can be destroyed due to exposure to heat."

So if it was a real hot day, they are saying the fingerprints could have melted off the gun. Yet they do not explain why, when they took the trigger guard off the gun, there was a fingerprint on it that had been on there probably for years. But the fingerprints of that Vince Foster allegedly put on the gun were melted off. I went out to the site and walked all over that area. There is no sun that hits the place where they found his body. The sun could not have done that. Even on a hot day, it is very doubtful, according to forensic experts I talked to, that there would be no sign of any fingerprints on the gun but it was completely smooth, no fingerprints on the gun, except a little bit on the trigger guard where they found his thumb. I do not know how you could hold a gun with one or both hands and not leave one fingerprint.

In addition, the note that was found in Foster's briefcase was torn, as I said, in 27 pieces and had no prints. It was not exposed to the heat. So why were there no fingerprints found on either the gun or the note? Makes no sense.

There was no dirt on his shoes. There was a little bit of mica, but there was no dirt on his shoes. When Mr. Foster's clothing was examined by the FBI lab, it did not contain any coherent soil.

□ 1930

They did find small parcels of mica, which is off of leaves, on much of Foster's clothing, including his shoes, which is consistent with the soil in Fort Marcy Park.

The Fiske report states it was dry on the day that Foster died and that foliage leading up to and around Foster's body was dense. It concludes that "It was unlikely that there was a great deal of exposed moist soil in the park that would have soiled Foster's shoes."

Foster would have had to walk a long way from his car to the second cannon. I walked all the way from the parking lot up to that second cannon, and it was a dry day and I had dust all over my shoes. It is about 300 yards.

For them to say there was no dirt on his shoes does not make any sense, unless possible he had been moved to that position. Even on a dry day his shoes would have been stained by either grass or dirt or at least dust. Why was no dirt or dust or grass found on his shoes?

Now, there was blond to light brown hair that did not match Mr. Foster's hair found on his tee shirt, pants, belt, and socks and shoes. In response to a question from Robert Novak, Mr. Fiske said "While we have not concluded where the blond hair came from, there is no evidence to suggest that it provides any evidence of circumstances connected to his death." How does he come to that kind of a conclusion?

Carpet fibers of various colors were found on his jacket, tie, shirt, shorts, pants, belt, socks and shoes. Did they check his office to see if the carpet fibers were off of his office carpet? Did they check his home to see if the carpet fibers were out of his home, and if they were not from either one of those places where did those carpet fibers come from?

It is not mentioned in the report. You just forget about that. Yet everybody, the media and everybody, is accepting this report at face value, even through the confidential witness that found that body said the hands were moved and so was the head.

Why didn't Mr. Fiske attempt to find out who the blond hair belonged to? Why didn't Mr. Fiske attempt to determine where the carpet fibers and wool fibers found on Foster's body came from? Why would Mr. Fiske assume that this evidence was not relevant without investigating it first?

Then 70 pages of the report are devoted to the credentials of the four forensic experts that wrote the report on Mr. Foster's death. They had four experts that wrote a report saying it was a suicide at Fort Marcy Park, but they based their conclusions, probably 90 percent of them, on the coroner's report.

Now if the coroner made a mistake and he screwed up the report, then their report has to be questioned as well. Let us check on the coroner. He testified 2 days ago before the Senate.

Fiske goes to great length to highlight the credentials of the four pathologists, as I just mentioned. Their résumés take up 70 pages of the report. Yet none of these people ever saw Foster's body, because he had been dead and buried for 9 months before they wrote the report. Their findings were wholly reliant on Dr. James Beyer, northern Virginia's deputy medical examiner.

He said that Vince Foster's death was consistent with a self-inflicted wound, but according to the Washington Times, Dr. Beyer, the coroner, overlooked critical evidence in the 1989 Timothy Easley stabbing and supported a police finding that the death was a suicide. The death was later changed to a murder, a homicide, after an outside expert, Dr. Harry Bonnell, noted that Dr. Beyer's original report contained glaring errors, including a missing stab wound in the victim's hand where he was defending himself and getting the color of his hair wrong.

The coroner did not even get the color of his hair right. This is the guy on which they are basing the entire forensic report of Vince Foster. The autopsy report said Tim Easley's hair was gray when his hair was dark brown.

Regarding the stab wound in his hand, Dr. Bonnell said "I cannot understand how any competent forensic pathologist would miss a stab wound in the hand." Dr. Beyer later said "The cut on Easley's right hand was consistent with a needle mark," though he noted no such mark on his report. Forensic pathologists are supposed to make note of everything in their reports.

Dr. Bonnell also said that it was doubtful that the Easley stab wound to the chest could have been self-inflicted. He said it could not have been self-inflicted, and yet the coroner said it was.

Eventually it was found out that Easley's girlfriend, Candy Wharton, was the killer, and she admitted stabbing Easley to death. So he missed it.

He made a terrible mistake, and he missed very important things that any forensic expert would have found, according to Dr. Bonnell, any competent expert.

Then in December 1991, in another autopsy, Dr. Beyer ruled the death of Thomas Burkett, Jr., as consistent with a self-inflicted wound, and this was a gunshot to the mouth, much like Vince Foster's. According to the New York Post, a second autopsy conducted by a Dr. Erik Mitchell detailed serious omissions in the Beyer autopsy.

This second autopsy came after the family had the body exhumed. They dug him up. It noted trauma and discoloration to this gentleman's right ear, which could indicate he was beaten to death before the shot was fired into his mouth. His ear had been all smashed up, and at the funeral they noticed it and they thought he had been shot in the ear, but he was not, he had been shot in the mouth.

Burkett's family noted that the ear was so disfigured and bloody, they thought he had been shot there. Dr. Beyer never even mentioned the trauma to the man's ear in the report.

Dr. Beyer also failed to identify a fractured lower jaw. His jaw was broken. He did not mention that in the report, which could also indicate a beating.

The second autopsy also noted that Burkett's lungs had not been dissected, although the report said they had been. He said he did a complete autopsy, cut open the man's chest, checked his lungs. When they exhumed the body and did the second autopsy, they found he lied. He did not even do that. This is the man on whom they based their findings in the Vince Foster case.

The second autopsy in this case also found no trace of gunpowder in the mouth, and Dr. Beyer said he inadvertently left the section for powder burns off of the gunshot wound chart.

So why did Mr. Fiske's pathologists base so much, if not all of their report on the conclusions of a medical examiner who has been challenged in the past for flawed and erroneous autopsies? Why did Mr. Fiske's pathologists base so much of their report on the autopsy of a medical examiner who has a history of omitting important evidence from his autopsy reports?

The Fiske report states that Dr. Beyer was unable to take x rays of Mr. Foster's head because his x ray machine was broken. However, the Park Police report, which was submitted last summer, quotes Dr. Beyer as stating that the x rays of Mr. Foster's head indicated there was no evidence of bullet fragments in his skull.

Determining if there are bullet fragments in the skull is very important to determining how far the bullet would have traveled. Did Beyer take x rays of Vince Foster's head or didn't he? At the Senate the other day he said he did not, so why did he tell the Park Police he did? I don't know.

Mr. Speaker, the security guards, directly, about 100 yards away from the place they found Vince Foster's body, across Chain Bridge Road, there is the Saudi Arabian Ambassador's residence. There are five trained security guards there all the time. There are three that roam around, one in a van and one in a little security guardhouse there.

There people were there all the time. They even checked that park across the street occasionally, because they are concerned about somebody trying to get to the Saudi Arabian Ambassador, and they said that day they heard no gunshot. The Fiske report says that as result of traffic out there and construction traffic, and because with a gun in the mouth in that position there would not have been a lot of noise.

We, at my house, with a homicide detective, tried to re-create a head and fired a .38 inch barrel into that, to see if the sound could be heard from 100 yards away. Even though there was an earth mover moving around in the background, making all kinds of racket, you could hear the bullet clearly.

Now, this is the information that I have used in the past. I went out to see the confidential witness, and when I showed him the picture he was upset. He told me that rather than me writing down a statement for him to sign, he wanted to give me a statement in his own words. I let him dictate a statement to me in his own words and he signed it.

I came back to this body and I gave my colleagues this signed statement. I did not give his name, because I promised I would keep his confidence. However, I read into the record what he said, and I sent it out to many people in the media.

Mr. Speaker, some people said "We don't know if Burton is credible or not, we do not know if he is making this up," so they started questioning whether or not I was just once again beating a dead horse.

What did I do? I called the confidential witness there to get his sworn statement.

So last Thursday night on July 28, I took two other Congressmen, Congressman DANA ROHRABACHER of California and Congressman JOHN MICA of Florida, with me, and we took a court reporter from the Block Court Reporting Services and we recorded 50 pages, 49 pages, of statements from the confidential witness.

So tonight, Mr. Speaker, I want to read into the RECORD excerpts from that which will verify everything that I have said. This man was sworn and he took an oath before God that what he is saying is absolutely correct.

So we started off, I said, "Why don't we start off by reading into the record what you said." Here is the confidential witness reading into the record:

> Involving the statement about the gun in Vince Foster's hand, I made it very clear that the palms of his hands were facing up and at his sides. The agents investigating stated that the gun was hooked on his thumb and partially obscured by the back of his hand. Based on their explanation of how the gun was being held, I conceded that all that was visible—that if all that was visible was the trigger guard on his thumb, and the dense foliage, that I could have missed seeing it. I again stated that I saw both of the man's palms, but did not count his fingers.
>
> After having seen the photo of the hand and the gun, I am sure, I am sure the hand had been moved, because the palms were both face up when I saw Mr. Foster's body.

□ 1940

Then I started questioning him as well as did Congressman ROHRABACHER and Congressman MICA.

"Would you tell us how close you were to the body and how close you got to his face, his hands and everything else."

The confidential witness said, "I stood directly over the top of his head at the head of the berm. My right foot, I'm sure that it was my right foot, was somewhere between 24 to 30 inches from the top of his head. No closer. At that point, learning over with my left foot extended behind me I looked directly down into his eyes from about 3 foot to 4 foot maximum above his face, my face from his."

I said, "You were directly above him?"

He said, "Directly above him looking straight down the body. The man's head was facing straight up. If it was tilted, it was tilted very slightly because I looked into both eyes. I was questioned numerous times by the agents about are you sure the head wasn't tilted, and I kept telling, no, I looked straight down into both eyes. Do you want me to go on and explain what I say?"

I said, "Yeah, Go ahead. Tell us what you saw."

He said, "I saw blood traces on his nose and around his lips. There was not streams of blood on the side of his face. There was not trickles of blood as indicated in the Foster report. I was looking straight down into the man's face and saw the blood."

"On his mouth and nose."

Congressman MICA said, "Was there a gun in the hands?"

The confidential witness says,"There was no gun in his hand. His—both palms were face up, thumbs out to the side."

Congressman MICA. "You did not see a gun?"

He said, "I did not see a gun next to the body."

Congressman MICA, "Did you touch the body or did you shake him?"

The confidential witness said, "Oh, God, no. I wouldn't touch him for no amount. I mean, no way would I disturb any evidence, period."

Then I said, "I want you to look at this picture because you say you saw no gun in the hands."

And I showed him once again the hand that was on ABC News, the picture.

He said, "I also, when I saw nothing in his hands, I leaned to both sides of his head and to the back of his head to see if he had been hit in the head and saw nothing visible."

Congessman MICA said, "Did you look at his hands again?"

He says, "I did not look back at his hands again because I clearly saw his hands were empty and he had no signs that he had, was defending himself or something."

Then I said, "Now, you said—what did you see beside the body?"

He said, "There was a wine cooler bottle laying I would say 24 to 30 inches to the right, between his shoulder and his elbow, laying on the berm, held up by some twigs, not on the berm but on the down side of the hill being held up by some twigs because it's a very steep grade."

Then I said, "Was it sitting straight up or just laying on its side?"

He says, "Laying sideways still probably one quarter of its contents in the bottle."

Then Congressman MICA said, "Did you see—you said the palms were out?"

And the confidential witness said once again. "The palms were face up."

I said, "Both? Both palms?"

He said, "Right beside him neatly. Just like that."

And he showed us, just like that.

He said, "So that they were not in this position? Congressman MICA rolled his hands over."

He said, "It was not in that position at all."

Then I said, "Tell me about the picture. You—the FBI—you asked the FBI what, about the picture, and the head?"

The confidential witness said, "Numerous times."

I said, "What did you ask them about the head and——"

He said, "If you will show me the picture."

This is what he said to the FBI agents.

He said, "If you will show me the picture of the head and the picture of his hands that you said there was no gun in—that I said there was no gun in and you said there was, then I could tell you point blank if somebody had tampered with it, with Mr. Foster's body."

Then I said, "What did they say when you asked them to see the pictures?"

And this is what he said the FBI people said. "Well, it will jeopardize our investigation, I cannot show it to you at this time. We will be more than glad to show it to you when all this investigation is over and that was the common answer I got from the FBI every time."

Then I said, "Over how long a period of time—how many times did they say that to you?"

He said, "4, 5 times I directly inquired, let me see the picture."

They never let him see the picture of the hands.

Congressman MICA said, "You have never seen this picture before?"

The confidential witness said, "I had never seen that picture until the Congressman," that is me, "handed it to me. Mr. Liddy had told me that that picture had been published somewhere but I had never saw it or I would have probably been—I know I would have been screaming."

Then I said, "So you were no more than 2 feet, 3 feet above his head?"

He said, "I would say 2 to 3 feet. I had said 24 to 30 inches, my face was from his face."

Then he went on to say that he thought he had been there for a while because his clothes were very tight, there was a stain, just about like that, he showed me where the stain was on his shoulder.

Congressman ROHRABACHER said, "What color?"

Congressman MICA said, "You are pointing to your shoulder."

He said, "On his right shoulder. It was a—the stain on his shoulder was——"

Congressman ROHRABACHER said, "Was it red? Or was it blood?"

The confidential witness said, "No, it was very light purple, almost identical color of the wine cooler."

I said, "So you don't think it was blood?"

He said, "I do not think it was blood. In the very center of—it looked like he had thrown up on his right shoulder. In the very center there was one small speck area, probably no larger than a silver dollar that was black, that could have been blood in the very center of it."

The reason I'm skipping through is there is a lot of repetition here because we kept asking the questions over to make sure we had it correct.

Congressman ROHRABACHER said, "Hold on. Let's make this point very clear. The FBI when they were talking to you and when they kept going on this question referred to the palm being up and the gun being underneath the palm?"

The confidential witness says, "He, the FBI agent, demonstrated with his hand like this with his palm up."

And he showed the palm to us like this and said that the trigger guard was on the thumb and the gun could have been obscured underneath the hand and that leaves might have been covering the thumb so he would not have seen the trigger guard.

Congressman ROHRABACHER said, "So the question—when they claim that you had in some way conceded that, well, maybe perhaps you didn't see it, if indeed it was below the palm, that was based on a description by the FBI that the palm was up and that the gun was underneath the back of the hand?"

Then I said, "But it's not possible. Look at this."

Because I had a gun and I put it on my thumb to show.

Congressman ROHRABACHER said, "No. But that's not what this picture shows."

The confidential witness said, "Exactly."

Then I said, "But if the thumb is in there, look at this, you can't——"

Then Mr. ROHRABACHER said, "The more important part is that the FBI was describing something to him that was not——"

The confidential witness said, "Exactly right."

Then I asked him, "But in the report they say you believed that the palms were up but you say there is no doubt?"

He said, "I never said—I said I believe it. I mean, I know it."

He said, "I never said I believe it. I know it."

That the palms were up.

Congressman ROHRABACHER said, "Okay."

Then the confidential witness says: "And he said the confidential witness believes it, and that's as straight as they can be."

Mr. MICA, "But you never indicated——"

He said, "Otherwise. Those palms were up always."

Congressman MICA, "And both palms?"

Confidential witness, "Both palms, neatly at his side and they were just like that."

Congressman MICA, "With nothing in them?"

He said, "Nothing in the hands."

Congressman ROHRABACHER. "And when you made the concession to the FBI after repeating that you didn't believe there was a gun in the hand, over and over again, when you finally made the concession it was based on a description by the FBI that the gun was found with—the man was found with his palms up and that gun was underneath the palm?"

He said, "That was all that would have been visible was the trigger guard, would I have missed seeing a gun, with the dense foliage? If that being the case, it's possible I could have missed it."

In other words, if it was only the trigger guard and if the gun was obscured under the hand. But when we put the gun in the hand in the position it was in in the picture and we rolled the hand over, the butt of the gun was up or the gun was lying across the palm of the hand. You could not have missed it. It would have been impossible. And I do not know why Fiske did not check that out. A blind man could see it. Yet everybody is accepting this report at face value, saying it is a great report, and forensic experts are perfect, everthing else is perfect and it is so full of holes you could not put water in it. It is terrible. It makes me sick.

I do not want to upset Mr. Foster's family. I am sure that they would like this thing to go away. I am sure that O.J. Simpson, the families of the people who lost their lives in the O.J. Simpson case, I am sure they would like for it to go away. But you do not stop an investigation because people want it to go away, especially if there are questions that are not answered. You get to the bottom of it. When a homicide detective goes out to investigate a site like Mr. Foster's death scene, they assume it is a homicide until they prove it is a suicide. In this case, they tried to do just the opposite.

Other questions.

Congressman ROHRABACHER. "Well, we have two discrepancies here. We have one discrepancy when he says he doesn't—he never saw the gun and the other discrepancy is that he is absolutely certain that the palms were up. So thus, we have two major descrepancies."

Then we go on.

I said, "But the point is, see, that gun is shoved under his leg partially, but you are saying the palms were definitely——"

The confidential witness said for about the 90th time. "The palms were up."

I said, "And if the palms were up in that position, you would have seen the gun?"I11And he said, "I would have seen the gun."

Other questions.

I said, "Okay, now tell us about the cabin."

There was a cabin there.

I said, "You said you knew the guy that owned that cabin years ago."

There's a cabin about 175 yards away from the site where they found the body."

He said, "I knew a retired Navy commander who lives in that project. He was going to set me up with the owner."

I said, "But there is a private road that goes back to that cabin"

He said, "There is a private road that goes right back to it from the housing development right next to it."

I said, "If somebody came back that road, they wouldn't be seen?"

He said, "They would not be seen, period."

I said, "How far is that from the cabin?"

He said, "150 to 175 yards."

□ 1950

Congressman BURTON. "So they could have walked around that and come right up——"

He says, "They are dead in the woods all the way, and there is a path that leads right straight up to where they found the body.

I do not know if somebody brought the body in that way or not. I had no idea. But that was something that was not investigated, because when they told the FBI about it they did not even know there was a cabin back there. He had to go show them.

Then we started talking about when he left to call the police after he found the body. He said,

"I went, got in my van, started up the parkway because I was on the parkway, I got up to where the park headquarters are, about two, two and a half miles, maybe a little further up the road, the right-hand side. There is a little phone sign right there. I pulled in, there was a couple of vehicles on the left. I had never been in there before. There is two phones there. I never saw them because I saw the guys there, the phones sat back behind the trees over here on the right side. I saw the guys there. I was looking at them, drove by, still didn't see any phones, looked both ways but apparently drove right by the phones and never saw them, backed up, turned around, started back out, was going to ask them to use the phone, motioned for them to come over. The younger white man walked over. I asked him for a phone. He stated that, you know, why? And I says, well, it's an emergency, I need to use the phone. Can you get me to a phone? Yes, but why? And he says—I think he said it the third time. At that point I went, wait a minute. Fine. Are you familiar with Fort Marcy? Oh, yeah, I know it well. Do you know where the two cannons are? Oh, yes, I know it well. Do you know the one up on the hill to the right? Oh, yeah. The next Chain Bridge Road now. Not the one on the left up there, the one on the right all the way up on top. Oh, yeah, I know it well. I says, right beside it, down over the bank is a dead man. You call the police and tell them. Oh, sure, great. I don't need the headaches that go with possibilities of going to courts and hearings and crap that all I done was come onto a body. That's all. Hey, I done my duty, I'm gone. He went to call the police, I simply drove off. And I stayed quiet for approximately six months."

The reason he stayed quiet for 6 months was because he was afraid. He found this body under mysterious circumstances and did not want to get into it.

Now he got into it, decided to become semi-public when he was coming back from Africa. He went over there to take some pictures of some animals. And I said, "Now, you were coming back from Africa, you went to Kenya. Tell them about coming back from Africa and how you decided to call Gordon Liddy," to talk about it.

He said: "When I got back from Africa I was reading—the London Times was eating that story up and I was sitting in the hotel reading it."

Congressman BURTON. "This was what month?"

He said "This was April. Yeah. It was, I believe it was in April. It was either April or May." He is talking to his girlfriend:

"Hun, when was I in Africa?"

She says: "I don't know. I didn't go. You left me home, remember?"

Congressman BURTON. "Okay. Go ahead."

CW. "And it's when I got back, my brother came over and told me, says you hear the story that the New York Times printed about the two park rangers have changed their story and stated that they had made up the story about the guy in the white van, that they had snuck off down to the park to have a drink and discovered the body and to cover themselves they made this story and at that point I went wait a minute. Who in the world can put that kind of pressure on two career employees to make them tell that kind of garbage? I better cover my hind quarters. So I was thinking about what to do and my brother had been listening a lot to Liddy and I have also respected Liddy for his word. And he went into his background and he said, "And he was really hammering on the evidence, you know, that was being presented about the Foster case and the doubts."

So he called Gordon Liddy.

He said, "But having read about him, I decided that would be as good a—what I knew would become public and if there was a threat to me, that, that possibility of danger would be greatly, greatly reduced simply by the fact that what I knew would have been now made official."

Congressman BURTON, "So you called Liddy because you wanted to get the facts out number one and number two you thought you would be safer if the facts were—"

CW, "Exactly right."

Then Congressman ROHRABACHER said, "There wasn't any—foliage didn't seem to be—did it seem like somebody dragged him up there?"

The confidential witness says, "Now, I did not read anything in this report and this has been stated numerous times. Below this man's feet, all the way down into the bottom of the ditch, approximately ten feet or better, up the berm on the other side, over the hill to the walking trail, everything had been trampled completely flat like the man had walked back and forth at least a dozen times or better. It was, at least 24, maybe 30 inches wide that everything was trampled completely flat. Every twig, every leaf trampled from the bottom of his feet all the way down the valley and over the hill?"

CW, "Completely flat."

Congressman BURTON, "Like somebody had been walking back and forth there?"

CW, "He had paced back and forth many times. At least a dozen times. You can't trample down that flat."

Congressman BURTON, "And they didn't put that in that report?"

CW, "Nothing in the report that I read. That I have read."

That is not in the report. Below the body somebody had walked back and forth along this ditch, along this hill.

Congressman BURTON: "Let me get this straight. You are saying that there was a path almost from the bottom of his body down into the bottom, up over this other hill?"

CW: "And out to the walking trail on the other side. As I showed you here, from here, down and out over that hill. This is, this was very, very dense."

Congressman BURTON: "And it was flattened out?"

CW: "It was walked completely flat. The agents had known about this and known about this. Nothing in that report. I don't know. I don't know. Did it disappear or what happened ?"

Congressman ROHRABACHER: "Your analysis——"

Congressman BURTON: "Wait a minute. This is very important. You are saying that you told the agents this?"

CW: "Oh, I told them numerous times."

But it was not in the report.

Congressman BURTON: "That the ground was——

Then I said, "Let me finish here. You went out to the site with the FBI and

you told them at the site where the ground was trampled and how far it went?"

CW: "Yes. I also walked them—that doesn't make any sense was their statement about, why would they bring him in this way. It was simple from the cabin. What cabin is what their answer was. The one right over there."

Congressman BURTON: "So they said, that makes no sense, why would there be a path here like this and you said because that's where the cabin and the driveway is?

CW: "Uh-huh. And they did not know about the cabin and I walked them back there and showed it to them."

Then Congressman ROHRABACHER says, "Is it conceivable that somebody could have been on that path when you were relieving yourself without you seeing them?"

The confidential witness went into the park to relieve himself because of the traffic. And so Congressman ROHRABACHER was asking him is it conceivable somebody could have been there with the body and hiding in the woods while you were there. The guy says, the confidential witness says, "Absolutely. Absolutely. It was that dense," that they could have been hiding in the trees.

Congressman MICA says, "And you didn't see any—you didn't see any evidence that someone had committed suicide, any blood in, say around the grass or anything behind the head?"

CW: "We had no significant rain for 30 days. The ground at the top of the hill in this area might get a small amount of sun a day because there is very big trees around that area. Anything over that berm and down that berm never gets any sun; completely shaded out."

Yet they say the fingerprints melted off of the gun.

Congressman MICA: "But around the head——"

CW: "There was no—I mean I bent over and looked. I didn't lay my head flat on the ground. I probably lent my head down to within 16 inches of the ground. No signs, not a sign of," blood around the head.

Then I said, "But you didn't see any blood as close as you got around the head or anything like that?"

CW: "None."

Then Congressman MICA talking about when he went back out to his car after he found the body. "Did you look at the cars when you came back?"

CW: "As I walked down the hill, you are coming off and you are parked in the parking lot. You go up on either side of the parking lot to a walking area that's elevated well above the parking, up to a sign with the description of the fort area and what it was all about and the history. As you are walking back down, which I'm walking back down the hill to go back to my van, as you are coming down the hill you can see right down into the car and the car was parked either second or third."

Congressman MICA: "What kind of a car was it?"

CW: "White Honda and it was a light brown or a cream colored Japanese made car on the other end of the parking lot. On the passenger seat of the white Honda was a folded jacket, very, very similar in color to suit pants," worn by Mr. Foster. "The FBI tells me I have got the wrong car, that was not his. They said the brown one was his."

Congressman ROHRABACHER: "Say that again."

CW: "The FBI said that that was not his car. I thought sure that was his car because the jacket was so similar to the pants he had on."

Congressman BURTON: "Yeah."

CW: "In the passenger floor board was a four-pack wine cooler, two gone."

You remember the wine cooler bottle by his body, and there were two wine coolers gone out of the four pack.

Congressman ROHRABACHER says, "This was in the car the FBI said did not belong?"

CW: "Was not belong. And I asked them, how well did you check out those other two people that were still in the park when you got there? Oh, there is no doubt, they were just two lovers up there."

□ 2000

Then I said, "But you're saying in this car you saw a jacket that looked like the one that matched the pants on the body?" He said, "Exactly." I said, "You said that also you saw a wine cooler pack on the floor?" The confidential witness said, "A four-pack wine cooler with two gone, the same color as it was—it had a light pink-like label." I said, "OK, but did it look like the bottle you saw beside the body?" He said, "Exactly like the bottle beside the body." But that was not in the report. The confidential witness said, "Strange thing, when I went back with the agents, one of the agents spent about 15 minutes kicking around all of the leaves and everything looking for the wine cooler bottle," but that was 9 months later, for crying out loud.

"The palms were up, you say?" This is, once again, talking to the confidential witness. He said, "Absolutely," about the 90th time. "How sure are you the palms were up," Congressman MICA said. The confidential witness says, "As sure as I am standing right here, I am absolutely and totally, unequivocally, the palms were up. I looked at both palms. There was nothing in his hands. I didn't look at one and assume the other. I looked at both of them."

This is the man that found the body.

Congressman MICA, "How long did you spend over the body, 5 seconds, 10 seconds?" He said, "Oh, no, 2 minutes." Congressman Mica, "Two or 3 minutes?" "Not—well, that is a tough one. Because I wasn't panicked. I think I was fairly deliberate in studying."

That is the end of the relevant information in the report. This is a sworn report by the only person to find the body. He says the Fiske report is wrong, and yet nobody is paying any attention to it.

Mr. Fiske, who is a friend of Bernie Nussbaum's, a close associate of Presidents Clinton's, has worked with him on Wall Street, he is the special counsel. Mr. Fiske has chosen not to pursue these very important questions. It is just terrible.

And yet we are supposed to walk away and not even talk about it.

Now, they said there is no connection between Vince Foster's office and the Whitewater files that were taken out of his office.

I am going to try to finish up this. I want to go through this hurriedly, because there are a lot of things that need to be talked about.

I am going to tell my friends and my colleagues now why I believe there is a connection between Vince Foster's death and the Whitewater investigation that is not being pursued.

First of all, he died under very mysterious circumstances. His body was moved. There is no question about it. Yet nobody accepts that.

At 6 p.m. on July 20, 1993, Vincent Foster was found dead in Fort Marcey Park. Shortly after 9 p.m., White House Chief of Staff Mack McLarty was informed of his death. McLarty ordered the Vince Foster office sealed. However, the office remained unlocked overnight. They did not seal it even though they were told to by the chief of staff. Despite this order, less than 3 hours after the body was found, White House officials removed records, business deals between President Clinton and his wife and the Whitewater Development Corp. from Foster's office without telling the Federal authorities about it.

They were the people that went in there. Bernie Nussbaum, the White House counsel, the President's special assistant, Patsy Thomasson, and Hillary Clinton's chief of staff, Margaret Williams.

Bernie Nussbaum said they were in there 10 minutes, but the Park Police said they were in there over 2 hours.

During this first search, Whitewater files and President's Clinton's tax returns were removed and turned over to David Kendall, President Clinton's attorney. Why did they not give them to the FBI? Why did they not give them to the people investigating his death?

White House officials did not confirm the July 20 search of Foster's office until December. They did not even tell anybody they were in there taking those files out until December. Why? This is an investigation of a man's death, for crying out loud.

Then there was a second search 2 days later on July 22. Mr. Nussbaum and White House officials searched Foster's office for a second time. They got more documents. Some were sent to President Clinton's attorney, and others were sent to Vince Foster's attorney, James Hamilton.

During the second search, Mr. Nussbaum, citing executive privilege, kept Park Police and FBI agents from going through and watching them go through the files. Dee Dee Myers, the White House press secretary, said Bernie Nussbaum went through and sort of described contents of each of the files and what was in the drawers while representatives of the Justice Department, the Secret Service, the FBI, and other members of the counsel's office were present.

According to other White House sources, however, FBI agents and Park Police were ordered to sit on chairs right in the hallway right at the entrance while White House staff went through the documents, and Mr. Nussbaum gave the FBI agents and Park Police no indication of what he was taking. One FBI agent was reprimanded when he stood up and peered into the room to see what was going on.

Park Police later discovered Whitewater records had been removed from Foster's office during the second search after they visited James Hamilton, Foster's lawyer, a week after the death, to review a personal diary that was also taken during one of the searches.

Hamilton allowed the Park Police to briefly inspect Vince Foster's dairy and other documents. However, he did not allow them to make copies, citing privacy concerns. He refused to request for access to the diary and documents from the Justice Department.

Did Fiske review Vince Foster's diary? His report says nothing about it. Foster's diary might help to identify whom the blond hair on his clothes belonged to, maybe where he was that day, and maybe they could find out from the carpet samples. This is important evidence.

On July 27, 1993, the White House officials revealed on July 26 they found a note supposedly written by Vince Foster at the bottom of his briefcase in his office torn into 27 pieces with no fingerprints on it. Now, you go home tonight and tear a piece of paper into 27 pieces and tell me there is no fingerprint on it. It cannot be done. It was not out in the sun. Those fingerprints did not melt off of that.

And yet they said they did not explain why there were no fingerprints on it. They said they missed the note in their first two searches even though they had looked in the briefcase. How can you miss all of that torn-up paper in the briefcase if you looked in there twice? Maybe because it was not in there. I do not know.

Now, we have a million questions we want to ask about all of this. I am not going to go into the questions now. I think I have pretty well covered that.

Now, I want to go to the Rose Law Firm down in Little Rock, AR.

Jeremy Hedges, a part-time courier at the Rose Law Firm, told a grand jury he was told to shred documents from the files of Vince Foster after Special Prosecutor Robert Fiske had announced he would look into Foster's death. Fiske was appointed on January 20, 1994.

Even before a subpoena is issued, the law prohibits people from intentionally impeding an investigation by destroying evidence they know investigators want, and yet even though after they had picked the special counsel, they were down there shredding these documents.

In February after Fiske served subpoenas on the law firm's employees, Jeremy Hedges and the other couriers employed by the firm were called to a meeting with Ron Clark and Jerry Jones, two of the Rose Law Firm's partners. Jones said to Hedges, he challenged his recollection that he had shredded documents belonging to Foster. He cautioned him about relating assumptions to investigators. "I said," Hedges recounted, "I shredded some documents of Vincent Foster's 3 weeks ago." And Jones, the partner, replied, "How do you know they were Foster's? Don't assume something you don't know," trying to lead him. Hedges said he was certain they were Foster's files. Jones then said, "Don't assume they had anything to do with Whitewater." It is funny.

The box Hedges was told to shred and all its file folders were marked "VWF," Foster's initials. None of the documents he saw related to the Whitewater Development, Hedges said, but how would he know when he was shredding as fast as he could.

However, another Rose employee told the Washington Times that documents showing the Clintons' involvement in the Whitewater projects had also been ordered destroyed, and the shredding reportedly occurred February 3, 1994, at the Rose Law Firm.

During the 1992 Presidential campaign, three current or former Rose employees said that the couriers from the Rose Law Firm were summoned to the Arkansas Governor's Mansion by Hillary Clinton, who personally handed over records to be shredded at the Rose Law Firm downtown. The shredding began after the New York Times reported on March 8, 1992, the involvement of Governor Bill Clinton and Hillary Clinton in the Whitewater deal.

Couriers made at least six other runs during the campaign. They were given sealed, unmarked envelopes with instructions that they were to be shredded at the firm. The shredding continued through the November 3 general election. Records belonging to Webster Hubbell, Vincent Foster, William H. Kennedy III were also shredded.

A current employee said a conservative estimate would be that more than a dozen boxes of documents were ultimately destroyed. A lot of people say, well, are you sure those were Whitewater documents? Why would you think they were Whitewater documents? They were at the Governor's Mansion. Well, let us look into that.

James McDougal and his wife, Susan, who are now divorced, have said they personally delivered all the Whitewater records to the Governor's Mansion in December 1987 at Mrs. Clinton's request, and she was the one giving the couriers the documents to go back over to the Rose Law Firm to be shredded after the New York Times article in 1992 during the President's campaign.

And then during the Presidential campaign, President Clinton and his wife said that the records had disappeared.

Now, where do you think they disappeared to?

Today in the Washington Post, Margaret Williams, and remember Margaret Williams is Hillary Clinton's chief of staff, and I want you to listen to this:

> A Whitewater file taken from the office of White House Deputy Counsel Vincent Foster after his death last year was given to Hillary Rodham Clinton's chief of staff and, at the First Lady's direction, transferred to the White House residence before being turned over to the Clintons' personal lawyer, administration officials said yesterday. It was unclear yesterday why then-White House Counsel Bernard Nussbaum gave the file to the First Lady's chief of staff, Margaret Williams, rather than transferring it directly to Robert Barnett, the Clintons' personal lawyer at the time.

Why did they not give it to the police? They were the ones investigating this case.

"A White House official said Williams, after being asked by Nussbaum to take charge of the documents, checked with the First Lady in Little Rock, AR. Hillary Clinton told Williams to check with another White House employee about a safe place in the residence to store the documents, the official said."

□ 2010

The files were moved from the west wing of the White House where Williams and Nussbaum worked, to a locked closet on the third floor of the White House residence, where other personal papers were kept. Williams had a key to the closet, the official said. Barnett picked up the documents 5 days later.

Now, get the rest of this: After Foster's death, officials said his personal papers were given to the Foster family lawyer and his official files were distributed among other lawyers in the counsel's office.

In December the White House disclosed that a Whitewater file also had been found in Foster's office. The revelation helped fuel the White House controversy and raised suspicion the White House was not providing a fair picture of the events. I wonder why.

At that time the White House did not reveal Williams' involvement or the fact that the files were kept at the residence. They did not tell anybody that. The statement at the time by communications director Mark Gearan said only that the files were sent to the Clinton personal attorney. White House sources said that the statement was drafted by Nussbaum and that he, Gearan, did not know of Williams' involvement at the time. They did not even tell this guy they were giving the report out that Williams had taken the files up to Hillary's residence and locked them in her closet.

Sources familiar with the handling of the file said Nussbaum called Williams 2 days after Foster's death to ask her to take charge of Clinton's personal papers. Williams checked with Hillary Clinton, who agreed that the papers should be given to Barnett. Then they said that the President and the First Lady never looked at the papers before they gave them to the attorney.

They took them upstairs, she was instructed to take them up there and lock them in their closet, and then they later gave them to their attorney, but they said they never looked at the papers.

Well, the bottom line is the Fiske report is inaccurate, the Fiske report has glaring holes in it, the Fiske report, as it is presently constituted, is not worth the paper it is written on.

I do not care about the credentials of the four forensic experts. I am sure they were very competent men, but they based their findings on the coroner's report 9 months earlier and the coroner has been proven on two separate occasions to be incompetent as far as autopsies are concerned.

There just is no question about the major question about the death of Vince Foster. The man who found the body said the hands were moved. He swears before God that the hands were moved in a court report. He swears the head was moved. There were no fingerprints on the gun. There were no fingerprints on the suicide note.

The counsel, Mr. Fiske, never checked the carpet samples from his office to see if those were the same ones on his clothes. At least he did not say so in the report. He did not check his house to see if the carpet samples were off his home. Where did those carpet samples come from? There is just a ton of questions that need to be answered.

For any intelligent person to hear what I have said tonight and to read this report and to conclude that this is accurate, they just must have their eyes closed. I just do not know how they can believe that.

So, Mr. Speaker, as I conclude my remarks, let me say once again that this investigation should not be closed, it should be reopened. We should bring the confidential witness, keep his confidentiality, we should bring the confidential witness in a confidential way so he can be protected before the people that are involved and let me them see what I have seen. In fact, if you do not bring him forth, take my report before anybody in the Congress, take my document here that is sworn before a court reporter, and at least look at it, at least look at it.

You know, there is a poem by Cesar Gilbert Horn, Mr. Speaker, which says, in part: "Long rules the land and waiting justice sleeps." And I think that is the case with Vince Foster.

He may have committed suicide, I do not know, but I do know this: That body was moved, and if the body was moved, the report is wrong, and if the report is wrong, we need to ask Mr. Fiske why.

CONFERENCE REPORT ON H.R. 3841

Mr. GONZALEZ submitted the following conference report and statement on the bill (H.R. 3841), to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching:

CONFERENCE REPORT (H. REPT. 103-651)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3841), to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994".

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

TITLE I—INTERSTATE BANKING AND BRANCHING

Sec. 101. Interstate banking.
Sec. 102. Interstate bank mergers.
Sec. 103. State "opt-in" election to permit interstate branching through de novo branches.
Sec. 104. Branching by foreign banks.
Sec. 105. Coordination of examination authority.
Sec. 106. Branch closures.
Sec. 107. Equalizing competitive opportunities for United States and foreign banks.
Sec. 108. Federal Reserve Board study on bank fees.
Sec. 109. Prohibition against deposit production offices.
Sec. 110. Community Reinvestment Act evaluation of banks with interstate branches.
Sec. 111. Restatement of existing law.
Sec. 112. GAO report on data collection under interstate branching.
Sec. 113. Maximum interest rate on certain FMHA loans.
Sec. 114. Notice requirements for banking agency decisions preempting State law.
Sec. 115. Moratorium on examination fees under the International Banking Act of 1978.

TITLE II—GENERAL PROVISIONS

Sec. 201. Amendments to Federal Deposit Insurance Act and Federal Home Loan Bank Act.
Sec. 202. Sense of the Senate concerning multilateral export controls.
Sec. 203. Amendments relating to silver medals for Persian Gulf veterans.
Sec. 204. Commemoration of 1995 Special Olympic World Games.
Sec. 205. National Community Service Commemorative Coins.
Sec. 206. Robert F. Kennedy Memorial Commemorative Coins.
Sec. 207. United States Military Academy Bicentennial Commemorative Coins.
Sec. 208. United States Botanic Garden Commemorative Coins.
Sec. 209. Mount Rushmore Commemorative Coins.
Sec. 210. Study and report on the United States financial services system.
Sec. 211. Flexibility in choosing boards of directors.

TITLE I—INTERSTATE BANKING AND BRANCHING

SEC. 101. INTERSTATE BANKING.

(a) IN GENERAL.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

"(d) INTERSTATE BANKING.—

"(1) APPROVALS AUTHORIZED.—

"(A) ACQUISITION OF BANKS.—The Board may approve an application under this section by a bank holding company that is adequately capitalized and adequately managed to acquire control of, or acquire all or substantially all of the assets of, a bank located in a State other than the home State of such bank holding company, without regard to whether such transaction is prohibited under the law of any State.

"(B) PRESERVATION OF STATE AGE LAWS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), the Board may not approve an application pursuant to such subparagraph that would have the effect of permitting an out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

"(ii) SPECIAL RULE FOR STATE AGE LAWS SPECIFYING A PERIOD OF MORE THAN 5 YEARS.—Notwithstanding clause (i), the Board may approve, pursuant to subparagraph (A), the acquisition of a bank that has been in existence for at least 5 years without regard to any longer minimum period of time specified in a statutory law of the host State.

"(C) SHELL BANKS.—For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank shall be deemed to have been in existence for the same period of time as the bank to be acquired.

"(D) EFFECT ON STATE CONTINGENCY LAWS.—No provision of this subsection shall be construed as affecting the applicability of a State law that makes an acquisition of a bank contingent upon a requirement to hold a portion of such bank's assets available for call by a State-sponsored housing entity established pursuant to State law, if—

"(i) the State law does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or bank holding companies;

"(ii) that State law was in effect as of the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994;

"(iii) the Federal Deposit Insurance Corporation has not determined that compliance with such State law would result in an unacceptable risk to the appropriate deposit insurance fund; and

"(iv) the appropriate Federal banking agency for such bank has not found that compliance with such State law would place the bank in an unsafe or unsound condition.

"(2) CONCENTRATION LIMITS.—

"(A) NATIONWIDE CONCENTRATION LIMITS.—The Board may not approve an application pursuant to paragraph (1)(A) if the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the acquisition for which such application is filed would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

"(B) STATEWIDE CONCENTRATION LIMITS OTHER THAN WITH RESPECT TO INITIAL ENTRIES.—The Board may not approve an application pursuant to paragraph (1)(A) if—

"(i) immediately before the consummation of the acquisition for which such application is filed, the applicant (including any insured depository institution affiliate of the applicant) controls any insured depository institution or any branch of an insured depository institution in the home State of any bank to be acquired or in any host State in which any such bank maintains a branch; and

"(ii) the applicant (including all insured depository institutions which are affiliates of the applicant), upon consummation of the acquisition, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State.

"(C) EFFECTIVENESS OF STATE DEPOSIT CAPS.—No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or order, the percentage of the total amount of deposits of insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(D) EXCEPTIONS TO SUBPARAGRAPH (B).—The Board may approve an application pursuant to paragraph (1)(A) without regard to the applicability of subparagraph (B) with respect to any State if—

"(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or

"(ii) the acquisition is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(E) DEPOSIT DEFINED.—For purposes of this paragraph, the term 'deposit' has the same meaning as in section 3(l) of the Federal Deposit Insurance Act.

"(3) COMMUNITY REINVESTMENT COMPLIANCE.—In determining whether to approve an application under paragraph (1)(A), the Board shall—

"(A) comply with the responsibilities of the Board regarding such application under section 804 of the Community Reinvestment Act of 1977; and

"(B) take into account the applicant's record of compliance with applicable State community reinvestment laws.

"(4) APPLICABILITY OF ANTITRUST LAWS.—No provision of this subsection shall be construed as affecting—

"(A) the applicability of the antitrust laws; or

"(B) the applicability, if any, of any State law which is similar to the antitrust laws.

"(5) EXCEPTION FOR BANKS IN DEFAULT OR IN DANGER OF DEFAULT.—The Board may approve an application pursuant to paragraph (1)(A) which involves—

"(A) an acquisition of 1 or more banks in default or in danger of default; or

"(B) an acquisition with respect to which assistance is provided under section 13(c) of the Federal Deposit Insurance Act;

without regard to subparagraph (B) or (D) of paragraph (1) or paragraph (2) or (3).".

(b) STATE TAXATION AUTHORITY NOT AFFECTED.—Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended—

(1) by striking "No provision" and inserting "(a) IN GENERAL.—No provision"; and

(2) by adding at the end the following new subsection:

"(b) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.".

(c) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsections:

"(n) INCORPORATED DEFINITIONS.—For purposes of this Act, the terms 'insured depository institution', 'appropriate Federal banking agency', 'default', 'in danger of default', and 'State bank supervisor' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(o) OTHER DEFINITIONS.—For purposes of this Act, the following definitions shall apply:

"(1) ADEQUATELY CAPITALIZED.—The term 'adequately capitalized' means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards.

"(2) ANTITRUST LAWS.—Except as provided in section 11, the term 'antitrust laws'—

"(A) has the same meaning as in subsection (a) of the first section of the Clayton Act; and

"(B) includes section 5 of the Federal Trade Commission Act to the extent that such section 5 relates to unfair methods of competition.

"(3) BRANCH.—The term 'branch' means a domestic branch (as defined in section 3 of the Federal Deposit Insurance Act).

"(4) HOME STATE.—The term 'home State' means—

"(A) with respect to a national bank, the State in which the main office of the bank is located;

"(B) with respect to a State bank, the State by which the bank is chartered; and

"(C) with respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of—

"(i) July 1, 1966; or

"(ii) the date on which the company becomes a bank holding company under this Act.

"(5) HOST STATE.—The term 'host State' means—

"(A) with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch; and

"(B) with respect to a bank holding company, a State, other than the home State of the company, in which the company controls, or seeks to control, a bank subsidiary.

"(6) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a bank whose home State is another State.

"(7) OUT-OF-STATE BANK HOLDING COMPANY.—The term 'out-of-State bank holding company' means, with respect to any State, a bank holding company whose home State is another State.".

(d) SUBSIDIARY DEPOSITORY INSTITUTIONS AS AGENTS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(r) SUBSIDIARY DEPOSITORY INSTITUTIONS AS AGENTS FOR CERTAIN AFFILIATES.—

"(1) IN GENERAL.—Any bank subsidiary of a bank holding company may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations as an agent for a depository institution affiliate.

"(2) BANK ACTING AS AGENT IS NOT A BRANCH.—Notwithstanding any other provision of law, a bank acting as an agent in accordance with paragraph (1) for a depository institution affiliate shall not be considered to be a branch of the affiliate.

"(3) PROHIBITIONS ON ACTIVITIES.—A depository institution may not—

"(A) conduct any activity as an agent under paragraph (1) or (6) which such institution is prohibited from conducting as a principal under any applicable Federal or State law; or

"(B) as a principal, have an agent conduct any activity under paragraph (1) or (6) which the institution is prohibited from conducting under any applicable Federal or State law.

"(4) EXISTING AUTHORITY NOT AFFECTED.—No provision of this subsection shall be construed as affecting—

"(A) the authority of any depository institution to act as an agent on behalf of any other depository institution under any other provision of law; or

"(B) whether a depository institution which conducts any activity as an agent on behalf of any other depository institution under any other provision of law shall be considered to be a branch of such other institution.

"(5) AGENCY RELATIONSHIP REQUIRED TO BE CONSISTENT WITH SAFE AND SOUND BANKING PRACTICES.—An agency relationship between depository institutions under paragraph (1) or (6) shall be on terms that are consistent with safe and sound banking practices and all applicable regulations of any appropriate Federal banking agency.

"(6) AFFILIATED INSURED SAVINGS ASSOCIATIONS.—An insured savings association which was an affiliate of a bank on July 1, 1994, may conduct activities as an agent on behalf of such bank in the same manner as an insured bank affiliate of such bank may act as agent for such bank under this subsection to the extent such activities are conducted only in—

"(A) any State in which—

"(i) the bank is not prohibited from operating a branch under any provision of Federal or State law; and

"(ii) the savings association maintained an office or branch and conducted business as of July 1, 1994; or

"(B) any State in which—

"(i) the bank is not expressly prohibited from operating a branch under a State law described in section 44(a)(2); and

"(ii) the savings association maintained a main office and conducted business as of July 1, 1994.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

SEC. 102. INTERSTATE BANK MERGERS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 44. INTERSTATE BANK MERGERS.

"(a) APPROVAL OF INTERSTATE MERGER TRANSACTIONS AUTHORIZED.—

"(1) IN GENERAL.—Beginning on June 1, 1997, the responsible agency may approve a merger transaction under section 18(c) between insured banks with different home States, without regard to whether such transaction is prohibited under the law of any State.

"(2) STATE ELECTION TO PROHIBIT INTERSTATE MERGER TRANSACTIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a merger transaction may not be approved pursuant to paragraph (1) if the transaction involves a bank the home State of which has enacted a law after the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 and before June 1, 1997, that—

"(i) applies equally to all out-of-State banks; and

"(ii) expressly prohibits merger transactions involving out-of-State banks.

"(B) NO EFFECT ON PRIOR APPROVALS OF MERGER TRANSACTIONS.—A law enacted by a State pursuant to subparagraph (A) shall have no effect on merger transactions that were approved before the effective date of such law.

"(3) STATE ELECTION TO PERMIT EARLY INTERSTATE MERGER TRANSACTIONS.—

"(A) IN GENERAL.—A merger transaction may be approved pursuant to paragraph (1) before June 1, 1997, if the home State of each bank involved in the transaction has in effect, as of the date of the approval of such transaction, a law that—

"(i) applies equally to all out-of-State banks; and

"(ii) expressly permits interstate merger transactions with all out-of-State banks.

"(B) CERTAIN CONDITIONS ALLOWED.—A host State may impose conditions on a branch within such State of a bank resulting from an interstate merger transaction if—

"(i) the conditions do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or any subsidiary of such bank or company (other than on the basis of a nationwide reciprocal treatment requirement);

"(ii) the imposition of the conditions is not preempted by Federal law; and

"(iii) the conditions do not apply or require performance after May 31, 1997.

"(4) INTERSTATE MERGER TRANSACTIONS INVOLVING ACQUISITIONS OF BRANCHES.—

"(A) IN GENERAL.—An interstate merger transaction may involve the acquisition of a branch of an insured bank without the acquisition of the bank only if the law of the State in which the branch is located permits out-of-State banks to acquire a branch of a bank in such State without acquiring the bank.

"(B) TREATMENT OF BRANCH FOR PURPOSES OF THIS SECTION.—In the case of an interstate merger transaction which involves the acquisition of a branch of an insured bank without the acquisition of the bank, the branch shall be treated, for purposes of this section, as an insured bank the home State of which is the State in which the branch is located.

"(5) PRESERVATION OF STATE AGE LAWS.—

"(A) IN GENERAL.—The responsible agency may not approve an application pursuant to paragraph (1) that would have the effect of permitting an out-of-State bank or out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

"(B) SPECIAL RULE FOR STATE AGE LAWS SPECIFYING A PERIOD OF MORE THAN 5 YEARS.—Notwithstanding subparagraph (A), the responsible agency may approve a merger transaction pursuant to paragraph (1) involving the acquisition of a bank that has been existence at least 5 years without regard to any longer minimum period of time specified in a statutory law of the host State.

"(6) SHELL BANKS.—For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank or branch shall be deemed to have been in existence for the same period of time as the bank or branch to be acquired.

"(b) PROVISIONS RELATING TO APPLICATION AND APPROVAL PROCESS.—

"(1) COMPLIANCE WITH STATE FILING REQUIREMENTS.—

"(A) IN GENERAL.—Any bank which files an application for an interstate merger transaction shall—

"(i) comply with the filing requirements of any host State of the bank which will result from such transaction to the extent that the requirement—

"(I) does not have the effect of discriminating against out-of-State banks or out-of-State bank holding companies or subsidiaries of such banks or bank holding companies; and

"(II) is similar in effect to any requirement imposed by the host State on a nonbanking corporation incorporated in another State that engages in business in the host State; and

"(ii) submit a copy of the application to the State bank supervisor of the host State.

"(B) PENALTY FOR FAILURE TO COMPLY.—The responsible agency may not approve an application for an interstate merger transaction if the applicant materially fails to comply with subparagraph (A).

"(2) CONCENTRATION LIMITS.—

"(A) NATIONWIDE CONCENTRATION LIMITS.—The responsible agency may not approve an application for an interstate merger transaction if the resulting bank (including all insured depository institutions which are affiliates of the resulting bank), upon consummation of the transaction, would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

"(B) STATEWIDE CONCENTRATION LIMITS OTHER THAN WITH RESPECT TO INITIAL ENTRIES.—The responsible agency may not approve an application for an interstate merger transaction if—

"(i) any bank involved in the transaction (including all insured depository institutions which are affiliates of any such bank) has a branch in any State in which any other bank involved in the transaction has a branch; and

"(ii) the resulting bank (including all insured depository institutions which would be affiliates of the resulting bank), upon consummation of the transaction, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State.

"(C) EFFECTIVENESS OF STATE DEPOSIT CAPS.—No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or order, the percentage of the total amount of deposits of insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(D) EXCEPTIONS TO SUBPARAGRAPH (B).—The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) without regard to the applicability of subparagraph (B) with respect to any State if—

"(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or

"(ii) the transaction is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(E) EXCEPTION FOR CERTAIN BANKS.—This paragraph shall not apply with respect to any interstate merger transaction involving only affiliated banks.

"(3) COMMUNITY REINVESTMENT COMPLIANCE.—In determining whether to approve an application for an interstate merger transaction in which the resulting bank would have a branch or bank affiliate immediately following the transaction in any State in which the bank submitting the application (as the acquiring bank) had no branch or bank affiliate immediately before the transaction, the responsible agency shall—

"(A) comply with the responsibilities of the agency regarding such application under section 804 of the Community Reinvestment Act of 1977;

"(B) take into account the most recent written evaluation under section 804 of the Community Reinvestment Act of 1977 of any bank which would be an affiliate of the resulting bank; and

"(C) take into account the record of compliance of any applicant bank with applicable State community reinvestment laws.

"(4) ADEQUACY OF CAPITAL AND MANAGEMENT SKILLS.—The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) only if—

"(A) each bank involved in the transaction is adequately capitalized as of the date the application is filed; and

"(B) the responsible agency determines that the resulting bank will continue to be adequately capitalized and adequately managed upon the consummation of the transaction.

"(5) SURRENDER OF CHARTER AFTER MERGER TRANSACTION.—The charters of all banks involved in an interstate merger transaction, other than the charter of the resulting bank, shall be surrendered, upon request, to the Federal banking agency or State bank supervisor which issued the charter.

"(c) APPLICABILITY OF CERTAIN LAWS TO INTERSTATE BANKING OPERATIONS.—

"(1) STATE TAXATION AUTHORITY NOT AFFECTED.—

"(A) IN GENERAL.—No provision of this section shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(B) IMPOSITION OF SHARES TAX BY HOST STATES.—In the case of a branch of an out-of-State bank which results from an interstate merger transaction, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by the host State, or any political subdivision of such host State that imposes such tax based upon a method adopted by the host State, which may include allocation and apportionment.

"(2) APPLICABILITY OF ANTITRUST LAWS.—No provision of this section shall be construed as affecting—

"(A) the applicability of the antitrust laws; or

"(B) the applicability, if any, of any State law which is similar to the antitrust laws.

"(3) RESERVATION OF CERTAIN RIGHTS TO STATES.—No provision of this section shall be construed as limiting in any way the right of a State to—

"(A) determine the authority of State banks chartered by that State to establish and maintain branches; or

"(B) supervise, regulate, and examine State banks chartered by that State.

"(4) STATE-IMPOSED NOTICE REQUIREMENTS.—A host State may impose any notification or reporting requirement on a branch of an out-of-State bank if the requirement—

"(A) does not discriminate against out-of-State banks or bank holding companies; and

"(B) is not preempted by any Federal law regarding the same subject.

"(d) OPERATIONS OF THE RESULTING BANK.—

"(1) CONTINUED OPERATIONS.—A resulting bank may, subject to the approval of the appropriate Federal banking agency, retain and operate, as a main office or a branch, any office that any bank involved in an interstate merger transaction was operating as a main office or a branch immediately before the merger transaction.

"(2) ADDITIONAL BRANCHES.—Following the consummation of any interstate merger transaction, the resulting bank may establish, acquire, or operate additional branches at any location where any bank involved in the transaction could have established, acquired, or operated a branch under applicable Federal or State law if such bank had not been a party to the merger transaction.

"(3) CERTAIN CONDITIONS AND COMMITMENTS CONTINUED.—If, as a condition for the acquisition of a bank by an out-of-State bank holding company before the date of the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994—

"(A) the home State of the acquired bank imposed conditions on such acquisition by such out-of-State bank holding company; or

"(B) the bank holding company made commitments to such State in connection with the acquisition,

the State may enforce such conditions and commitments with respect to such bank holding company or any affiliated successor company which controls a bank or branch in such State as a result of an interstate merger transaction to the same extent as the State could enforce such conditions or commitments against the bank holding company before the consummation of the merger transaction.

"(e) EXCEPTION FOR BANKS IN DEFAULT OR IN DANGER OF DEFAULT.—If an application under subsection (a)(1) for approval of a merger transaction which involves 1 or more banks in default or in danger of default or with respect to which the Corporation provides assistance under section 13(c), the responsible agency may approve such application without regard to subsection (b), or paragraph (2), (4), or (5) of subsection (a).

"(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) ADEQUATELY CAPITALIZED.—The term 'adequately capitalized' has the same meaning as in section 38.

"(2) ANTITRUST LAWS.—The term 'antitrust laws'—

"(A) has the same meaning as in subsection (a) of the first section of the Clayton Act; and

"(B) includes section 5 of the Federal Trade Commission Act to the extent such section 5 relates to unfair methods of competition.

"(3) BRANCH.—The term 'branch' means any domestic branch.

"(4) HOME STATE.—The term 'home State'—

"(A) means—

"(i) with respect to a national bank, the State in which the main office of the bank is located; and

"(ii) with respect to a State bank, the State by which the bank is chartered; and

"(B) with respect to a bank holding company, has the same meaning as in section 2(o)(4) of the Bank Holding Company Act of 1956.

"(5) HOST STATE.—The term 'host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.

"(6) INTERSTATE MERGER TRANSACTION.—The term 'interstate merger transaction' means any merger transaction approved pursuant to subsection (a)(1).

"(7) MERGER TRANSACTION.—The term 'merger transaction' has the meaning determined under section 18(c)(3).

"(8) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a bank whose home State is another State.

"(9) OUT-OF-STATE BANK HOLDING COMPANY.—The term 'out-of-State bank holding company' means, with respect to any State, a bank holding company whose home State is another State.

"(10) RESPONSIBLE AGENCY.—The term 'responsible agency' means the agency determined in accordance with section 18(c)(2) with respect to a merger transaction.

"(11) RESULTING BANK.—The term 'resulting bank' means a bank that has resulted from an interstate merger transaction under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REVISED STATUTES.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(A) by redesignating subsections (d) through (h) as subsections (h) through (l), respectively; and

(B) by inserting after subsection (c) the following new subsections:

"(d) BRANCHES RESULTING FROM INTERSTATE MERGER TRANSACTIONS.—A national bank resulting from an interstate merger transaction (as defined in section 44(f)(6) of the Federal Deposit Insurance Act) may maintain and operate a branch in a State other than the home State (as defined in subsection (g)(3)(B)) of such bank in accordance with section 44 of the Federal Deposit Insurance Act.

"(e) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.—

"(1) IN GENERAL.—Effective June 1, 1997, a national bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in subsection (g)(3)(B)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of such branch in such State by such national bank is authorized under this section or section 13(f), 13(k), or 44 of the Federal Deposit Insurance Act.

"(2) RETENTION OF BRANCHES.—In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in subsection (g)(3)(B)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in paragraph (1), to acquire, establish, or commence to operate a branch in such State if—

"(A) the bank had no branches in such State; or

"(B) the branch resulted from—

"(i) an interstate merger transaction approved pursuant to section 44 of the Federal Deposit Insurance Act; or

"(ii) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Federal Deposit Insurance Corporation under section 13(c) of such Act.

"(f) LAW APPLICABLE TO INTERSTATE BRANCHING OPERATIONS.—

"(1) LAW APPLICABLE TO NATIONAL BANK BRANCHES.—

"(A) IN GENERAL.—The laws of the host State regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches shall apply to any branch in the host State of an out-of-State national bank to the same extent as such State laws apply to a branch of a bank chartered by that State, except—

"(i) when Federal law preempts the application of such State laws to a national bank; or

"(ii) when the Comptroller of the Currency determines that the application of such State laws would have a discriminatory effect on the branch in comparison with the effect the application of such State laws would have with respect to branches of a bank chartered by the host State.

"(B) ENFORCEMENT OF APPLICABLE STATE LAWS.—The provisions of any State law to which a branch of a national bank is subject under this paragraph shall be enforced, with respect to such branch, by the Comptroller of the Currency.

"(2) TREATMENT OF BRANCH AS BANK.—All laws of a host State, other than the laws regarding community reinvestment, consumer protection, fair lending, establishment of intrastate branches, and the application or administration of any tax or method of taxation, shall apply to a branch (in such State) of an out-of-State national bank to the same extent as such laws would apply if the branch were a national bank the main office of which is in such State.

"(3) RULE OF CONSTRUCTION.—No provision of this subsection may be construed as affecting the legal standards for preemption of the application of State law to national banks.".

(2) ACT OF MAY 1, 1886.—Section 2 of the Act entitled "An Act to enable national banking associations to increase their capital stock and to change their names and locations." and approved May 1, 1886 (12 U.S.C. 30) is amended by adding at the end the following new subsection:

"(c) COORDINATION WITH REVISED STATUTES.—In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State from which the bank relocated such office only to the extent authorized in section 5155(e)(2) of the Revised Statutes.".

(3) FEDERAL DEPOSIT INSURANCE ACT.—

(A) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES OF STATE NONMEMBER BANKS.—Section 18(d) of the Federal Deposit Insurance Act

(12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraph:

"(3) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.—

"(A) IN GENERAL.—Effective June 1, 1997, a State nonmember bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in section 44(f)(4)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of a branch in such State by a State nonmember bank is authorized under this subsection or section 13(f), 13(k), or 44.

"(B) RETENTION OF BRANCHES.—In the case of a State nonmember bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in section 44(f)(4)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in subparagraph (A), to acquire, establish, or commence to operate a branch in such State if—

"(i) the bank had no branches in such State; or

"(ii) the branch resulted from—

"(I) an interstate merger transaction approved pursuant to section 44; or

"(II) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Corporation under section 13(c).".

(B) ACTIVITIES OF BRANCHES OF STATE BANKS RESULTING FROM INTERSTATE MERGER TRANSACTIONS.—Section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a) is amended by adding at the end the following new subsection:

"(j) ACTIVITIES OF BRANCHES OF OUT-OF-STATE BANKS.—

"(1) IN GENERAL.—The laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, shall apply to any branch in the host State of an out-of-State State bank to the same extent as such State laws apply to a branch of a bank chartered by that State.

"(2) ACTIVITIES OF BRANCHES.—An insured State bank that establishes a branch in a host State may not conduct any activity at such branch that is not permissible for a bank chartered by the host State.

"(3) DEFINITIONS.—The terms 'host State', 'interstate merger transaction', and "out-of-State bank' have the same meanings as in section 44(f).".

(4) ACT OF NOVEMBER 7, 1918.—The Act entitled "An Act to provide for the consolidation of the national banking associations." and approved November 7, 1918, (12 U.S.C. 215 et seq.) is amended—

(A) by redesignating section 2 as section 3;

(B) by redesignating section 3 as section 5;

(C) in the 1st section, by striking "That (a) any national banking association" and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Bank Consolidation and Merger Act'.

"SEC. 2. CONSOLIDATION OF BANKS WITHIN THE SAME STATE.

"(a) IN GENERAL.—Any national bank"; and

(D) by inserting after section 3 (as so redesignated under subparagraph (A) of this paragraph) the following new section:

"SEC. 4. INTERSTATE CONSOLIDATIONS AND MERGERS.

"(a) IN GENERAL.—A national bank may engage in a consolidation or merger under this Act with an out-of-State bank if the consolidation or merger is approved pursuant to section 44 of the Federal Deposit Insurance Act.

"(b) SCOPE OF APPLICATION.—Subsection (a) shall not apply with respect to any consolidation or merger before June 1, 1997, unless the home State of each bank involved in the transaction has in effect a law described in section 44(a)(3) of the Federal Deposit Insurance Act.

"(c) DEFINITIONS.—The terms 'home State' and 'out-of-State bank' have the same meaning as in section 44(f) of the Federal Deposit Insurance Act.".

(5) HOME OWNERS' LOAN ACT.—Section 3 of the Home Owners' Loan Act (12 U.S.C. 1462a) is amended—

(A) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(B) by inserting after subsection (e), the following new subsection:

"(f) STATE HOMESTEAD PROVISIONS.—No provision of this Act or any other provision of law administered by the Director shall be construed as superseding any homestead provision of any State constitution, including any implementing State statute, in effect on the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, or any subsequent amendment to such a State constitutional or statutory provision in effect on such date, that exempts the homestead of any person from foreclosure, or forced sale, for the payment of all debts, other than a purchase money obligation relating to the homestead, taxes due on the homestead, or an obligation arising from work and material used in constructing improvements on the homestead.".

SEC. 103. STATE "OPT-IN" ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.

(a) NATIONAL BANKS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by inserting after subsection (f) (as added by section 102(b)) the following new subsection:

"(g) STATE 'OPT-IN' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Comptroller of the Currency may approve an application by a national bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if—

"(A) there is in effect in the host State a law that—

"(i) applies equally to all banks; and

"(ii) expressly permits all out-of-State banks to establish de novo branches in such State; and

"(B) the conditions established in, or made applicable to this paragraph by, paragraph (2) are met.

"(2) CONDITIONS ON ESTABLISHMENT AND OPERATION OF INTERSTATE BRANCH.—

"(A) ESTABLISHMENT.—An application by a national bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b) of the Federal Deposit Insurance Act.

"(B) OPERATION.—Subsections (c) and (d)(2) of section 44 of the Federal Deposit Insurance Act shall apply with respect to each branch of a national bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section 44 apply to a branch of a national bank which resulted from an interstate merger transaction approved pursuant to such section 44.

"(3) DEFINITIONS.—The following definitions shall apply for purposes of this section:

"(A) DE NOVO BRANCH.—The term 'de novo branch' means a branch of a national bank which—

"(i) is originally established by the national bank as a branch; and

"(ii) does not become a branch of such bank as a result of—

"(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

"(II) the conversion, merger, or consolidation of any such institution or branch.

"(B) HOME STATE.—The term 'home State' means the State in which the main office of a national bank is located.

"(C) HOST STATE.—The term 'host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.".

(b) STATE BANKS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by inserting after paragraph (3) (as added by section 102(b)(3) of this title) the following new paragraph:

"(4) STATE 'OPT-IN' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Corporation may approve an application by an insured State nonmember bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if—

"(i) there is in effect in the host State a law that—

"(I) applies equally to all banks; and

"(II) expressly permits all out-of-State banks to establish de novo branches in such State; and

"(ii) the conditions established in, or made applicable to this paragraph by, subparagraph (B) are met.

"(B) CONDITIONS ON ESTABLISHMENT AND OPERATION OF INTERSTATE BRANCH.—

"(i) ESTABLISHMENT.—An application by an insured State nonmember bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for a merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b).

"(ii) OPERATION.—Subsections (c) and (d)(2) of section 44 shall apply with respect to each branch of an insured State nonmember bank which is established and operated pursuant to an application approved under this paragraph in the same manner and to the same extent such provisions of such section apply to a branch of a State bank which resulted from a merger transaction under such section 44.

"(C) DE NOVO BRANCH DEFINED.—For purposes of this paragraph, the term 'de novo branch' means a branch of a State bank which—

"(i) is originally established by the State bank as a branch; and

"(ii) does not become a branch of such bank as a result of—

"(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

"(II) the conversion, merger, or consolidation of any such institution or branch.

"(D) HOME STATE DEFINED.—The term 'home State' means the State by which a State bank is chartered.

"(E) HOST STATE DEFINED.—The term 'host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.".

SEC. 104. BRANCHING BY FOREIGN BANKS.

(a) IN GENERAL.—Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) is amended to read as follows:

"(a) INTERSTATE BRANCHING AND AGENCY OPERATIONS.—

"(1) FEDERAL BRANCH OR AGENCY.—Subject to the provisions of this Act and with the prior written approval by the Board and the Comptroller of the Currency of an application, a foreign bank may establish and operate a Federal branch or agency in any State outside the home State of such foreign bank to the extent that the establishment and operation of such branch would be permitted under section 5155(g) of the Revised Statutes or section 44 of the Federal Deposit Insurance Act if the foreign bank were a national bank whose home State is the same State as the home State of the foreign bank.

"(2) STATE BRANCH OR AGENCY.—Subject to the provisions of this Act and with the prior written approval by the Board and the appropriate State bank supervisor of an application, a foreign bank may establish and operate a State branch or agency in any State outside the home State of such foreign bank to the extent that such establishment and operation would be permitted under section 18(d)(4) or 44 of the Federal Deposit Insurance Act if the foreign bank were a State bank whose home State is the same State as the home State of the foreign bank.

"(3) CRITERIA FOR DETERMINATION.—In approving an application under paragraph (1) or (2), the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency—

"(A) shall apply the standards applicable to the establishment of a foreign bank office in the United States under section 7(d);

"(B) may not approve an application unless the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency—

"(i) determine that the foreign bank's financial resources, including the capital level of the bank, are equivalent to those required for a domestic bank to be approved for branching under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act; and

"(ii) consult with the Secretary of the Treasury regarding capital equivalency; and

"(C) shall apply the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b) of the Federal Deposit Insurance Act.

"(4) OPERATION.—Subsections (c) and (d)(2) of section 44 of the Federal Deposit Insurance Act shall apply with respect to each branch and agency of a foreign bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section apply to a domestic branch of a national or State bank (as such terms are defined in section 3 of such Act) which resulted from a merger transaction under such section 44.

"(5) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.—Except as provided in this section, a foreign bank may not, directly or indirectly, acquire, establish, or operate a branch or agency in any State other than the home State of such bank.

"(6) REQUIREMENT FOR A SEPARATE SUBSIDIARY.—If the Board or the Comptroller of the Currency, taking into account differing regulatory or accounting standards, finds that adherence by a foreign bank to capital requirements equivalent to those imposed under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act could be verified only if the banking activities of such bank in the United States are carried out in a domestic banking subsidiary within the United States, the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency may approve an application under paragraph (1) or (2) subject to a requirement that the foreign bank or company controlling the foreign bank establish a domestic banking subsidiary in the United States.

"(7) ADDITIONAL AUTHORITY FOR INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.—Notwithstanding paragraphs (1) and (2), a foreign bank may, with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if—

"(A) the establishment and operation of a branch or agency is expressly permitted by the State in which the branch or agency is to be established; and

"(B) in the case of a Federal or State branch, the branch receives only such deposits as would be permissible for a corporation organized under section 25A of the Federal Reserve Act.

"(9) HOME STATE OF DOMESTIC BANK DEFINED.—For purposes of this subsection, the term 'home State' means—

"(A) with respect to a national bank, the State in which the main office of the bank is located; and

"(B) with respect to a State bank, the State by which the bank is chartered.".

(b) CONTINUED AUTHORITY FOR LIMITED BRANCHES, AGENCIES, OR COMMERCIAL LENDING COMPANIES.—Section 5(b) of the International Banking Act of 1978 (12 U.S.C. 3103(b)) is amended by adding at the end the following new sentence: "Notwithstanding subsection (a), a foreign bank may continue to operate, after the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, any Federal branch, State branch, Federal agency, State agency, or commercial lending company subsidiary which such bank was operating on the day before the date of the enactment of such Act to the extent the branch, agency, or subsidiary continues, after the enactment of such Act, to engage in operations which were lawful under the laws in effect on the day before such date.".

(c) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(d) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY.—In the case of a foreign bank that has a domestic bank subsidiary within the United States—

"(1) the fact that such bank controls a domestic bank shall not affect the authority of the foreign bank to establish Federal and State branches or agencies to the extent permitted under subsection (a); and

"(2) the fact that the domestic bank is controlled by a foreign bank which has Federal or State branches or agencies in States other than the home State of such domestic bank shall not affect the authority of the domestic bank to establish branches outside the home State of the domestic bank to the extent permitted under section 5155(g) of the Revised Statutes or section 18(d)(4) or 44 of the Federal Deposit Insurance Act, as the case may be.".

(d) HOME STATE DETERMINATIONS.—Section 5(c) of the International Banking Act of 1978 (12 U.S.C. 3103(c)) is amended to read as follows:

"(c) DETERMINATION OF HOME STATE OF FOREIGN BANK.—For the purposes of this section—

"(1) in the case of a foreign bank that has any branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the 1 State of such States which is selected to be the home State by the foreign bank or, in default of any such selection, by the Board; and

"(2) in the case of a foreign bank that does not have a branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the State in which the foreign bank has a branch, agency, subsidiary commercial lending company, or subsidiary bank.".

SEC. 105. COORDINATION OF EXAMINATION AUTHORITY.

Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (g) the following new subsection:

"(h) COORDINATION OF EXAMINATION AUTHORITY.—

"(1) IN GENERAL.—The appropriate State bank supervisor of a host State may examine a branch operated in such State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44 or a branch established in such State pursuant to section 5155(g) of the Revised Statutes or section 18(d)(4)—

"(A) for the purpose of determining compliance with host State laws, including those that govern banking, community reinvestment, fair lending, consumer protection, and permissible activities; and

"(B) to ensure that the activities of the branch are not conducted in an unsafe or unsound manner.

"(2) ENFORCEMENT.—If the State bank supervisor of a host State determines that there is a violation of the law of the host State concerning the activities being conducted by a branch described in paragraph (1) or that the branch is being operated in an unsafe and unsound manner, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a State law enforcement officer may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

"(3) COOPERATIVE AGREEMENT.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(4) FEDERAL REGULATORY AUTHORITY.—No provision of this subsection shall be construed as limiting in any way the authority of an appropriate Federal banking agency to examine or to take any enforcement actions or proceedings against any bank or branch of a bank for which the agency is the appropriate Federal banking agency.".

SEC. 106. BRANCH CLOSURES.

Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r-1) is amended by adding at the end the following new subsection:

"(d) BRANCH CLOSURES IN INTERSTATE BANKING OR BRANCHING OPERATIONS.—

"(1) NOTICE REQUIREMENTS.—In the case of an interstate bank which proposes to close any branch in a low- or moderate income area, the notice required under subsection (b)(2) shall contain the mailing address of the appropriate Federal banking agency and a statement that comments on the proposed closing of such branch may be mailed to such agency.

"(2) ACTION REQUIRED BY APPROPRIATE FEDERAL BANKING AGENCY.—If, in the case of a branch referred to in paragraph (1)—

"(A) a person from the area in which such branch is located—

"(i) submits a written request relating to the closing of such branch to the appropriate Federal banking agency; and

"(ii) includes a statement of specific reasons for the request, including a discussion of the adverse effect of such closing on the availability of

banking services in the area affected by the closing of the branch; and

"(B) the agency concludes that the request is not frivolous,

the agency shall consult with community leaders in the affected area and convene a meeting of representatives of the agency and other interested depository institution regulatory agencies with community leaders in the affected area and such other individuals, organizations, and depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act) as the agency may determine, in the discretion of the agency, to be appropriate, to explore the feasibility of obtaining adequate alternative facilities and services for the affected area, including the establishment of a new branch by another depository institution, the chartering of a new depository institution, or the establishment of a community development credit union, following the closing of the branch.

"(3) NO EFFECT ON CLOSING.—No action by the appropriate Federal banking agency under paragraph (2) shall affect the authority of an interstate bank to close a branch (including the timing of such closing) if the requirements of subsections (a) and (b) have been met by such bank with respect to the branch being closed.

"(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) INTERSTATE BANK DEFINED.—The term 'interstate bank' means a bank which maintains branches in more than 1 State.

"(B) LOW- OR MODERATE-INCOME AREA.—The term 'low- or moderate-income area' means a census tract for which the median family income is—

"(i) less than 80 percent of the median family income for the metropolitan statistical area (as designated by the Director of the Office of Management and Budget) in which the census tract is located; or

"(ii) in the case of a census tract which is not located in a metropolitan statistical area, less than 80 percent of the median family income for the State in which the census tract is located, as determined without taking into account family income in metropolitan statistical areas in such State.".

SEC. 107. EQUALIZING COMPETITIVE OPPORTUNITIES FOR UNITED STATES AND FOREIGN BANKS.

(a) REGULATORY OBJECTIVES.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(2) by inserting after "SEC. 6" the following new subsection:

"(a) OBJECTIVE.—In implementing this section, the Comptroller and the Federal Deposit Insurance Corporation shall each, by affording equal competitive opportunities to foreign and United States banking organizations in their United States operations, ensure that foreign banking organizations do not receive an unfair competitive advantage over United States banking organizations.".

(b) REVIEW OF REGULATIONS.—

(1) IN GENERAL.—Each Federal banking agency, after consultation with the other Federal banking agencies to assure uniformity, shall revise the regulations adopted by such agency under section 6 of the International Banking Act of 1978 to ensure that the regulations are consistent with the objective set forth in section 6(a) of the International Banking Act of 1978.

(2) SPECIFIC FACTORS.—In carrying out paragraph (1), each Federal banking agency shall consider whether to permit an uninsured branch of a foreign bank to accept initial deposits of less than $100,000 only from—

(A) individuals who are not citizens or residents of the United States at the time of the initial deposit;

(B) individuals who—

(i) are not citizens of the United States;

(ii) are residents of the United States; and

(iii) are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(C) persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services;

(D) foreign businesses and large United States businesses;

(E) foreign governmental units and recognized international organizations; and

(F) persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds.

(3) REDUCTION IN REGULATORY DE MINIMIS EXEMPTION.—In carrying out paragraph (1), each Federal banking agency shall limit any exemption which is—

(A) available under any regulation prescribed pursuant to section 6(d) of the International Banking Act of 1978 providing for the acceptance of initial deposits of less than $100,000 by an uninsured branch of a foreign bank; and

(B) based on a percentage of the average deposits at such branch;

to not more than 1 percent of the average deposits at such branch.

(4) ADDITIONAL RELEVANT CONSIDERATIONS.—In carrying out paragraph (1), each Federal banking agency shall also consider the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United State economy.

(5) DEADLINE FOR PRESCRIBING REVISED REGULATIONS.—Each Federal banking agency—

(A) shall publish final regulations under paragraph (1) in the Federal Register not later than 12 months after the date of enactment of this Act; and

(B) may establish reasonable transition rules to facilitate any termination of any deposit-taking activities that were permissible under regulations that were in effect before the date of enactment of this Act.

(6) DEFINITIONS.—For purposes of this subsection—

(A) the term "Federal banking agency" means—

(i) the Comptroller of the Currency with respect to Federal branches of foreign banks; and

(ii) the Federal Deposit Insurance Corporation with respect to State branches of foreign banks; and

(B) the term "uninsured branch" means a branch of a foreign bank that is not an insured branch, as defined in section 3(s)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)(3)).

(c) AMENDMENT AFFIRMING THAT CONSUMER PROTECTION LAWS APPLY TO FOREIGN BANKS.—Section 9(b) of the International Banking Act of 1978 (12 U.S.C. 3106a) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting after "which—" the following new subparagraph:

"(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;"; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting after "which—" the following new subparagraph:

"(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;".

(d) INSURED BANKS IN TERRITORIES NOT TREATED AS FOREIGN BANKS FOR PURPOSES OF RETAIL DEPOSIT-TAKING RULE.—Section 6(d) of the International Banking Act of 1978 (12 U.S.C. 3104(c)) (as so redesignated by subsection (a)(1) of this section) is amended by adding at the end the following new paragraph:

"(3) INSURED BANKS IN U.S. TERRITORIES.—For purposes of this subsection, the term 'foreign bank' does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.".

(e) AMENDMENT RELATING TO SHELL BRANCHES.—

(1) IN GENERAL.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(k) MANAGEMENT OF SHELL BRANCHES.—

"(1) TRANSACTIONS PROHIBITED.—A branch or agency of a foreign bank shall not manage, through an office of the foreign bank which is located outside the United States and is managed or controlled by such branch or agency, any type of activity that a bank organized under the laws of the United States, any State, or the District of Columbia is not permitted to manage at any branch or subsidiary of such bank which is located outside the United States.

"(2) REGULATIONS.—Any regulations promulgated to carry out this section—

"(A) shall be promulgated in accordance with section 13; and

"(B) shall be uniform, to the extent practicable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall become effective at the end of the 180-day period beginning on the date of enactment of this Act.

(f) MEETING COMMUNITY CREDIT NEEDS.—Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) (as amended by section 104 of this Act) is amended by inserting after paragraph (7) the following new paragraph:

"(8) CONTINUING REQUIREMENT FOR MEETING COMMUNITY CREDIT NEEDS AFTER INITIAL INTERSTATE ENTRY BY ACQUISITION.—

"(A) IN GENERAL.—If a foreign bank acquires a bank or a branch of a bank, in a State in which the foreign bank does not maintain a branch, and such acquired bank is, or is part of, a regulated financial institution (as defined in section 803 of the Community Reinvestment Act of 1977), the Community Reinvestment Act of 1977 shall continue to apply to each branch of the foreign bank which results from the acquisition as if such branch were a regulated financial institution.

"(B) EXCEPTION FOR BRANCH THAT RECEIVES ONLY DEPOSITS PERMISSIBLE FOR AN EDGE ACT CORPORATION.—Paragraph (1) shall not apply to any branch that receives only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to receive.".

SEC. 108. FEDERAL RESERVE BOARD STUDY ON BANK FEES.

(a) IN GENERAL.—Section 1002 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended to read as follows:

"SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

"(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System

shall obtain a sample, which is representative by geographic location and size of the institution, of—

"(1) certain retail banking services provided by insured depository institutions; and

"(2) the fees, if any, which are imposed by such institutions for providing any such service, including fees imposed for not sufficient funds, deposit items returned, and automated teller machine transactions.

"(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

"(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

"(2) CONTENTS OF THE REPORT.—Each report prepared pursuant to paragraph (1) shall include—

"(A) a description of any discernible trend, in the Nation as a whole and in each region, in the cost and availability of retail banking services which delineates differences on the basis of size of the institution and engagement in multistate activity; and

"(B) a description of the correlation, if any, among the following factors:

"(i) An increase or decrease in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions.

"(ii) An increase or decrease in the amount of the fees imposed by such institutions for providing retail banking services.

"(iii) A decrease in the availability of such services.

"(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than September 1, 1995, and not later than June 1 of each subsequent year.".

(b) SUNSET.—The requirements of subsection (a) shall not apply after the end of the 7-year period beginning on the date of enactment of this Act.

SEC. 109. PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES.

(a) REGULATIONS.—The appropriate Federal banking agencies shall prescribe uniform regulations effective June 1, 1997, which prohibit any out-of-State bank from using any authority to engage in interstate branching pursuant to this title, or any amendment made by this title to any other provision of law, primarily for the purpose of deposit production.

(b) GUIDELINES FOR MEETING CREDIT NEEDS.—Regulations issued under subsection (a) shall include guidelines to ensure that interstate branches operated by an out-of-State bank in a host State are reasonably helping to meet the credit needs of the communities which the branches serve.

(c) LIMITATION ON OUT-OF-STATE LOANS.—

(1) LIMITATION.—Regulations issued under subsection (a) shall require that, beginning no earlier than 1 year after establishment or acquisition of an interstate branch or branches in a host State by an out-of-State bank, if the appropriate Federal banking agency for the out-of-State bank determines that the bank's level of lending in the host State relative to the deposits from the host State (as reasonably determinable from available information including the agency's sampling of the bank's loan files during an examination or such data as is otherwise available) is less than half the average of total loans in the host State relative to total deposits from the host State (as determinable from relevant sources) for all banks the home State of which is such State—

(A) the appropriate Federal banking agency for the out-of-State bank shall review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host State; and

(B) if the agency determines that the out-of-State bank is not reasonably helping to meet those needs—

(i) the agency may order that an interstate branch or branches of such bank in the host State be closed unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host State, and

(ii) the out-of-State bank may not open a new interstate branch in the host State unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(2) CONSIDERATIONS.—In making a determination under paragraph (1)(A), the appropriate Federal banking agency shall consider—

(A) whether the interstate branch or branches of the out-of-State bank were formerly part of a failed or failing depository institution;

(B) whether the interstate branch was acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(C) whether the interstate branch or branches of the out-of-State bank have a higher concentration of commercial or credit card lending, trust services, or other specialized activities;

(D) the ratings received by the out-of-State bank under the Community Reinvestment Act of 1977;

(E) economic conditions, including the level of loan demand, within the communities served by the interstate branch or branches of the out-of-State bank; and

(F) the safe and sound operation and condition of the out-of-State bank.

(3) BRANCH CLOSING PROCEDURE—

(A) NOTICE REQUIRED.—Before exercising any authority under paragraph (1)(B)(i), the appropriate Federal banking agency shall issue to the bank a notice of the agency's intention to close an interstate branch or branches and shall schedule a hearing.

(B) HEARING.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding brought under this paragraph.

(d) APPLICATION.—This section shall apply with respect to any interstate branch established or acquired in a host State pursuant to this title or any amendment made by this title to any other provision of law.

(e) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY, BANK, STATE, AND STATE BANK.—The terms "appropriate Federal banking agency", "bank", "State", and "State bank" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) HOME STATE.—The term "home State" means—

(A) in the case of a national bank, the State in which the main office of the bank is located; and

(B) in the case of a State bank, the State by which the bank is chartered.

(3) HOST STATE.—The term "host State" means a State in which a bank establishes a branch other than the home State of the bank.

(4) INTERSTATE BRANCH.—The term "interstate branch" means a branch established pursuant to this title or any amendment made by this title to any other provision of law.

(5) OUT-OF-STATE BANK.—The term "out-of-State bank" means, with respect to any State, a bank the home State of which is another State and, for purposes of this section, includes a foreign bank, the home State of which is another State.

SEC. 110. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) IN GENERAL.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding at the end the following new subsections:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c); and

"(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

"(2) MULTISTATE METROPOLITAN AREAS.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency shall prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c). If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

"(3) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) shall—

"(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area; and

"(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

"(e) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) DOMESTIC BRANCH.—The term 'domestic branch' means any branch office or other facility of a regulated financial institution that accepts deposits, located in any State.

"(2) METROPOLITAN AREA.—The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area, as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area designated as such by the appropriate Federal financial supervisory agency.

"(3) STATE.—The term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) SEPARATE PRESENTATION.—Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking "The public" and inserting the following:

"(A) CONTENTS OF WRITTEN EVALUATION.—The public"; and

(3) by adding at the end the following new subparagraph:

"(B) METROPOLITAN AREA DISTINCTIONS.—The information required by clauses (i) and (ii) of subparagraph (A) shall be presented separately for each metropolitan area in which a regulated depository institution maintains one or more domestic branch offices.".

SEC. 111. RESTATEMENT OF EXISTING LAW.

No provision of this title and no amendment made by this title to any other provision of law shall be construed as affecting in any way—

(1) the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any such bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law;

(2) the right of any State, or any political subdivision of any State, to impose or maintain a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax in accordance with section 3124 of title 31, United States Code; or

(3) the applicability of section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act.

SEC. 112. GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that the implementation of the interstate branching provisions contained in this title will result in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 113. MAXIMUM INTEREST RATE ON CERTAIN FMHA LOANS.

(a) IN GENERAL.—Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (3)(A), by striking "Except" and inserting "Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except"; and

(2) in paragraph (5)—

(A) by striking "(5) The" and inserting "(5)(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following new subparagraph:

"(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.

SEC. 114. NOTICE REQUIREMENTS FOR BANKING AGENCY DECISIONS PREEMPTING STATE LAW.

Chapter 4 of title LXII of the Revised Statutes (12 U.S.C. 21 et seq.) is amended by adding at the end the following new section:

"SEC. 5244. INTERPRETATIONS CONCERNING PREEMPTION OF CERTAIN STATE LAWS.

"(a) NOTICE AND OPPORTUNITY FOR COMMENT REQUIRED.—Before issuing any opinion letter or interpretive rule, in response to a request or upon the agency's own motion, that concludes that Federal law preempts the application to a national bank of any State law regarding community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches, or before making a determination under section 5155(f)(1)(A)(ii) of the Revised Statutes, the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall—

"(1) publish in the Federal Register notice of the preemption or discrimination issue that the agency is considering (including a description of each State law at issue);

"(2) give interested parties not less than 30 days in which to submit written comments; and

"(3) in developing the final opinion letter or interpretive rule issued by the agency, or making any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes, consider any comments received.

"(b) PUBLICATION REQUIRED.—The appropriate Federal banking agency shall publish in the Federal Register—

"(1) any final opinion letter or interpretive rule concluding that Federal law preempts the application of any State law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches to a national bank; and

"(2) any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes.

"(c) EXCEPTIONS.—

"(1) NO NEW ISSUE OR SIGNIFICANT BASIS.—This section shall not apply with respect to any opinion letter or interpretive rule that—

"(A) raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the courts or on which the agency has previously issued an opinion letter or interpretive rule; or

"(B) responds to a request that contains no significant legal basis on which to make a preemption determination.

"(2) JUDICIAL, LEGISLATIVE, OR INTRAGOVERNMENTAL MATERIALS.—This section shall not apply with respect to materials prepared for use in judicial proceedings or submission to Congress or a Member of Congress, or for intragovernmental use.

"(3) EMERGENCY.—The appropriate Federal banking agency may make exceptions to subsection (a) if—

"(A) the agency determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of any national bank; or

"(B) the opinion letter or interpretive rule is issued in connection with—

"(i) an acquisition of 1 or more banks in default or in danger of default (as such terms are defined in section 3 of the Federal Deposit Insurance Act); or

"(ii) an acquisition with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13(c) of the Federal Deposit Insurance Act.".

SEC. 115. MORATORIUM ON EXAMINATION FEES UNDER THE INTERNATIONAL BANKING ACT OF 1978.

(a) BRANCHES, AGENCIES, AND AFFILIATES.—Section 7(c)(1)(D) of the International Banking Act of 1978 shall not apply with respect to any examination under section 7(c)(1)(A) of such Act which begins before or during the 3-year period beginning on July 25, 1994.

(b) REPRESENTATIVE OFFICES.—The provision of section 10(c) of the International Banking Act of 1978 relating to the cost of examinations under such section shall not apply with respect to any examination under such section which begins before or during the 3-year period beginning on July 25, 1994.

TITLE II—GENERAL PROVISIONS

SEC. 201. AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT AND FEDERAL HOME LOAN BANK ACT.

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended by adding at the end the following new subparagraph:

"(C) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

"(i) IN GENERAL.—In the case of any tort claim described in clause (ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as conservator or receiver, the Corporation may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.

"(ii) CLAIMS DESCRIBED.—A tort claim referred to in clause (i) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution.".

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended by adding at the end the following new subparagraph:

"(E) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—In the case of any tort claim described in subparagraph (A)(ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as conservator or receiver, the Corporation may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.".

SEC. 202. SENSE OF THE SENATE CONCERNING MULTILATERAL EXPORT CONTROLS.

(a) FINDINGS.—The Senate finds that—

(1) the United States and its allies have agreed that as of March 31, 1994, the Coordinating Committee (hereafter referred to as "COCOM"), the multilateral body that controlled strategic exports to the former Soviet

Union and other Communist States, ceased to exist;

(2) no successor has yet been established to replace the COCOM;

(3) threats to United States security are posed by rogue regimes that support terrorism as a matter of national policy;

(4) a critical element of the United States proposal for a successor to COCOM is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes;

(5) some allies of the United States oppose this principle and instead propose that such controls be left to "national discretion", effectively replacing multilateral export controls with a loose collection of unilateral export control policies which would be adverse for United States security and economic interests;

(6) multilateral controls are needed to thwart efforts of Iran, Iraq, North Korea, Libya, and other rogue regimes, to acquire arms and sensitive dual-use goods and technologies that could contribute to their efforts to build weapons of mass destruction; and

(7) the United States would be forced to make the difficult choice of choosing between unilateral export controls under the Export Administration Act of 1979, which would put American companies at a competitive disadvantage worldwide, or allowing exports that could seriously harm the national security interests of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system for the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States; and

(2) the President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies.

SEC. 203. AMENDMENTS RELATING TO SILVER MEDALS FOR PERSIAN GULF VETERANS.

Title III of Public law 102-281 (31 U.S.C. 5111 note) is amended—

(1) in section 303(b), by striking "entitlement" and inserting "enactment"; and

(2) in section 307 by striking subsection (b) and inserting the following:

"(b) NO EXPENDITURES IN ADVANCE OF RECEIPT OF FUNDS.—The Secretary of the Treasury shall begin minting and issuing the medals described in section 302 whenever there are any funds available to cover the cost of minting and issuing any such medals from amounts received by the Secretary under section 305 and donations by private persons, and shall continue minting and issuing such medals, subject to the availability of funds to cover the costs, until all of the medals authorized have been issued.".

SEC. 204. COMMEMORATION OF 1995 SPECIAL OLYMPIC WORLD GAMES.

(a) COIN SPECIFICATIONS.—

(1) ONE DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall issue not more than 800,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the coins issued under this section shall be emblematic of the 1995 Special Olympics World Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design for the coins authorized by this section shall be selected by the Secretary after consultation with the 1995 Special Olympics World Games Organizing Committee, Inc. and the Commission of Fine Arts. As required by section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF THE COINS.—

(1) QUALITY OF COINS.—The coins authorized under this section may be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section during the period beginning on January 15, 1995, and ending on December 31, 1995.

(e) SALE OF THE COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(5) INTERNATIONAL SALES.—The Secretary, in cooperation with the 1995 Special Olympics World Games Organizing Committee, shall develop an international marketing program to promote and sell coins outside of the United States.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—The total surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the 1995 Special Olympics World Games Organizing Committee, Inc. Such amounts shall be used to—

(1) provide a world class sporting event for athletes with mental retardation;

(2) demonstrate to a global audience the extraordinary talents, dedication, and courage of persons with mental retardation; and

(3) underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the 1995 Special Olympics World Games Organizing Committee, Inc. as may be related to the expenditure of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefore;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 205. NATIONAL COMMUNITY SERVICE COMMEMORATIVE COINS.

(a) COIN SPECIFICATIONS.—

(1) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins to commemorate students who volunteer to perform community service, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

(c) DESIGN OF COINS.—

(1) DESIGN REQUIREMENTS.—

(A) IN GENERAL.—The design of the coins minted under this section shall be emblematic of community services provided by student volunteers.

(B) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this section there shall be—

(i) a designation of the value of the coin;

(ii) an inscription of the year "1996"; and

(iii) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) SELECTION.—The design for the coins authorized by this section shall be—

(A) selected by the Secretary after consultation with the National Community Service Trust and the Commission of Fine Arts; and

(B) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS.—

(1) QUALITY OF COINS.—Coins minted under this section shall be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section for a period of not less than 6 months and not more than 12 months, beginning no later than September 1, 1996.

(e) SALE OF COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of—

(A) the face value of the coins;

(B) the surcharge provided in paragraph (4) with respect to such coins; and

(C) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this section available at a reasonable discount.

(3) PREPAID ORDERS.—

(A) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this section before the issuance of such coins.

(B) DISCOUNT.—Sale prices with respect to prepaid orders under subparagraph (A) shall be at a reasonable discount.

(4) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—

(1) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the National Community Service Trust for the purpose of funding innovative community service programs at American universities, including the service, research, and teaching activities of faculty and students involved in such programs.

(2) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Community Service Trust as may be related to the expenditures of amounts paid under paragraph (1).

(h) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this section will not result in any net cost to the United States Government.

(2) PAYMENT FOR COINS.—A coin shall not be issued under this section unless the Secretary has received—

(A) full payment for the coin;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 206. ROBERT F. KENNEDY MEMORIAL COMMEMORATIVE COINS.

(a) COIN SPECIFICATIONS.—

(1) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins to commemorate the life and work of Robert F. Kennedy, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

(c) DESIGN OF COINS.—

(1) DESIGN REQUIREMENTS.—

(A) IN GENERAL.—The design of the coins minted under this section shall be emblematic of the life and work of Robert F. Kennedy.

(B) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this section there shall be—

(i) a designation of the value of the coin;

(ii) an inscription of the year "1998"; and

(iii) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) SELECTION.—The design for the coins authorized by this section shall be—

(A) selected by the Secretary after consultation with the Robert F. Kennedy Memorial and the Commission of Fine Arts; and

(B) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS.—

(1) QUALITY OF COINS.—Coins minted under this section shall be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section for a period of not less than 6 months and not more than 12 months, beginning no later than January 1, 1998.

(e) SALE OF COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of—

(A) the face value of the coins;

(B) the surcharge provided in paragraph (4) with respect to such coins; and

(C) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this section available at a reasonable discount.

(3) PREPAID ORDERS.—

(A) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this section before the issuance of such coins.

(B) DISCOUNT.—Sale prices with respect to prepaid orders under subparagraph (A) shall be at a reasonable discount.

(4) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—

(1) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the Robert F. Kennedy Memorial for the purpose of improving the endowment of the Robert F. Kennedy Memorial.

(2) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Robert F. Kennedy Memorial as may be related to the expenditures of amounts paid under paragraph (1).

(h) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this section will not result in any net cost to the United States Government.

(2) PAYMENT FOR COINS.—A coin shall not be issued under this section unless the Secretary has received—

(A) full payment for the coin;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 207. UNITED STATES MILITARY ACADEMY BICENTENNIAL COMMEMORATIVE COINS.

(a) COIN SPECIFICATIONS.—

(1) ONE DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary shall issue not more than 500,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the $1 coins shall be emblematic of the United States Military Academy and its motto "Duty, Honor, Country". On each such coin there shall be a designation of the value of the coin, an inscription of the year "2002", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design of the coins minted under this section shall be selected by the Secretary after consultation with the Commission of Fine Arts and the Bicentennial Steering Group, Association of Graduates, United States Military Academy. As required by section 5135 of title 31, United States Code, the designs shall also be reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF THE COINS.—

(1) QUALITY AND MINT FACILITY.—The coins authorized under this section may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(2) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section during the period beginning on March 16, 2002, and ending on March 16, 2003.

(3) SUNSET PROVISION.—No coins shall be minted under this section after December 31, 2002.

(e) SALE OF THE COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales available at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this paragraph shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this

section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—The total surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the Association of Graduates, United States Military Academy to assist the Association of Graduates' efforts to provide direct support to the academic, military, physical, moral, and ethical development programs of the Corps of Cadets, United States Military Academy.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Association of Graduates, United States Military Academy as may be related to the expenditure of amounts paid under subsection (g).

(i) NUMISMATIC PUBLIC ENTERPRISE FUND.—The coins issued under this section are subject to the provisions of section 5134 of title 31, United States Code, relating to the Numismatic Public Enterprise Fund.

(j) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefore;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 208. UNITED STATES BOTANIC GARDEN COMMEMORATIVE COINS.

(a) COIN SPECIFICATIONS.—

(1) ONE-DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the coins issued under this section shall be a rose, the national floral emblem, and a frontal view of the French facade of the United States Botanic Garden. On each coin there shall be a designation of the value of the coin, an inscription of the years "1820–1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCE OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design for the coins minted under this section shall be—

(1) selected by the Secretary after consultation with the National Fund for the United States Botanic Garden and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS.—

(1) QUALITY OF COINS.—Coins minted under this section may be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD OF ISSUANCE.—The Secretary may issue coins minted under this section during the period beginning on January 1, 1997, and ending on December 31, 1997.

(e) SALE OF COINS.—

(1) SALE PRICE.—The coins authorized under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales available at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this paragraph shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—All surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the National Fund for the United States Botanic Garden.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Fund for the United States Botanic Garden as may be related to the expenditures of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefore;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 209. MOUNT RUSHMORE COMMEMORATIVE COINS.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

(c) NUMISMATIC OPERATING PROFITS.—Nothing in this section shall be construed to affect the Secretary of the Treasury's right to derive operating profits from numismatic programs for use in supporting the United States Mint's numismatic operations and programs or to allow the distribution of operating profits from the Numismatic Public Enterprise Fund to a recipient organization under any numismatic program.

SEC. 210. STUDY AND REPORT ON THE UNITED STATES FINANCIAL SERVICES SYSTEM.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall, after consultation with the Advisory Commission on Financial Services established under subsection (b), and consultation in accordance with paragraph (3), conduct a study of matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of the system's users, including the needs of—

(A) individual consumers and households;

(B) communities;

(C) agriculture;

(D) small-, medium-, and large-sized businesses;

(E) governmental and nonprofit entities; and

(F) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and how those changes affect the financial services system's ability to efficiently meet the needs of the national economy and the system's users during the next 10 years and beyond; and

(B) the adequacy of existing statutes and regulations, and the existing regulatory structure, to meet the needs of the financial services system's users effectively, efficiently, and without unfair, anticompetitive, or discriminatory practices.

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Commodity Futures Trading Commission;

(C) the Comptroller of the Currency;

(D) the Director of the Office of Thrift Supervision;

(E) the Federal Deposit Insurance Corporation;

(F) the Secretary of the Department of Housing and Urban Development;

(G) the Securities and Exchange Commission;

(H) the Director of the Congressional Budget Office; and

(I) the Comptroller General of the United States.

(b) ADVISORY COMMISSION ON FINANCIAL SERVICES.—

(1) ESTABLISHMENT.—There is established the Advisory Commission on Financial Services (hereafter in this section referred to as the "Advisory Commission").

(2) MEMBERSHIP OF COMMISSION.—The Advisory Commission—

(A) shall consist of not less than 9 nor more than 14 members appointed by the Secretary from among individuals—

(i) who are—

(I) users of the financial services system; or

(II) experts in finance or on the financial services system; and

(ii) who are not employees of the Federal Government; and

(B) shall include representatives of business, agriculture, and consumers.

(3) CHAIRPERSON.—The Secretary or the Secretary's designee shall serve as Chairperson of the Advisory Commission.

(4) TRAVEL EXPENSES.—Members of the Advisory 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 performing services for the Advisory Commission.

(5) TERMINATION.—The Advisory Commission shall terminate 30 days after the date of submission of the report required under subsection (d).

(c) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Secretary shall develop such recommendations as may be appropriate for changes in statutes, regulations, and policies to improve the operation of the financial services system, including changes to better—

(1) meet the needs of, and assure access to the system for, current and potential users;

(2) promote economic growth;

(3) protect consumers;

(4) promote competition and efficiency;

(5) avoid risk to the taxpayers;

(6) control systemic risk; and

(7) eliminate discrimination.

(d) REPORT.—Not later than 15 months after the date of enactment of this Act, the Secretary shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report describing the study conducted under subsection (a) and any recommendations developed under subsection (c).

SEC. 211. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

(a) IN GENERAL.—Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the 1st sentence, by striking "two thirds" and inserting "a majority".

(b) PROVISION REPEAL.—Effective on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, this section and the amendment made by this section are repealed.

And the Senate agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOSEPH KENNEDY,
JAMES LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,

As additional conferees from the Committee on Agriculture, for consideration of sec. 109 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
CHARLIE STENHOLM,
HAROLD L. VOLKMER,
TIMOTHY J. PENNY,
TIM JOHNSON,
PAT ROBERTS,
LARRY COMBEST,
WAYNE ALLARD,

As additional conferee from the Committee on Foreign Affairs, for consideration of sec. 402 of the Senate amendment, and modifications committed to conference:

BEN GILMAN,

As additional conferees from the Committee on the Judiciary, for consideration of secs. 101–03 of the House bill, and title II and secs. 102–03 of the Senate amendment, and modifications committed to conference:

R.L. MAZZOLI,
BILL HUGHES,
DAN GLICKMAN,
RICK BOUCHER,
JOHN BRYANT,
HAMILTON FISH,
CHAS T. CANADY,
BOB GOODLATTE,

Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER DODD,
JIM SASSER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3841) to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SUMMARY OF MAJOR PROVISIONS

TITLE I—INTERSTATE BANKING AND BRANCHING

INTERSTATE BANKING

The legislation permits bank holding companies to acquire banks in any State one year after enactment of the legislation. State laws which require the acquiring company to acquire a bank that has been in existence for a specified minimum period of time (not to exceed five years) are preserved. Any State law which requires a bank to be acquired to be in existence for more than five years applies as if it requires that the bank being acquired be five years old.

Section 3(d)(1)(D) of the Bank Holding Company Act, as amended by section 101, protects the applicability of a State law that makes the acquisition of a bank contingent upon a requirement that a portion of the bank's assets be available to a State-sponsored housing entity established under State law, under the conditions that the State law is not discriminatory, that the State law was in effect as of the date of enactment of this Act and that compliance with the State law would not result in an unacceptable risk to the deposit insurance fund and would not place the bank in an unsafe or unsound condition.

The Federal Reserve Board may not approve an interstate acquisition if, as a result of the acquisition, the bank holding company would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States or 30 percent or more of the deposits in the home State of the bank to be acquired. Notwithstanding the 30 percent limit, the Board could approve such a transaction if the home State waives the 30 percent limit either by statute, regulation, or order of the appropriate State official based on standards that do not have the effect of discriminating against out-of-State institutions.

The above concentration limits do not apply to initial entry into a State by a bank holding company. If, however, a State has a deposit concentration cap which applies in a nondiscriminatory manner to both in-State and out-of-State bank holding companies making initial entry acquisitions, then nothing in the legislation affects the State's authority to impose such deposit cap.

Community Reinvestment Laws

The Board shall continue to comply with its responsibilities under the Community Reinvestment Act of 1977 with respect to applications under section 3(d) of the Bank Holding Company Act of 1956. Currently the Board reviews applications under section 3(d) in accordance with existing regulations (such as Regulations Y and BB) and practices, and the conferees intend that nothing in this bill will alter or affect such regulations and practices as established by the Board.

In acting on an application under section 3(d), the Board shall also consider the applicant's record of compliance with applicable state community reinvestment laws.

Applicability of Antitrust Laws

The title provides that no provision of the antitrust laws is to be construed as being affected by the interstate banking amendments to the Bank Holding Company Act, including the Act's provisions on concentration limits. The applicability, if any, of State antitrust laws is likewise preserved. Nothing in this provision is intended to affect or expand the existing applicability of State antitrust laws, under current statutory or case law, to interstate acquisitions.

STATE TAXATION AUTHORITY

Section 101(b) amends the Bank Holding Company Act of 1956 to provide that nothing in that Act shall be construed as affecting the authority of any State or political subdivision to adopt, apply or administer any tax or method of taxation to any bank, bank holding company or foreign bank, or their affiliates, to the extent that such tax or tax method is otherwise permissible under the Constitution or other Federal law. This is intended to clarify that it is not the Conferees' intent to overturn existing State tax law pertaining to distinct legal entities within a corporate structure. The provision recognizes the existence of corporate affiliates and reaffirms that States may segregate the separately incorporated entities within a bank or bank holding company for state taxation purposes, to the extent permissible under the Constitution or other Federal law.

Similar amendments are made to section 44 of the Federal Deposit Insurance Act and to Title I.

AFFILIATED BANKS AS AGENTS

The Conferees accepted a modified version of a provision in the House bill permitting certain affiliated depository institutions to act as agents for each other for purposes of receiving deposits, renewing time deposits, closing loans, servicing loans and receiving payments on loans and other obligations for other affiliated depository institutions, with several amendments.

The modified provision permits bank subsidiaries, rather than depository institution

subsidiaries, of bank holding companies to act as agents for depository institution affiliates. Subject to certain conditions, insured savings associations which were affiliated with banks as of July 1, 1994, may act as agents for such banks under this provision.

As used in this provision, the term "receive deposits" means the taking of deposits to be credited to an existing account and is not meant to include the opening or origination of new deposit accounts at an affiliated institution by the agent institution.

The Conferees deleted the authority in the House bill for affiliated depository institutions to disburse the proceeds of loans for other affiliated depository institutions and substituted authority to service loans. The Conferees intend that, under this authority to service loans, agent banks may perform ministerial functions for the principal bank making a loan. Those ministerial functions include such activities as providing loan applications, assembling documents, providing a location for returning documents necessary for making the loan, providing loan account information (such as outstanding loan balances), and receiving payments. It does not include such loan functions as evaluating applications or disbursing loan funds. The term "close loans" does not include the making of a decision to extend credit or the extension of credit.

The Conferees also intend that the provision permit affiliated banks to act as agents for one another regardless of whether the institutions are located in the same or different states.

Under section 18(r)(3) of the Federal Deposit Insurance Act (as added by section 101(d) of this title), a bank may not conduct any activity as an agent that such bank is prohibited from conducting as principal under applicable Federal or State law. Prohibited activities under this provision include activities by a bank acting as agent that would be prohibited to the bank acting as principal under the applicable consumer protection, powers and other laws of the State where the bank is situated. The Conferees intend that the limitation on acting as agent under section 18(r)(3) shall also be applied to all United States offices of foreign banks covered under the definition of bank in the Act, when acting as agent for a depository institution affiliate. Agency relationships may be used to promote operational efficiencies, but they may not be used to evade applicable consumer protection, powers, and other laws of the State where the agent institution is situated.

The Conferees also intend to clarify, through the addition of a savings clause, that this section does not affect the authority of a depository institution to be an agent for a depository institution under any other provision of law, nor does it affect a determination under any other provision of law whether the agent should be considered to be a branch of the depository institution. The Conferees do not intend that new subsection 18(r) of the Federal Deposit Insurance Act affect the application of other provisions of law which permit agency relationships between affiliated depository institutions. The Conferees note that subsection 18(r) applies narrowly only to affiliated depository institutions acting as agents, and has no application to agency relationships concerning nondepositories as agent, whether or not affiliated with the depository institution.

Section 18(r) shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from one Federal deposit insurance fund to the other Federal deposit insurance fund.

INTERSTATE BRANCHING

Introduction

The Conferees decided on an interstate branching structure somewhat different than the structure of either the House or the Senate bills. Under the House structure, branching (other than the establishment of de novo branches) was permitted three years after enactment through a one-step acquisition of an existing bank and its conversion to branches of the acquiring bank, under the National Bank Act for national banks or the Federal Deposit Insurance Act for State banks. The Senate structure used a two-step process effective June 1, 1997, with the interstate acquisition of a bank under the Bank Holding Company Act of 1956 subsequently followed by a consolidation of the newly acquired bank with another bank owned by the holding company.

The Conferees adopted a structure under which a bank would engage in a merger transaction with the out-of-State bank and convert any of its offices into branches of the resulting bank under the authority of a new section of the Federal Deposit Insurance Act. Such a transaction would be subject to approval under the Bank Merger Act.

The House bill authorized bank holding companies to consolidate affiliated banks into a single bank with interstate branches 18 months after enactment of the legislation. The Senate bill did not provide for early consolidation. The House receded to the Senate, thereby permitting consolidation of affiliated banks in different States through an interstate merger transaction when interstate branching takes effect on June 1, 1997.

Once a bank has established branches in a host State through an interstate merger transaction, such bank may establish and acquire additional branches at any location in the host State where any bank involved in the interstate merger transaction could have established or acquired branches under applicable Federal or State law.

Interstate Branching Through Mergers

Beginning June 1, 1997, a bank may merge with a bank in another State so long as both States have not opted out of interstate branching between the date of enactment and May 31, 1997. States may enact laws opting-out of interstate branching before June 1, 1997, subject to certain conditions. States may also enact laws permitting interstate merger transactions before June 1, 1997. Host States may impose conditions on a branch resulting from an interstate merger transaction that occurs before June 1, 1997, if the conditions do not discriminate against out-of-State banks, are not preempted by Federal law, and do not apply or require performance after May 31, 1997.

State laws requiring out-of-State banks or bank holding companies to merge with, or acquire a bank that has been in existence for a specified minimum period of time (not to exceed five years) are preserved with respect to interstate merger transactions. Any such State law which imposes a minimum age requirement of more than five years on a bank to be acquired is to be applied as if the minimum age requirement is five years.

Any bank that files an application for an interstate merger transaction shall comply with any filing requirement of any host State of the bank resulting from the transaction, to the extent the requirement does not discriminate against out-of-State banks or bank holding companies, and is similar to any requirement imposed on nonbanking corporations incorporated in another State that engage in business in the host State. Banks must also file a copy of the application for the interstate merger transaction with the State bank supervisor of the host State. The responsible agency may not approve an application if the applicant materially fails to comply with the host State's filing requirements.

The responsible agency may not approve an application for an interstate merger if the resulting bank would control more than 10 percent or more of the total amount of deposits of insured depository institutions in the United States or 30 percent or more of the deposits in any State affected by the interstate merger. Notwithstanding the 30 percent limit, the responsible agency could approve such a transaction if the home State waives the 30 percent limit either by statute, regulation, or order of the appropriate State official based on standards that do not have the effect of discriminating against out-of-state institutions.

The concentration limits do not apply with respect to any interstate merger transactions involving affiliated banks. The concentration limits also do not apply to initial entry into a State by a bank or its affiliates. If, however, a State has a deposit concentration cap which applies in a non-discriminatory manner to both in-State and out-of-State banks and bank holding companies, then nothing in the legislation affects the State's authority also to impose such deposit caps to initial entries.

The responsible agency may approve an application for a merger only if each bank involved in the transaction is adequately capitalized as of the date the application is filed, and the agency determines that the resulting bank will continue to be adequately capitalized and adequately managed.

The laws of the host State regarding community reinvestment, consumer protection (including applicable usury ceilings), fair lending, and establishment of intrastate branches shall apply to any branch of a national bank in the host State to the same extent as such State laws apply to a branch of a bank chartered by that State, except when Federal law preempts, or when the Comptroller determines that the law has a discriminatory effect on the branch in comparison to branches of State-chartered banks. Such laws shall be enforced by the Comptroller of the Currency.

Acquisition of Branches

New section 44(a)(4)(A) of the Federal Deposit Insurance Act (as added by section 102(a)) permits the responsible Federal regulator to approve the acquisition of a branch of an insured bank without the acquisition of the entire bank only if the law of the State in which the branch is located permits out-of-State banks to acquire a branch of a bank without acquiring the bank. The Conferees intend that, in approving such acquisitions, Federal regulators will ensure that state minimum age restrictions under paragraph (5) which apply to such acquisitions are preserved. Federal banking agencies should not approve the acquisition of a branch (if permitted under paragraph (4)) in host States which have minimum age laws regarding the acquisition of banks, unless such laws expressly permit branches in the host state to be acquired without the acquisition of the bank.

Applicability of Community Reinvestment Laws

Under current law, most interstate movement by banking organizations takes place via the Bank Holding Company Act. Current

regulations and practices of the Board of Governors of Federal Reserve System delineate the scope of CRA performance considered by the Board in acting on applications by a bank holding company to move interstate via section 3(d) of the Bank Holding Company Act.

Section 44(b)(3) of the Federal Deposit Insurance Act (as added by section 102(a) of this title) provides that, only with respect to initial entry into a host state by a bank without branches or a bank affiliate in that host state, the scope of CRA performance considered by the responsible Federal banking agency in connection with an interstate branching application will parallel the scope of CRA performance which would be considered by the Board of Governors of the Federal Reserve System (to the same extent as outlined in the statement of managers accompanying section 3(d)(3) of the Bank Holding Company Act of 1956, as amended by section 101(a) of this title) if the application were for an interstate bank holding company acquisition pursuant to section 3(d) of the Bank Holding Company Act. Hence, in those cases of initial entry, the Conferees intend that the responsible federal banking agency comply with its responsibilities under section 804 of CRA consistent with current regulations and practices with respect to bank mergers and also to take into account the CRA record, including the most recent written evaluation, of any affiliate banks of the resulting bank.

With respect to all other interstate branching applications apart from those involving initial entry into a host state, the responsible Federal banking agency shall carry out its responsibilities under section 804 of the Community Reinvestment Act consistent with its current regulations and practices with respect to bank mergers.

In all cases, when taking into account the CRA performance of an institution with branches in more than one state in connection with acting on an interstate branching application, the Conferees expect that the responsible Federal banking agency will take into account the institution's performance under CRA in each state in which it maintains branches.

In addition, when acting on a interstate branching application, the responsible Federal banking agency shall take into account the records of compliance with applicable State community reinvestment laws of any applicant bank.

Applicable State Law

States have a strong interest in the activities and operations of depository institutions doing business within their jurisdictions, regardless of the type of charter an institution holds. In particular, States have a legitimate interest in protecting the rights of their consumers, businesses, and communities. Federal banking agencies, through their opinion letters and interpretive rules on preemption issues, play an important role in maintaining the balance of Federal and State law under the dual banking system. Congress does not intend that the Interstate Banking and Branching Efficiency Act of 1994 alter this balance and thereby weaken States' authority to protect the interests of their consumers, businesses, or communities.

Accordingly, the title emphasizes that a host state's laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches will apply to interstate branches of national banks established in the host state to the same extent as those laws apply to a branch of a State bank, except when Federal law preempts application of the State laws to a national bank, or when the Comptroller of the Currency determines that the State laws have a discriminatory effect on the branch as compared with their effect on a branch of a State bank.

Under well-established judicial principles, national banks are subject to State law in many significant respects. The laws of the State in which a national bank is situated will apply to the national bank unless those State laws are preempted by Federal law. Generally, State law applies to national banks unless the State law is in direct conflict with the Federal law. Federal law is so comprehensive as to evidence Congressional intent to occupy a given field, or the State law stands as an obstacle to the accomplishment of the full purposes and objectives of the Federal law. In this regard, the impact of a State law on the safe and sound operations of a national bank is one factor that may be taken into account in considering whether Federal law preempts State law. Courts generally use a rule of construction that avoids finding a conflict between the Federal and State law where possible. The title does not change these judicially established principles.

During the course of consideration of the title, the Conferees have been made aware of certain circumstances in which the Federal banking agencies have applied traditional preemption principles in a manner the Conferees believe is inappropriately aggressive, resulting in preemption of State law in situations where the federal interest did not warrant that result. One illustration is OCC Interpretive Letter No. 572, dated January 15, 1992, from the OCC to Robert M. Jaworski, Assistant Commissioner, State of New Jersey Department of Banking, concluding that national banks in New Jersey are not required to comply with the New Jersey Consumer Checking Account Act. It is of utmost concern to the Conferees that the agencies issue opinion letters and interpretive rules concluding that Federal law preempts state law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches only when the agency has determined that the Federal policy interest in preemption is clear. In the case of Interpretive Letter No. 572, it is the sense of the Conferees that the fact the Congress has acknowledged the benefits of more widespread use of lifeline accounts through the enactment of the Bank Enterprise Act did not indicate that Congress intended to override State basic banking laws, or occupy the area of basic banking services to such an extent as to displace State laws, or that the existence of State basic banking laws frustrated the purpose of Congress.

The Conferees have similar concerns regarding the scope of the OCC interpretive rule that appears at 12 C.F.R. §7.8000, which broadly asserts that Federal law governing the deposit-taking functions of national banks preempts any State law that attempts to prohibit, limit, or restrict deposit account service charges. In light of the Conferees' views regarding the proper application of recognized preemption standards discussed above, the Conferees urge the OCC to review Interpretive Ruling 7.800 to determine if it should be withdrawn or revised.

The Conferees understand that in certain cases some states have imposed conditions on, or obtained commitments from, bank holding companies in connection with a company's acquisition of banks outside its home state. The title provides that such conditions or commitments existing as of the date of enactment of the Interstate Banking and Branching Efficiency Act of 1994 will continue to be enforceable against the bank holding company or an affiliated successor company to the same extent as they were previously if a bank holding company with bank subsidiaries in more than one state chooses to combine its banks under new section 44 of the Federal Deposit Insurance Act (as added by section 102(a) of this title). The title does not create any new State enforcement authority with respect to any conditions imposed or commitments made before the enactment of the title.

Interpretations Concerning Federal Preemption of State Law

In view of the Congressional concern regarding preemption of State law regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, the Conferees concluded that a more open process for reaching preemption conclusions in these areas, with a clearly structured, meaningful opportunity for interested parties to communicate their views to the agency, was warranted. Also, it is important that the agencies make their determinations on Federal preemption of State law available to the public in a timely and accessible manner. Accordingly, the title imposes certain procedural requirements on agency preemption opinion letters and interpretive rules in connection with State laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, whether or not related to interstate branching. The Conferees believe that the public notice and openness provided by the new process will be a vital safeguard to ensure that an agency applies the recognized principles of preemption, discussed above, in a balanced fashion.

The title provides that before issuing any opinion letter or interpretive ruling concluding that Federal law preempts State law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches, the appropriate Federal banking agency will publish notice in the Federal Register of the request, or of the agency's intention on its own motion, to determine whether Federal law preempts a particular State law. The notice should describe each State law in question and otherwise provide information sufficient to enable interested parties to comment meaningfully on the issue under consideration. The agency also should promptly make available upon request a copy of any incoming request letter. The title also requires the agency to publish in the Federal Register a copy of the final opinion letter or interpretive rule.

The Federal Register publication requirement is intended to provide readily available and widespread notice to interested parties of the opportunity to comment on preemption matters that have not been previously resolved by the agency or courts. The title requires the agency to give interested parties not less than 30 days in which to submit comments. In establishing the length of the comment period, the Conferees intend that the agencies should take into account the complexity of the preemption issue involved and the number of parties likely interested in responding to the solicitation of public comment and the resources of those parties. The Conferees also expect the agencies to be flexible in extending the comment period if requested to do so by an interested party for good cause shown. The title further requires the agency to take the public comments into

account in reaching its decision, even though each particular comment need not be specifically discussed in the final product.

This process is not intended to confer upon the agency any new authority to preempt or to determine preemptive Congressional intent in the four areas described, or to change the substantive theories of preemption as set forth in existing law. Rather, it is intended to help focus any administrative preemption analysis and to help ensure that an agency only makes a preemption determination when the legal basis is compelling and the Federal policy interest is clear.

The public notice and comment process is not required when a particular request raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the agency or the courts, or when the incoming request regarding preemption contains no significant legal basis upon which to make a preemption determination. The title also exempts materials prepared for use in judicial proceedings, for submission to Congress or a member of Congress, and for intra-governmental use from the new public notice requirements. The intra-governmental use exception, in particular, is intended to carve out an exception for materials provided to or from, or shared with, agency personnel or other agencies in the Executive Branch. Examples of the type of such material include, but are not limited to, memoranda, letters, correspondence, advisory opinions, or other materials that are part of the deliberative process that governs the making of decisions and policies within the Executive Branch. An exception to the notice and comment provisions is also provided in cases when the appropriate Federal banking agency determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of a national bank.

The Comptroller must follow the notice and comment process in making any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes that State laws discriminate against a branch of a national bank as compared with a branch of a State bank.

The Conferees expect that the Federal banking agencies will be receptive to well-supported requests from interested parties seeking reconsideration of previous interpretive rules or opinions regarding state community reinvestment, consumer protection, fair lending and intrastate branching laws, consistent with the approach to preemption discussed above.

Host State Notification Requirements

Host States may impose any notification or reporting requirement on a branch in the State if the requirement does not discriminate against out-of-State banks and is not preempted by Federal law. Such requirement is in addition to the filing requirement for individual transactions.

State Opt-Out of Interstate Branching

Section 44(a)(2) of the Federal Deposit Insurance Act (as added by section 102(a)) provides that States may opt out of interstate branching by enacting legislation after the date of enactment of the title and before June 1, 1997. If a State opts-out, no bank in any other state may establish a branch in that State, either State, either through an acquisition or de novo. A bank whose home State opts-out of interstate branching may not participate in any interstate merger transaction.

Interstate Branching De Novo With State Authorization

The appropriate Federal regulator may approve an application by a bank to establish and operate a de novo branch in a State in which the bank does not maintain a branch if a State opts-in to de novo branching, and expressly permits de novo branching. The establishment of the initial branch in a host State which permits de novo interstate branching is subject to the same requirements which apply to the initial acquisition of a bank in the host State, other than the deposit concentration limits. Those limits are inapplicable to de novo entry since, by definition, the bank would not control any deposits in the host State at the time of entry.

Once a bank has established a branch in a host State by de novo branching such bank may establish and acquire additional branches at any location in the host State in the same manner as a bank could have established or acquired under applicable Federal or State law.

Exclusive Means of Interstate Branching

The Conferees adopted provisions to assure that the comprehensive framework for interstate branching established by Title I will, when the provisions take effect, be the exclusive means for national and State banks to enter new States with interstate branches.

Paragraphs (2) an (3) of section 102(b) amend the National Bank Act and the Federal Deposit Insurance Act, respectively, to state that when the interstate merger and branching provisions take effect, initial interstate entry into a host State may, with exceptions for certain emergency situations, occur only in accordance with this legislation. These provisions will assure that the conditions and safeguards which accompany initial interstate branching will apply to the establishment of interstate branching networks at the time those provisions take effect.

The Comptroller of the Currency (OCC) has used the 30 mile relocation provision of the National Bank Act (section 2 of the Act of May 1, 1886, 12 U.S.C. 30), to approve several transactions which have permitted national banks to move their main offices to other States but to retain branches in the States left by the main offices. Section 102(b)(2) amends the provision so that after June 1, 1997, a national bank relocating its main office to another state may maintain its branches in the first state only if those branches could have been established by a bank with its home State in the new State. However, along with the OCC's approval for the relocation, the bank would be required to obtain the Comptroller's approval under section 5155 of the Revised Statutes to continue to operate any remaining branch offices located in State other than the State of its new main office. Thus, the bank would be required to file a consolidated application with the OCC covering both aspects of the transaction; the OCC would be authorized to act on the remaining out-of-State branch aspect of the transaction only pursuant to section 5155. State banks are treated in a similar manner.

The Conferees are aware of the OCC procedures in permitting relocation across state lines. The Conferees concur with those procedures, including the application of appropriate State law and authority. The Conferees expect the OCC to continue to follow those procedures until the provisions of Title I become fully applicable on June 1, 1997.

Banks that have moved their main offices pursuant to 12 U.S.C. 30 should not be treated differently than other banks with their main offices in that state. Specifically, for purposes of section 3(d) of the Bank Holding Company, and sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, such banks shall be able to make acquisitions and establish branches in the state to which their main office is relocated to the same extent as any other bank with its main office in that state.

AMENDMENT TO THE HOME OWNERS LOAN ACT

The amendment made to the Home Owners Loan Act by section 102(b)(5) of the bill overturns an interpretation of that Act in *First Gibraltar Bank* v. *Morales*, (5th Cir., Dkt. 93-8170, decided April 29, 1994). In the case the United States Court of Appeals for the Fifth Circuit held that the Office of Thrift Supervision had the authority to issue a regulation preempting a provision in the Texas Constitution protecting homesteads of consumers in the State.

This amendment clarifies that neither the Home Owners Loan Act nor any other provision of law provides the Director of the Office of Thrift Supervision with the authority, through regulation or otherwise, to preempt Texas law in the area of homestead protection.

PROVISIONS RELATING TO DIRECT BRANCHES OF FOREIGN BANKS

Establishment of Direct Branches of a Foreign Bank Outside the Foreign Bank's Home State

Under the House bill, section 5(a) of the International Banking Act of 1978 (IBA) was amended to permit a foreign bank to establish and operate State-licensed branches, either de novo or by acquisition and merger, in any State outside its home State to the same extent that a bank chartered by the foreign bank's home State may establish such branches de novo or by acquisition and merger, respectively. A parallel provision allowed a foreign bank to establish and operate Federally-licensed branches in any State outside its home State to the same extend that a national bank from the foreign bank's home State may do so. In addition, the House bill restates the provision of current law that allows a State to permit foreign banks to establish agencies or limited branches that accept only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to accept.

The Senate bill did not amend the IBA. As a result, the Senate bill permitted foreign banks to engage in interstate branching only if they first established or acquired a bank in the United States and then followed the same procedures applicable to U.S. Banks. The Senate adopted its approach to address its concern that the wholesale direct branches of foreign banks enjoy competitive advantages over U.S. banks because such branches are not subject to the Community Reinvestment Act or to deposit insurance coverage and assessments.

The Conferees agreed to adopt the House structure regarding foreign banks. However, in order to address concerns regarding a level playing field between wholesale direct branches of foreign banks and domestic banks, the Conferees added provisions regarding: (a) continued application of CRA requirements to a direct branch resulting from an initial interstate entry by acquisition of a regulated financial institution: (b) revision of the regulations governing the types of deposits that may be accepted by uninsured direct branches of a foreign bank; (c) types of activities at offshore shell branches managed and controlled by U.S. branches and agencies of foreign banks; and (d) application of consumer protection laws to direct branches of foreign banks. These provisions are among those described below.

Requirement for a separate subsidiary. Section 5(a) of the IBA is amended to provide that the Federal Reserve Board or the Comptroller of the Currency may require a foreign bank to establish a separate U.S. subsidiary bank in order to engage in interstate branching if the Board or the Comptroller finds that it is the only way to verify that a foreign bank adheres to capital requirements that are equivalent to those applicable to a U.S. bank engaged in interstate branching.

Continued application of CRA requirements to a direct branch resulting from an initial interstate entry by acquisition of a regulated financial institution. The Conferees added section 5(a)(8) to the IBA to provide that in cases where a foreign bank acquires a bank or a branch of a bank, in a State in which the foreign bank does not maintain a branch, and such acquired bank was, or was part of, immediately prior to the acquisition, a regulated financial institution as defined in the Community Reinvestment Act (CRA), the CRA shall continue to apply to each branch of the foreign bank which results from the acquisition as if such branch were a reguated financial institution. The Conferees note that the requirements of section 6(c) of the IBA will still apply. The requirements of section 5(a)(8) would not apply in the case of a branch that results from such acquisition that accepts only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to accept.

Continued authority for branches, agencies and commercial lending companies established prior to this Act. Section 5(b) of the IBA is amended to include a provision that permits foreign banks that lawfully established and operated interstate branches, agencies or commercial lending company subsidiaries before the date of enactment of this Act to continue to operate such offices or subsidiaries after the enactment of this Act.

Determining home State of foreign bank. Section 5(c) of the IBA is amended to provide that any foreign bank that operates a branch, agency, subsidiary commercial bank or commercial lending company must have a home State.

Clarification of direct branching rules in the case of a foreign bank with a domestic bank subsidiary. Section 5(d) is added to the IBA to clarify that a foreign bank may establish direct branches and agencies on an interstate basis and also own or control a U.S. subsidiary bank, and that a national or State subsidiary bank of a foreign bank may acquire, establish or operate branches outside its home State to the same extent as any other national or State bank, respectively, from the subsidiary bank's home State.

Deposits That May be Accepted by Uninsured Direct Branches of Foreign Banks

Revision of regulations governing types of deposits that may be accepted by uninsured direct branches of foreign banks. The IBA was amended in 1991 to prohibit a foreign bank from establishing any new branches which take domestic retail deposits that have balances of less than $100,000 and require deposit insurance. As a result, a foreign bank must establish a U.S. subsidiary bank in order to conduct a domestic retail deposit-taking business. Regulations issued by the Federal Deposit Insurance Corporation (FDIC) and the Comptroller of the Currency under section 6 of the IBA govern the types of deposits that may be accepted by uninsured direct branches of foreign banks. To address concerns that these regulations may permit such branches to engage to some extent in domestic retail deposit-taking activity, in regard to which they are not subject to FDIC insurance coverage and assessments or to the requirements of the Community Reinvestment Act, the Conferees added a requirement that the FDIC and the Comptroller revise their regulations to ensure that foreign banking organizations do not receive an unfair competitive advantage over U.S. banking organizations.

In reviewing their regulations in accordance with this subsection, the agencies must consider whether to permit the acceptance of initial deposits of less than $100,000 only from specified types of customers. As part of this revision, the agencies must reduce—from five percent of average branch deposits to no more than one percent—the exemption that allows such branches to accept initial deposits of less than $100,000 from any party on a de minimis basis. In carrying out this revision, the agencies must take into account the importance of maintaining and improving the availability of credit to all sectors of the U.S. economy, including the international trade finance sector of the U.S. economy. The agencies must publish final regulations no later than twelve months after the date of enactment of this Act and may establish reasonable transition rules to facilitate any termination of any deposit-taking activities that were previously permissible.

Treatment of FDIC-insured banks chartered in Puerto Rico, Guam, American Samoa, Virgin Islands and U.S. territories. Section 6(d) of the IBA is amended to clarify that banks insured by the FDIC and chartered in any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands are not included as foreign banks for purposes of the requirement to establish a banking subsidiary to engage in a domestic retail deposit-taking business. This provision clarifies that such insured banks (which are also subject to CRA requirements) are to be treated like any other FDIC-insured bank for purposes of acceptance of retail deposits and are therefore not subject to the provisions of section 6(c).

Types of Activities at Offshore Shell Branches Managed and Controlled by U.S. Agencies and Branches of Foreign Banks

U.S. banking agencies do not regulate or supervise the activities of offshore shell branches of foreign banks, even if such branches are managed and controlled by U.S. agencies and branches of foreign banks. The Conferees wanted to avoid any potential for a foreign bank to use its U.S. branches or agencies to manage types of activities through offshore shell branches that could not be managed by a U.S. bank at its foreign branches or subsidiaries.

To address this concern, the Conferees added Section 7(k) to the IBA to provide that a U.S. branch or agency of a foreign bank may not, through an offshore shell branch that it manages or controls, manage types of activities that a U.S. bank is not permitted to manage at a foreign branch or subsidiary. Any regulations promulgated to carry out this section must be promulgated in accordance with section 13 of the IBA and must be uniform, to the extent practicable.

Other Foreign Bank Provisions

Application of consumer protection laws to direct branches of foreign banks. Section 9(b) of the IBA is amended to affirm that direct branches and agencies of foreign banks and commercial lending company subsidiaries are, by various statutory provisions, subject to the following consumer protection laws: Electronic Funds Transfer Act, Equal Credit Opportunity Act, Expedited Funds Availability Act, Fair Credit Billing Act, Fair Credit Reporting Act, Fair Debt Collection Practices Act, Home Mortgage Disclosure Act, Real Estate Settlement Procedures Act, Truth in Lending Act, Truth in Leasing Act, and Truth in Savings Act.

Foreign bank examination fees. Sections 7(c) and 10(c) of the International Banking Act state that the Federal Reserve Board shall assess the cost of any examination of a branch, agency or representative office of a foreign bank against the foreign bank. The conference report provides a three-year moratorium on any assessments under these sections.

COORDINATION OF EXAMINATION AUTHORITY REGARDING INTERSTATE BRANCHES

Section 105 permits the appropriate State bank supervisor of a host State to examine branches of out-of-State Banks to assure compliance with host State laws, including those governing banking, community reinvestment, fair lending, consumer protection and permissible activities, and to assure that the activities of the branch are conducted in a safe and sound manner.

The host State bank supervisor, or other host State law enforcement officer (if authorized under host State law) may take appropriate enforcement actions and proceedings regarding the branch.

State bank supervisors are permitted to enter into cooperative agreements to facilitate supervision of State banks operating interstate. Under the Senate-passed bill, such agreements would have been subject to approval of the appropriate Federal regulator. The House-passed bill had no requirement for approval. The Senate receded to the House on this issue. Both bills contained a provision that nothing in the section affected the authority of Federal banking agencies to examine branches of insured depository institutions, and the Conferees enclosed such a provision in the title.

BRANCH CLOSURES

The House-passed bill added a new section 42(d) to the Federal Deposit Insurance Act, setting forth a procedure for notice, comment, consultation with community leaders and a meeting of representatives of the appropriate Federal banking agency whenever an interstate bank proposes closing a branch in a low- or moderate-income area. The Senate-passed bill contained no comparable provision.

The House provision was amended by the Conferees to specifically include other interested agencies in the required meeting in order to include the National Credit Union Administration in the meetings for the purpose of exploring the development of the use of community development credit unions.

This section does not effect the authority of an interstate bank to close a branch, or the timing of the closing.

FEDERAL RESERVE BOARD STUDY ON BANK FEES

The Federal Reserve is required to conduct an annual survey of the fees charged by banks for retail banking services. Each report shall describe any national or state trends in the cost and availability of such services. Reports are required for seven years.

PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES

In order to assure that the new interstate branching authorities provided by the Interstate Banking and Branching Efficiency Act

of 1994 do not result in the taking of deposits from a community without concern for the credit needs of that community, section 107 requires each appropriate Federal banking agency to promulgate regulations effective June 1, 1997, prohibiting interstate branches from being used as deposit production offices. The regulations are to include guidelines to ensure that each interstate branch is reasonably helping to meet the credit needs of the community in which the branch operates.

The Conferees do not intend that section 109 creates any additional regulatory or paperwork burdens for any institution.

The regulations must require that if the percentage of loans made by an out-of-state bank in the host state relative to the deposits taken by the out-of-State bank in the host state is less than half the average of such percentage for all host-state banks, the appropriate federal banking agency shall review the loan portfolio of the bank and determine whether the out-of-state bank is reasonably helping to meet the credit needs of the community served by the bank in the host state. If the agency determines that it is not, it may order the branch to be closed and the bank which established the branch may not open to a new branch in that State, unless the bank provides reasonable assurances to the agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host state.

In making such a determination, the appropriate Federal banking agency shall consider a number of factors including whether the branch was acquired as part of the purchase of a failed or failing depository institution; whether the branch was acquired under circumstances where there was a low loan-to-deposit ratio; whether the branch has a higher concentration of commercial and credit card lending; and the ratings received by the out-of-state bank in CRA evaluations.

This provision applies to new interstate branches of national banks, state banks, and foreign banks established pursuant to this title or any amendment thereto.

COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES

For each insured institution that maintains branches in two or more states, the appropriate Federal banking agency must prepare a written evaluation (pursuant to sections 807(a), (b), and (c) of the Community Reinvestment Act) of the institution's overall CRA performance, along with separate written evaluations and ratings of the institution's CRA performance in each state in which it maintains branches. If an institution has branches in two States in a single muli-state metropolitan area, the agency will prepare a separate written evaluation of the institution's CRA performance within that metropolitan area, and adjust the state-by-state evaluations of the institution accordingly.

Each state-by-state evaluation is to present information separately for each metropolitan area (within that state) in which the institution maintains one or more branches, and separately for the nonmetropolitan area of the state if the institution has at least one branch in such non-metropolitan area.

RESTATEMENT OF EXISTING LAW

State Taxation Authority

Section 111(1) restates as part of Title I the provisions of section 7(b) of the Bank Holding Company Act of 1956 regarding state taxation authority. Section 111(2) states that nothing in the title shall be construed as affecting the existing authority of any state or political subdivision of any state to impose and maintain a nondiscriminatory franchise or other nonproperty tax on any bank, branch or bank holding company.

Applicability of Section 5197 of the Revised Statutes and Section 27 of the FDI Act

Section 111(3) specifically states that nothing in Title I affects sections 5179 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act. Accordingly, the amendments made by the Interstate Banking and Branching Efficiency Act of 1994 that authorize insured depository institutions to branch interstate do not affect existing authorities with respect to any charges under section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act imposed by national or state banks for loans or other extensions of credit made to borrowers outside the state where the bank or branch making the loan or other extension of credit is located.

GAO REPORT ON DATA COLLECTION

The Conferees adopted a Senate provision requiring a General Accounting Office report no later than 9 months after enactment on existing requirements for insured depository institutions to collect and report deposit and lending data and determine what modifications are needed so that interstate branching results in no material loss of information important to regulatory or congressional oversight of insured depository institutions. The House-passed bill had no similar provision.

PREEMPTION OF ARKANSAS USURY CEILING AS IT APPLIES TO CERTAIN LOANS

The Conferees adopted a Senate-passed provision preempting Arkansas usury limit for Consolidated Farm and Rural Development Act loans, while providing the State with a three-year period in which to reenact its limitation. The House-passed bill had no similar provision.

TITLE II—GENERAL PROVISIONS

STATUTE OF LIMITATIONS

Section 201 of the bill as adopted by the conference would permit the FDIC or the RTC, as conservator or receiver of a failed depository institution, to "revive" under certain circumstances, certain tort claims that had expired under a State statute of limitations within five years of the appointment of the conservator or receiver. This provision does not affect other applicable State laws concerning the running or the tolling of statutes of limitations (by reason of adverse domination or otherwise), nor does it alter section 11(k) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(k), as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

The revival of expired claims is an extraordinary remedy because it is a form of the retroactive application of law which the courts and Congress have generally disfavored. Accordingly, section 201 would limit this extraordinary remedy to claims arising from an egregious class of conduce, i.e., fraud, intentional misconduct resulting in unjust enrichment, and intentional misconduct resulting in substantial loss to the institution. This three-pronged, fraud/intentional misconduct standard is precisely the same as the one that Congress adopted last year, after considerable debate, with respect to a retroactive statute of limitations extension in the Resolution Trust Corporation Completion Act of 1993.

As with last year's reauthorization of the RTC, the intentional misconduct standard for revival in this provision is not intended to apply to claims arising from negligence, whether pleaded as simple, ordinary, or gross negligence. Claims arising from such negligent conduct by directors, officers, and outside professionals, such as negligent approval or review of loan applications, do not warrant the extraordinary remedy of revival if it is in the contravention of State law.

Section 201 would recognize that there is a level of misconduct which justifies Congressional actions to retroactively set aside a State statute of limitations, particularly where, for example, this misconduct involves individuals who improperly manipulated institutional affairs to prevent themselves from being brought to justice before the State period of limitations expired. This level of misconduct is reflected in particular forms of intentional behavior. The intentional misconduct standard is written to specifically include conduct such as self-dealing that result in unjust enrichment or a substantial loss to the institution, manipulation by institution insiders that results in a running of a statute of limitations, falsifying financial records that disguises increased financial loss, and conspiracy to violate banking rules or regulations.

SENSE OF THE SENATE REGARDING EXPORT CONTROLS

The Conferees adopted a Senate provision expressing the Sense of the Senate that the President should work toward establishment of a multilateral system to prevent acquisition by rogue regimes of products and technologies which could pose a threat to the national security of the United States. The House bill contained no similar provision.

AMENDMENT RELATING TO SILVER MEDALS FOR PERSIAN GULF WAR VETERANS

The purpose of the LaRocco Amendment is to permit the Secretary of the Treasury to begin production of the Persian Gulf silver medals, which were authorized by the 102nd Congress and signed into law by President Bush. These medals are in recognition of service rendered to the nation by members of the U.S. Armed Forces who served in the Gulf War. The amendment will allow the Secretary of the Treasury to use funds that have already been generated through ongoing sales of bronze replicas to begin production and continue so long as funds remain available.

COMMEMORATION OF 1995 SPECIAL OLYMPICS WORLD GAMES

The 1995 Special Olympics World Games Commemorative Coin Act authorizes the issuance of 800,000 one-dollar silver coins, which will be emblematic of the 1995 Special Olympics World Games. The coins will be issued during the period beginning on January 15, 1995 and ending on December 31, 1995, and will result in no net cost to the United States Government. The dates of issuance are not intended to conflict with any other coins authorized under this Act.

The 1995 Special Olympics World Games will be held July 1–9, 1995 in New Haven, CT and will attract more than 6,500 athletes from around the world. Funds raised through the ten dollar surcharge on the sale of each coin will be used to: (1) provide a world-class sporting event for athletes with mental retardation; (2) demonstrate to a global audience the talents, dedication and courage of persons with mental retardation; and (3) underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

NATIONAL COMMUNITY SERVICE COMMEMORATIVE COINS

The National Community Service Commemorative Coin Act authorizes the issuance of 500,000 one-dollar silver commemorative coins, which will be emblematic of community service volunteers. The coins will be issued for a period of no less than six months, and no more than 12 months, beginning no later than September 1, 1996, and will result in no net cost to the United States Government.

Funds raised through the ten dollar surcharge on the sale of each coin will be paid to the National Community Service Trust for the purpose of funding innovative community service programs at American universities, including the service, research, and teaching activities of faculty and students involved in such programs.

ROBERT F. KENNEDY MEMORIAL COMMEMORATIVE COINS

The Robert F. Kennedy Memorial Commemorative Coin Act authorizes the issuance of 500,000 one-dollar silver commemorative coins, which will be emblematic of the life and work of former Attorney General and United States Senator Robert F. Kennedy. The coins will be issued for a period of no less than six months, and no more than 12 months, beginning no later than January 1, 1998, and will result in no net cost to the United States Government.

Funds raised through the ten dollar surcharge on the sale of each coin will be used to improve the endowment of the Robert F. Kennedy Memorial.

UNITED STATES MILITARY ACADEMY BICENTENNIAL COMMEMORATIVE COIN

This legislation provides for the minting of coins to commemorate the bicentennial of the U.S. Military Academy located in West Point, New York. The Academy will celebrate its bicentennial on March 16, 2002.

The Military Academy has provided our nation with the core of its military officers. It was founded in 1802, principally as a result of the vision of George Washington. West Point has been the source of most of our Nation's great military leaders, like Robert E. Lee, Ulysses S. Grant, John Pershing, Dwight Eisenhower, and Norman Schwarzkopf. However, West Point is much more than a training school for military leaders: It has always been a national bedrock of values which are best expressed by the Academy's motto, "Duty, Honor, Country."

In the year 2002, the United States Mint will issue 500,000 silver dollars to commemorate West Point's bicentennial. The silver dollars will be struck at the United States Bullion Depository at West Point. A $10 surcharge will be added to the cost of the coins. The money raised from the surcharges will be used by the Association of Graduates to provide direct support to the academic, military, physical, moral, and ethical development programs of the Corps of Cadets at the United States Military Academy. The Association of Graduates provides important activities and programs for the Cadets in hopes of helping each young person adjust to the tough and demanding four years at West Point. These activities and programs are not funded by the taxpayers. These coins will be minted at no net cost to the government.

UNITED STATES BOTANIC GARDEN COMMEMORATIVE COINS

The United States Botanic Garden Commemorative Coin Act authorizes the issuance of 500,000 one-dollar silver commemorative coins, which will be emblematic of the 175th anniversary of the founding of the United States Botanic Garden. Although the coins will be issued beginning on January 1, 1997, and ending on December 31, 1997, the coins shall be inscribed with the years 1820–1995 in order to properly commemorate the Garden's 175th anniversary. No other dates shall appear on the coin. The issuance of these coins will result in no net cost to the United States Government.

MOUNT RUSHMORE COMMEMORATIVE COINS

In 1990, legislation was passed directing the U.S. Treasury to mint a series of Mount Rushmore commemorative coins in 1991. The legislation specified that 50 percent of the surcharge from each coin sold was to be directed to the Mount Rushmore Society to preserve the Memorial and upgrade its facilities. The other 50 percent of the surcharge was to be directed to the U.S. Treasury for the purposes of deficit reduction. At the time the legislation was passed, it was anticipated that all of the coins would be sold, providing revenues of $18,750,000 each of the Mount Rushmore Society and the U.S. Treasury.

Unfortunately, sales of the Mount Rushmore Commemorative Coins generated only $12 million. This left the Mount Rushmore Society with revenues of only $6 million—less than a third of what was anticipated and not enough to fund the Monument's preservation and improvement. This provision would direct the first $18,750,000 in surcharges to the Society, and allocate the remainder to the U.S. Treasury.

FINANCIAL SERVICES COMMISSION

The Conferees adopted a modified version of a Senate provision requiring a study of the United States financial services system. The House bill contained no similar provision.

The provision directs the Secretary of the Treasury to conduct a study of the strengths and weaknesses of the U.S. financial services system in meeting the needs of users of the system. The Secretary is to appoint between 9 and 14 members to an Advisory Commission on Financial Services, with which the Secretary is to consult in conducting the study. The Secretary is also to consult with enumerated federal agencies and officials in conducting the study. The Secretary is to report the results of the study and any recommendations not later than 15 months after the date of enactment of the legislation.

FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS

The Conferees agreed to reduce from two-thirds to a majority the proportion of the board of directors of a national bank who must reside in the same state in which the bank is located (or within 100 miles of the main office).

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOSEPH KENNEDY,
JAMES LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,

As additional conferees from the Committee on Agriculture, for consideration of sec. 109 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
CHARLIE STENHOLM,
HAROLD L. VOLKMER,
TIMOTHY J. PENNY,
TIM JOHNSON,
PAT ROBERTS,
LARRY COMBEST,
WAYNE ALLARD,

As additional conferee from the Committee on Foreign Affairs, for consideration of sec. 402 of the Senate amendment, and modifications committed to conference:

BEN GILMAN,

As additional conferees from the Committee on the Judiciary, for consideration of secs. 101–03 of the House bill, and title II and secs. 102–03 of the Senate amendment, and modifications committed to conference:

R.L. MAZZOLI,
BILL HUGHES,
JAN GLICKMAN,
RICK BOUCHER,
JOHN BRYANT,
HAMILTON FISH,
CHAS T. CANADY,
BOB GOODLATTE,

Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER DODD,
JIM SASSER,

Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 3474

Mr. GONZALEZ submitted the following conference report and statement on the bill (H.R. 3474), to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes:

CONFERENCE REPORT (H. REPT. 103–652)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474), to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Riegle Community Development and Regulatory Improvement Act of 1994".

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

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

Sec. 101. Short title.
Sec. 102. Findings and purposes.

Sec. 103. Definitions.
Sec. 104. Establishment of National Fund for Community Development Banking.
Sec. 105. Applications for assistance.
Sec. 106. Community partnerships.
Sec. 107. Selection of institutions.
Sec. 108. Assistance provided by the Fund.
Sec. 109. Training.
Sec. 110. Encouragement of private entities.
Sec. 111. Collection and compilation of information.
Sec. 112. Investment of receipts and proceeds.
Sec. 113. Capitalization assistance to enhance liquidity.
Sec. 114. Incentives for depository institution participation.
Sec. 115. Recordkeeping.
Sec. 116. Special provisions with respect to institutions that are supervised by Federal banking agencies.
Sec. 117. Studies and reports; examination and audit.
Sec. 118. Inspector General.
Sec. 119. Enforcement.
Sec. 120. Community Development Revolving Loan Fund for credit unions.
Sec. 121. Authorization of appropriations.

Subtitle B—Home Ownership and Equity Protection

Sec. 151. Short title.
Sec. 152. Consumer protections for certain mortgages.
Sec. 153. Civil liability.
Sec. 154. Reverse mortgage disclosure.
Sec. 155. Regulations.
Sec. 156. Applicability.
Sec. 157. Federal Reserve study.
Sec. 158. Hearings on home equity lending.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A—Small Business Loan Securitization

Sec. 201. Short title.
Sec. 202. Small business related security.
Sec. 203. Applicability of margin requirements.
Sec. 204. Borrowing in the course of business.
Sec. 205. Small business related securities as collateral.
Sec. 206. Investment by depository institutions.
Sec. 207. Preemption of State law.
Sec. 208. Insured depository institution capital requirements for transfers of small business obligations.
Sec. 209. Joint study on the impact of additional securities based on pooled obligations.
Sec. 210. Consistent use of financial terminology.

Subtitle B—Small Business Capital Enhancement

Sec. 251. Findings and purposes.
Sec. 252. Definitions.
Sec. 253. Approving States for participation.
Sec. 254. Participation agreements.
Sec. 255. Terms of participation agreements.
Sec. 256. Reports.
Sec. 257. Reimbursement by the Fund.
Sec. 258. Reimbursement to the Fund.
Sec. 259. Regulations.
Sec. 260. Authorization of appropriations.
Sec. 261. Effective date.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

Sec. 301. Incorporated definitions.
Sec. 302. Administrative consideration of burden with new regulations.
Sec. 303. Streamlining of regulatory requirements.
Sec. 304. Elimination of duplicative filings.
Sec. 305. Coordinated and unified examinations.
Sec. 306. Eighteen-month examination rule for certain small institutions.
Sec. 307. Call report simplification.
Sec. 308. Repeal of publication requirements.
Sec. 309. Regulatory appeals process, ombudsman, and alternative dispute resolution.
Sec. 310. Electronic filing of currency transaction reports.
Sec. 311. Bank Secrecy Act publication requirements.
Sec. 312. Exemption of business loans from Real Estate Settlement Procedures Act requirements.
Sec. 313. Flexibility in choosing boards of directors.
Sec. 314. Holding company audit requirements.
Sec. 315. State regulation of real estate appraisals.
Sec. 316. Acceleration of effective date for interaffiliate transactions.
Sec. 317. Collateralization of public deposits.
Sec. 318. Modification of regulatory provisions.
Sec. 319. Expedited procedures.
Sec. 320. Exemption of certain holding company formations from registration under the Securities Act of 1933.
Sec. 321. Reduction of post-approval waiting periods for certain acquisitions and mergers.
Sec. 322. Bankers' banks.
Sec. 323. Bank Service Corporation Act amendment.
Sec. 324. Merger transaction reports.
Sec. 325. Credit card accounts receivable sales.
Sec. 326. Limiting potential liability on foreign accounts.
Sec. 327. GAO reports.
Sec. 328. Study and report on capital standards and their impact on the economy.
Sec. 329. Study on the impact of the payment of interest on reserves.
Sec. 330. Study and report on the consumer credit system.
Sec. 331. Clarification of provisions relating to administrative autonomy.
Sec. 332. Exemption for business accounts.
Sec. 333. Study on check-related fraud.
Sec. 334. Insider lending.
Sec. 335. Revisions of standards.
Sec. 336. Alternative rules for radio advertising.
Sec. 337. Deposit broker registration.
Sec. 338. Amendments to the Depository Institution Management Interlocks Act.
Sec. 339. Adverse information about consumers.
Sec. 340. Simplified disclosure for existing depositors.
Sec. 341. Feasibility study of data bank.
Sec. 342. Timely completion of CRA review.
Sec. 343. Time limit on agency consideration of completed applications.
Sec. 344. Waiver of right of rescission for certain refinancing transactions.
Sec. 345. Clarification of RESPA disclosure requirements.
Sec. 346. Notice procedures for bank holding companies to seek approval to engage in certain activities.
Sec. 347. Commercial mortgage related securities.
Sec. 348. Clarifying amendment relating to data collection.
Sec. 349. Guidelines for examinations.
Sec. 350. Revising regulatory requirements for transfers of all types of assets with recourse.

TITLE IV—MONEY LAUNDERING

Sec. 401. Short title.
Sec. 402. Reform of CTR exemption requirements to reduce number and size of reports consistent with effective law enforcement.
Sec. 403. Single designee for reporting of suspicious transactions.
Sec. 404. Improvement of identification of money laundering schemes.
Sec. 405. Negotiable instruments drawn on foreign banks subject to recordkeeping and reporting requirements.
Sec. 406. Imposition of civil money penalties by appropriate Federal banking agencies.
Sec. 407. Uniform State licensing and regulation of check cashing, currency exchange, and money transmitting businesses.
Sec. 408. Registration of money transmitting businesses to promote effective law enforcement.
Sec. 409. Uniform Federal regulation of casinos.
Sec. 410. Authority to grant exemptions to States with effective regulation and enforcement.
Sec. 411. Criminal and civil penalties for structuring domestic and international transactions.
Sec. 412. GAO study of cashiers' checks.
Sec. 413. Technical amendments and corrections.

TITLE V—NATIONAL FLOOD INSURANCE REFORM

Sec. 501. Short title.

Subtitle A—Definitions

Sec. 511. Flood Disaster Protection Act of 1973.
Sec. 512. National Flood Insurance Act of 1968.

Subtitle B—Compliance and Increased Participation

Sec. 521. Nonwaiver of flood purchase requirement for recipients of Federal disaster assistance.
Sec. 522. Expanded flood insurance purchase requirements.
Sec. 523. Escrow of flood insurance payments.
Sec. 524. Placement of flood insurance by lenders.
Sec. 525. Penalties for failure to require flood insurance or notify.
Sec. 526. Fees for determining applicability of flood insurance purchase requirements.
Sec. 527. Notice requirements.
Sec. 528. Standard hazard determination forms.
Sec. 529. Examinations regarding compliance.
Sec. 530. Financial Institutions Examination Council.
Sec. 531. Clerical amendment.

Subtitle C—Ratings and Incentives for Community Floodplain Management Programs

Sec. 541. Community rating system and incentives for community floodplain management.
Sec. 542. Funding.

Subtitle D—Mitigation of Flood Risks

Sec. 551. Repeal of flooded property purchase and loan program.
Sec. 552. Termination of erosion-threatened structures program.
Sec. 553. Mitigation assistance program.
Sec. 554. Establishment of National Flood Mitigation Fund.
Sec. 555. Additional coverage for compliance with land use and control measures.

Subtitle E—Task Forces

Sec. 561. Flood Insurance Interagency Task Force.
Sec. 562. Task Force on Natural and Beneficial Functions of the Floodplain.

Subtitle F—Miscellaneous Provisions

Sec. 571. Extension of flood insurance program.
Sec. 572. Limitation on premium increases.
Sec. 573. Maximum flood insurance coverage amounts.
Sec. 574. Flood insurance program arrangements with private insurance entities.

Sec. 575. Updating of flood maps.
Sec. 576. Technical Mapping Advisory Council.
Sec. 577. Evaluation of erosion hazards.
Sec. 578. Study of economic effects of charging actuarially based premium rates for pre-FIRM structures.
Sec. 579. Effective dates of policies.
Sec. 580. Agricultural structures.
Sec. 581. Implementation review by Director.
Sec. 582. Prohibited flood disaster assistance.
Sec. 583. Regulations.
Sec. 584. Relation to State and local laws.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Oversight hearings.
Sec. 602. Technical amendments to the Federal banking laws.

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Community Development Banking and Financial Institutions Act of 1994".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) many of the Nation's urban, rural, and Native American communities face critical social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment and other opportunities;

(2) the restoration and maintenance of the economies of these communities will require coordinated development strategies, intensive supportive services, and increased access to equity investments and loans for development activities, including investment in businesses, housing, commercial real estate, human development, and other activities that promote the long-term economic and social viability of the community; and

(3) community development financial institutions have proven their ability to identify and respond to community needs for equity investments, loans, and development services.

(b) PURPOSE.—The purpose of this subtitle is to create a Community Development Financial Institutions Fund to promote economic revitalization and community development through investment in and assistance to community development financial institutions, including enhancing the liquidity of community development financial institutions.

SEC. 103. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Fund appointed under section 104(b).

(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act, and also includes the National Credit Union Administration Board with respect to insured credit unions.

(3) AFFILIATE.—The term "affiliate" has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

(4) BOARD.—The term "Board" means the Community Development Advisory Board established under section 104(d).

(5) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term "community development financial institution" means a person (other than an individual) that—

(i) has a primary mission of promoting community development;

(ii) serves an investment area or targeted population;

(iii) provides development services in conjunction with equity investments or loans, directly or through a subsidiary or affiliate;

(iv) maintains, through representation on its governing board or otherwise, accountability to residents of its investment area or targeted population; and

(v) is not an agency or instrumentality of the United States, or of any State or political subdivision of a State.

(B) CONDITIONS FOR QUALIFICATION OF HOLDING COMPANIES.—

(i) CONSOLIDATED TREATMENT.—A depository institution holding company may qualify as a community development financial institution only if the holding company and the subsidiaries and affiliates of the holding company collectively satisfy the requirements of subparagraph (A).

(ii) EXCLUSION OF SUBSIDIARY OR AFFILIATE FOR FAILURE TO MEET CONSOLIDATED TREATMENT RULE.—No subsidiary or affiliate of a depository institution holding company may qualify as a community development financial institution if the holding company and the subsidiaries and affiliates of the holding company do not collectively meet the requirements of subparagraph (A).

(C) CONDITIONS FOR SUBSIDIARIES.—No subsidiary of an insured depository institution may qualify as a community development financial institution if the insured depository institution and its subsidiaries do not collectively meet the requirements of subparagraph (A).

(6) COMMUNITY PARTNER.—The term "community partner" means a person (other than an individual) that provides loans, equity investments, or development services, including a depository institution holding company, an insured depository institution, an insured credit union, a nonprofit organization, a State or local government agency, a quasi-governmental entity, and an investment company authorized to operate pursuant to the Small Business Investment Act of 1958.

(7) COMMUNITY PARTNERSHIP.—The term "community partnership" means an agreement between a community development financial institution and a community partner to provide development services, loans, or equity investments, to an investment area or targeted population.

(8) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(9) DEVELOPMENT SERVICES.—The term "development services" means activities that promote community development and are integral to lending or investment activities, including—

(A) business planning;

(B) financial and credit counseling; and

(C) marketing and management assistance.

(10) FUND.—The term "Fund" means the Community Development Financial Institutions Fund established under section 104(a).

(11) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning as in section 4(10) of the Indian Child Welfare Act of 1978, and shall include land held by incorporated Native groups, regional corporations, and village corporations, as defined in or established pursuant to the Alaska Native Claims Settlement Act, public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

(12) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, pueblo, 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, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(13) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term "insured community development financial institution" means any community development financial institution that is an insured depository institution or an insured credit union.

(14) INSURED CREDIT UNION.—The term "insured credit union" has the same meaning as in section 101(7) of the Federal Credit Union Act.

(15) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(16) INVESTMENT AREA.—The term "investment area" means a geographic area (or areas) including an Indian reservation that—

(A)(i) meets objective criteria of economic distress developed by the Fund, which may include the percentage of low-income families or the extent of poverty, the rate of unemployment or underemployment, rural population outmigration, lag in population growth, and extent of blight and disinvestment; and

(ii) has significant unmet needs for loans or equity investments; or

(B) encompasses or is located in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986.

(17) LOW-INCOME.—The term "low-income" means having an income, adjusted for family size, of not more than—

(A) for metropolitan areas, 80 percent of the area median income; and

(B) for nonmetropolitan areas, the greater of—

(i) 80 percent of the area median income; or

(ii) 80 percent of the statewide nonmetropolitan area median income.

(18) STATE.—The term "State" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(19) SUBSIDIARY.—The term "subsidiary" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that a community development financial institution that is a corporation shall not be considered to be a subsidiary of any insured depository institution or depository institution holding company that controls less than 25 percent of any class of the voting shares of such corporation, and does not otherwise control in any manner the election of a majority of the directors of the corporation.

(20) TARGETED POPULATION.—The term "targeted population" means individuals, or an identifiable group of individuals, including an Indian tribe, who—

(A) are low-income persons; or

(B) otherwise lack adequate access to loans or equity investments.

(21) TRAINING PROGRAM.—The term "training program" means the training program operated by the Fund under section 109.

SEC. 104. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY DEVELOPMENT BANKING.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a corporation to be known as the Community Development Financial Institutions Fund that shall have the duties and responsibilities specified by this subtitle and subtitle B of title II. The Fund shall have succession until dissolved. The offices of the Fund shall be in Washington, D.C. The Fund shall not be affiliated with or be within any other agency or department of the Federal Government.

(2) WHOLLY OWNED GOVERNMENT CORPORATION.—The Fund shall be a wholly owned Government corporation in the executive branch and shall be treated in all respects as an agency of the United States, except as otherwise provided in this subtitle.

(b) MANAGEMENT OF FUND.—

(1) APPOINTMENT OF ADMINISTRATOR.—The management of the Fund shall be vested in an

Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall not engage in any other business or employment during service as the Administrator.

(2) CHIEF FINANCIAL OFFICER.—The Administrator shall appoint a chief financial officer, who shall have the authority and functions of an agency Chief Financial Officer under section 902 of title 31, United States Code. In the event of a vacancy in the position of the Administrator or during the absence or disability of the Administrator, the chief financial officer shall perform the duties of the position of Administrator.

(3) OTHER OFFICERS AND EMPLOYEES.—The Administrator may appoint such other officers and employees of the Fund as the Administrator determines to be necessary or appropriate.

(4) EXPEDITED HIRING.—During the 2-year period beginning on the date of enactment of this Act, the Administrator may—

(A) appoint and terminate the individuals referred to in paragraphs (2) and (3) without regard to the civil service laws and regulations; and

(B) fix the compensation of the individuals referred to in paragraph (3) 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 such individuals may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) GENERAL POWERS.—In carrying out the functions of the Fund, the Administrator—

(1) shall have all necessary and proper authority to carry out this subtitle and subtitle B of title II;

(2) shall have the power to adopt, alter, and use a corporate seal for the Fund, which shall be judicially noticed;

(3) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which business of the Fund may be conducted and such rules and regulations as may be necessary or appropriate to implement this subtitle and subtitle B of title II;

(4) may enter into, perform, and enforce such agreements, contracts, and transactions as may be deemed necessary or appropriate to the conduct of activities authorized under this subtitle and subtitle B of title II;

(5) may determine the character of and necessity for expenditures of the Fund and the manner in which they shall be incurred, allowed, and paid;

(6) may utilize or employ the services of personnel of any agency or instrumentality of the United States with the consent of the agency or instrumentality concerned on a reimbursable or nonreimbursable basis; and

(7) may execute all instruments necessary or appropriate in the exercise of any of the functions of the Fund under this subtitle and subtitle B of title II and may delegate to the officers of the Fund such of the powers and responsibilities of the Administrator as the Administrator deems necessary or appropriate for the administration of the Fund.

(d) ADVISORY BOARD.—

(1) ESTABLISHMENT.—There is established an advisory board to the Fund to be known as the Community Development Advisory Board, which shall be operated in accordance with the provisions of the Federal Advisory Committee Act, except that section 14 of that Act does not apply to the Board.

(2) MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) the Secretary of Agriculture or his or her designee;

(B) the Secretary of Commerce or his or her designee;

(C) the Secretary of Housing and Urban Development or his or her designee;

(D) the Secretary of the Interior or his or her designee;

(E) the Secretary of the Treasury or his or her designee;

(F) the Administrator of the Small Business Administration or his or her designee; and

(G) 9 private citizens, appointed by the President, who shall be selected, to the maximum extent practicable, to provide for national geographic representation and racial, ethnic, and gender diversity, including—

(i) 2 individuals who are officers of existing community development financial institutions;

(ii) 2 individuals who are officers of insured depository institutions;

(iii) 2 individuals who are officers of national consumer or public interest organizations;

(iv) 2 individuals who have expertise in community development; and

(v) 1 individual who has personal experience and specialized expertise in the unique lending and community development issues confronted by Indian tribes on Indian reservations.

(3) CHAIRPERSON.—The members of the Board specified in paragraph (2)(G) shall select, by majority vote, a chairperson of the Board, who shall serve for a term of 2 years.

(4) BOARD FUNCTION.—It shall be the function of the Board to advise the Administrator on the policies of the Fund regarding activities under this subtitle. The Board shall not advise the Administrator on the granting or denial of any particular application.

(5) TERMS OF PRIVATE MEMBERS.—

(A) IN GENERAL.—Each member of the Board appointed under paragraph (2)(G) shall serve for a term of 4 years.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the previous member was appointed shall be appointed for the remainder of such term. Members may continue to serve following the expiration of their terms until a successor is appointed.

(6) MEETINGS.—The Board shall meet at least annually and at such other times as requested by the Administrator or the chairperson. A majority of the members of the Board shall constitute a quorum.

(7) REIMBURSEMENT FOR EXPENSES.—The members of the Board may receive reimbursement for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with the Federal Advisory Committee Act.

(8) COSTS AND EXPENSES.—The Fund shall provide to the Board all necessary staff and facilities.

(e) CONFORMING AMENDMENTS.—Section 9101(3) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (B) through (M) as subparagraphs (C) through (N), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) the Community Development Financial Institutions Fund;".

(f) GOVERNMENT CORPORATION CONTROL ACT EXEMPTION.—Section 9107(b) of title 31, United States Code, shall not apply to deposits of the Fund made pursuant to section 108.

(g) LIMITATION OF FUND AND FEDERAL LIABILITY.—The liability of the Fund and the United States Government arising out of any investment in a community development financial institution in accordance with this subtitle shall be limited to the amount of the investment. The Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, Territory, or the District of Columbia. Nothing in this subsection shall affect the application of any Federal tax law.

(h) PROHIBITION ON ISSUANCE OF SECURITIES.—The Fund may not issue stock, bonds, debentures, notes, or other securities.

(i) COMPENSATION.—Title 5, United States Code, is amended in section 5313, by adding at the end the following:

"Administrator of the Community Development Financial Institutions Fund.".

(j) ASSISTED INSTITUTIONS NOT UNITED STATES INSTRUMENTALITIES.—A community development financial institution or other organization that receives assistance pursuant to this subtitle shall not be deemed to be an agency, department, or instrumentality of the United States.

(k) TRANSITION PERIOD.—

(1) IN GENERAL.—During the transition period, the Secretary of the Treasury may—

(A) assist in the establishment of the administrative functions of the Fund listed in paragraph (2); and

(B) hire not more than 6 individuals to serve as employees of the Fund during the transition period;

(2) CONTINUED SERVICE.—Individuals hired in accordance with paragraph (1)(B) may continue to serve as employees of the Fund after the transition period.

(3) ADMINISTRATIVE FUNCTIONS.—The administrative functions referred to in paragraph (1)(A) shall be limited to—

(A) establishing accounting, information, and recordkeeping systems for the Fund; and

(B) procuring office space, equipment, and supplies.

(4) EXPEDITED HIRING.—During the transition period, the Secretary of the Treasury may—

(A) appoint and terminate the individuals referred to in paragraph (1)(B) without regard to the civil service laws and regulations; and

(B) fix the compensation of the individuals referred to in paragraph (1)(B) 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 such individuals may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CERTAIN EMPLOYEES.—During the transition period, employees of the Department of the Treasury may only comprise less than one-half of the total number of individuals hired in accordance with paragraph (1)(B).

(6) TRANSITION EXPENSES.—Amounts previously appropriated to the Department of the Treasury may be used to pay obligations and expenses of the Fund incurred under this section, and such amounts may be reimbursed by the Fund to the Department of the Treasury from amounts appropriated to the Fund for fiscal year 1995.

(7) DEFINITION.—For purposes of this subsection, the term "transition period" means the period beginning on the date of enactment of this Act and ending on the date on which the Administrator is appointed.

SEC. 105. APPLICATIONS FOR ASSISTANCE.

(a) FORM AND PROCEDURES.—An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

(b) MINIMUM REQUIREMENTS.—Except as provided in sections 106 and 113, the Fund shall require an application—

(1) to establish that the applicant is, or will be, a community development financial institution;

(2) to include a comprehensive strategic plan for the organization that contains—

(A) a business plan of not less than 5 years in duration that demonstrates that the applicant

will be properly managed and will have the capacity to operate as a community development financial institution that will not be dependent upon assistance from the Fund for continued viability;

(B) an analysis of the needs of the investment area or targeted population and a strategy for how the applicant will attempt to meet those needs;

(C) a plan to coordinate use of assistance from the Fund with existing Federal, State, local, and tribal government assistance programs, and private sector financial services;

(D) an explanation of how the proposed activities of the applicant are consistent with existing economic, community, and housing development plans adopted by or applicable to an investment area or targeted population; and

(E) a description of how the applicant will coordinate with community organizations and financial institutions which will provide equity investments, loans, secondary markets, or other services to investment areas or targeted populations;

(3) to include a detailed description of the applicant's plans and likely sources of funds to match the amount of assistance requested from the Fund;

(4) in the case of an applicant that has previously received assistance under this subtitle, to demonstrate that the applicant—

(A) has substantially met its performance goals and otherwise carried out its responsibilities under this subtitle and the assistance agreement; and

(B) will expand its operations into a new investment area or serve a new targeted population, offer more products or services, or increase the volume of its business;

(5) in the case of an applicant with a prior history of serving investment areas or targeted populations, to demonstrate that the applicant—

(A) has a record of success in serving investment areas or targeted populations; and

(B) will expand its operations into a new investment area or to serve a new targeted population, offer more products or services, or increase the volume of its current business; and

(6) to include such other information as the Fund deems appropriate.

(c) PREAPPLICATION OUTREACH PROGRAM.—The Fund shall provide an outreach program to identify and provide information to potential applicants and may provide technical assistance to potential applicants, but shall not assist in the preparation of any application.

SEC. 106. COMMUNITY PARTNERSHIPS.

(a) APPLICATION.—An application for assistance may be filed jointly by a community development financial institution and a community partner to carry out a community partnership.

(b) APPLICATION REQUIREMENTS.—The Fund shall require a community partnership application—

(1) to meet the minimum requirements established for community development financial institutions under section 105(b), except that the criteria specified in paragraphs (1) and (2)(A) of section 105(b) shall not apply to the community partner;

(2) to describe how each coapplicant will participate in carrying out the community partnership and how the partnership will enhance activities serving the investment area or targeted population; and

(3) to demonstrate that the community partnership activities are consistent with the strategic plan submitted by the community development financial institution coapplicant.

(c) SELECTION CRITERIA.—The Fund shall consider a community partnership application based on—

(1) the community development financial institution coapplicant—

(A) meeting the minimum selection criteria described in section 105; and

(B) satisfying the selection criteria of section 107;

(2) the extent to which the community partner coapplicant will participate in carrying out the partnership;

(3) the extent to which the community partnership will enhance the likelihood of success of the community development financial institution coapplicant's strategic plan; and

(4) the extent to which service to the investment area or targeted population will be better performed by a partnership as opposed to the individual community development financial institution coapplicant.

(d) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—Assistance provided upon approval of an application under this section shall be distributed only to the community development financial institution coapplicant, and shall not be used to fund any activities carried out directly by the community partner or an affiliate or subsidiary thereof.

(e) OTHER REQUIREMENTS AND LIMITATIONS.—All other requirements and limitations imposed by this subtitle on a community development financial institution assisted under this subtitle shall apply (in the manner that the Fund determines to be appropriate) to assistance provided to carry out community partnerships. The Fund may establish additional guidelines and restrictions on the use of Federal funds to carry out community partnerships.

SEC. 107. SELECTION OF INSTITUTIONS.

(a) SELECTION CRITERIA.—Except as provided in section 113, the Fund shall, in its sole discretion, select community development financial institution applicants meeting the requirements of section 105 for assistance based on—

(1) the likelihood of success of the applicant in meeting the goals of its comprehensive strategic plan;

(2) the experience and background of the management team;

(3) the extent of need for equity investments, loans, and development services within the investment areas or targeted populations;

(4) the extent of economic distress within the investment areas or the extent of need within the targeted populations, as those factors are measured by objective criteria;

(5) the extent to which the applicant will concentrate its activities on serving its investment areas or targeted populations;

(6) the amount of firm commitments to meet or exceed the matching requirements and the likely success of the plan for raising the balance of the match;

(7) the extent to which the matching funds are derived from private sources;

(8) the extent to which the proposed activities will expand economic opportunities within the investment areas or the targeted populations;

(9) whether the applicant is, or will become, an insured community development financial institution;

(10) the extent of support from the investment areas or targeted populations;

(11) the extent to which the applicant is, or will be, community-owned or community-governed;

(12) the extent to which the applicant will increase its resources through coordination with other institutions or participation in a secondary market;

(13) in the case of an applicant with a prior history of serving investment areas or targeted populations, the extent of success in serving them; and

(14) other factors deemed to be appropriate by the Fund.

(b) GEOGRAPHIC DIVERSITY.—In selecting applicants for assistance, the Fund shall seek to fund a geographically diverse group of applicants, which shall include applicants from metropolitan, nonmetropolitan, and rural areas.

SEC. 108. ASSISTANCE PROVIDED BY THE FUND.

(a) FORMS OF ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide—

(A) financial assistance through equity investments, deposits, credit union shares, loans, and grants; and

(B) technical assistance—

(i) directly;

(ii) through grants; or

(iii) by contracting with organizations that possess expertise in community development finance, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

(2) EQUITY INVESTMENTS.—

(A) LIMITATION ON EQUITY INVESTMENTS.—The Fund shall not own more than 50 percent of the equity of a community development financial institution and may not control the operations of such institution. The Fund may hold only transferable, nonvoting equity investments in the institution. Such equity investments may provide for convertibility to voting stock upon transfer by the Fund.

(B) FUND DEEMED NOT TO CONTROL.—Notwithstanding any other provision of law, the Fund shall not be deemed to control a community development financial institution by reason of any assistance provided under this subtitle for the purpose of any other applicable law to the extent that the Fund complies with subparagraph (A). Nothing in this subparagraph shall affect the application of any Federal tax law.

(3) DEPOSITS.—Deposits made pursuant to this section in an insured community development financial institution shall not be subject to any requirement for collateral or security.

(4) LIMITATIONS ON OBLIGATIONS.—Direct loan obligations may be incurred by the Fund only to the extent that appropriations of budget authority to cover their cost, as defined in section 502(5) of the Congressional Budget Act of 1974, are made in advance.

(b) USES OF FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Financial assistance made available under this subtitle may be used by assisted community development financial institutions to serve investment areas or targeted populations by developing or supporting—

(A) commercial facilities that promote revitalization, community stability, or job creation or retention;

(B) businesses that—

(i) provide jobs for low-income people or are owned by low-income people; or

(ii) enhance the availability of products and services to low-income people;

(C) community facilities;

(D) the provision of basic financial services;

(E) housing that is principally affordable to low-income people, except that assistance used to facilitate homeownership shall only be used for services and lending products—

(i) that serve low-income people; and

(ii) that—

(I) are not provided by other lenders in the area; or

(II) complement the services and lending products provided by other lenders that serve the investment area or targeted population; and

(F) other businesses and activities deemed appropriate by the Fund.

(2) LIMITATIONS.—No assistance made available under this subtitle may be expended by a community development financial institution (or an organization receiving assistance under section 113) to pay any person to influence or attempt to influence any agency, elected official, officer, or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or

modification of any State or local government contract, grant, loan, or cooperative agreement (as such terms are defined in section 1352 of title 31, United States Code).

(c) USES OF TECHNICAL ASSISTANCE.—

(1) TYPES OF ACTIVITIES.—Technical assistance may be used for activities that enhance the capacity of a community development financial institution, such as training of management and other personnel and development of programs and investment or loan products.

(2) AVAILABILITY OF TECHNICAL ASSISTANCE.—The Fund may provide technical assistance, regardless of whether or not the recipient also receives financial assistance under this section.

(d) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Fund may provide not more than $5,000,000 of assistance, in the aggregate, during any 3-year period to any 1 community development financial institution and its subsidiaries and affiliates.

(2) EXCEPTION.—The Fund may provide not more than $3,750,000 of assistance in addition to the amount specified in paragraph (1) during the same 3-year period to an existing community development financial institution that proposes to establish a subsidiary or affiliate for the purpose of serving an investment area or targeted population outside of any State and outside of any metropolitan area presently served by the institution, if—

(A) the subsidiary or affiliate—

(i) would be a community development financial institution; and

(ii) independently—

(I) meets the selection criteria described in section 105; and

(II) satisfies the selection criteria of section 107; and

(B) no other application for assistance to serve the investment area or targeted population has been submitted to the Administrator within a reasonable period of time preceding the date of receipt of the application at issue.

(3) TIMING OF ASSISTANCE.—Assistance may be provided as described in paragraphs (1) and (2) in a lump sum or over a period of time, as determined by the Fund.

(e) MATCHING REQUIREMENTS.—

(1) IN GENERAL.—Assistance other than technical assistance shall be matched with funds from sources other than the Federal Government on the basis of not less than one dollar for each dollar provided by the Fund. Such matching funds shall be at least comparable in form and value to assistance provided by the Fund. The Fund shall provide no assistance (other than technical assistance) until a community development financial institution has secured firm commitments for the matching funds required.

(2) EXCEPTION.—In the case of an applicant with severe constraints on available sources of matching funds, the Fund may permit an applicant to comply with the matching requirements of paragraph (1) by—

(A) reducing such matching requirement by 50 percent; or

(B) permitting an applicant to provide matching funds in a form to be determined at the discretion of the Fund, if such applicant—

(i) has total assets of less than $100,000;

(ii) serves nonmetropolitan or rural areas; and

(iii) is not requesting more than $25,000 in assistance.

(3) LIMITATION.—Not more than 25 percent of the total funds disbursed in any fiscal year by the Fund may be matched as authorized under paragraph (2).

(4) CONSTRUCTION OF "FEDERAL GOVERNMENT FUNDS".—For purposes of this subsection, notwithstanding section 105(a)(9) of the Housing and Community Development Act of 1974, funds provided pursuant to such Act shall be considered to be Federal Government funds.

(f) TERMS AND CONDITIONS.—

(1) SOUNDNESS OF UNREGULATED INSTITUTIONS.—The Fund shall—

(A) ensure, to the maximum extent practicable, that each community development financial institution (other than an insured community development financial institution or depository institution holding company) assisted under this subtitle is financially and managerially sound and maintains appropriate internal controls;

(B) require such institution to submit, not less than once during each 18-month period, a statement of financial condition audited by an independent certified public accountant as part of the report required by section 115(e)(1); and

(C) require that all assistance granted under this section is used by the community development financial institution or community development partnership in a manner consistent with the purposes of this subtitle.

(2) ASSISTANCE AGREEMENT.—

(A) IN GENERAL.—Before providing any assistance under this subtitle, the Fund and each community development financial institution to be assisted shall enter into an agreement that requires the institution to comply with performance goals and abide by other terms and conditions pertinent to assistance received under this subtitle.

(B) PERFORMANCE GOALS.—Performance goals shall be negotiated between the Fund and each community development financial institution receiving assistance based upon the strategic plan submitted pursuant to section 105(b)(2). Such goals may be modified with the consent of the parties, or as provided in subparagraph (C). Performance goals for insured community development financial institutions shall be determined in consultation with the appropriate Federal banking agency.

(C) SANCTIONS.—The agreement shall provide that, in the event of fraud, mismanagement, noncompliance with this subtitle, or noncompliance with the terms of the agreement, the Fund, in its discretion, may—

(i) require changes to the performance goals imposed pursuant to subparagraph (B);

(ii) require changes to the strategic plan submitted pursuant to section 105(b)(2);

(iii) revoke approval of the application;

(iv) reduce or terminate assistance;

(v) require repayment of assistance;

(vi) bar an applicant from reapplying for assistance from the Fund; and

(vii) take such other actions as the Fund deems appropriate.

(D) CONSULTATION WITH TRIBAL GOVERNMENTS.—In reviewing the performance of any assisted community development financial institution, the investment area of which includes an Indian reservation, or the targeted population of which includes an Indian tribe, the Fund shall consult with, and seek input from, any appropriate tribal government.

(g) AUTHORITY TO SELL EQUITY INVESTMENTS AND LOANS.—The Fund may, at any time, sell its equity investments and loans, but the Fund shall retain the power to enforce limitations on assistance entered into in accordance with the requirements of this subtitle until the performance goals related to the investment or loan have been met.

(h) NO AUTHORITY TO LIMIT SUPERVISION AND REGULATION.—Nothing in this subtitle shall affect any authority of the appropriate Federal banking agency to supervise and regulate any institution or company.

SEC. 109. TRAINING.

(a) IN GENERAL.—The Fund may operate a training program to increase the capacity and expertise of community development financial institutions and other members of the financial services industry to undertake community development finance activities.

(b) PROGRAM ACTIVITIES.—The training program shall provide educational programs to assist community development financial institutions and other members of the financial services industry in developing lending and investment products, underwriting and servicing loans, managing equity investments, and providing development services targeted to areas of economic distress, low-income persons, and persons who lack adequate access to loans and equity investments.

(c) PARTICIPATION.—The training program shall be made available to community development financial institutions and other members of the financial services industry that serve or seek to serve areas of economic distress, low-income persons, and persons who lack adequate access to loans and equity investments.

(d) CONTRACTING.—The Fund may offer the training program described in this section directly or through a contract with other organizations. The Fund may contract to provide the training program through organizations that possess special expertise in community development, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

(e) COORDINATION.—The Fund shall coordinate with other appropriate Federal departments or agencies that operate similar training programs in order to prevent duplicative efforts.

(f) REGULATORY FEE FOR PROVIDING TRAINING SERVICES.—

(1) GENERAL RULE.—The Fund may, at the discretion of the Administrator and in accordance with this subsection, assess and collect regulatory fees solely to cover the costs of the Fund in providing training services under a training program operated in accordance with this section.

(2) PERSONS SUBJECT TO FEE.—Fees may be assessed under paragraph (1) only on persons who participate in the training program.

(3) LIMITATION ON MANNER OF COLLECTION.—Fees may be assessed and collected under this subsection only in such manner as may reasonably be expected to result in the collection of an aggregate amount of fees during any fiscal year which does not exceed the aggregate costs of the Fund for such year in providing training services under a training program operated in accordance with this section.

(4) LIMITATION ON AMOUNT OF FEE.—The amount of any fee assessed under this subsection on any person may not exceed the amount which is reasonably based on the proportion of the training services provided under a training program operated in accordance with this section which relate to such person.

SEC. 110. ENCOURAGEMENT OF PRIVATE ENTITIES.

The Fund may facilitate the organization of corporations in which the Federal Government has no ownership interest. The purpose of any such entity shall be to assist community development financial institutions in a manner that is complementary to the activities of the Fund under this subtitle. Any such entity shall be managed exclusively by persons not employed by the Federal Government or any agency or instrumentality thereof, or by any State or local government or any agency or instrumentality thereof.

SEC. 111. COLLECTION AND COMPILATION OF INFORMATION.

The Fund shall—

(1) collect and compile information pertinent to community development financial institutions that will assist in creating, developing, expanding, and preserving such institutions; and

(2) make such information available to promote the purposes of this subtitle.

SEC. 112. INVESTMENT OF RECEIPTS AND PROCEEDS.

(a) ESTABLISHMENT OF ACCOUNT.—Any dividends on equity investments and proceeds from

the disposition of investments, deposits, or credit union shares that are received by the Fund as a result of assistance provided pursuant to section 108 or 113, and any fees received pursuant to section 109(f) shall be deposited and accredited to an account of the Fund in the United States Treasury (hereafter in this section referred to as "the account") established to carry out the purpose of this subtitle.

(b) INVESTMENTS.—Upon request of the Administrator, the Secretary of the Treasury shall invest amounts deposited in the account in public debt securities with maturities suitable to the needs of the Fund, as determined by the Administrator, and bearing interest at rates determined by the Secretary of the Treasury, comparable to current market yields on outstanding marketable obligations of the United States of similar maturities.

(c) AVAILABILITY.—Amounts deposited into the account and interest earned on such amounts pursuant to this section shall be available to the Fund until expended.

SEC. 113. CAPITALIZATION ASSISTANCE TO ENHANCE LIQUIDITY.

(a) ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide assistance for the purpose of providing capital to organizations to purchase loans or otherwise enhance the liquidity of community development financial institutions, if—

(A) the primary purpose of such organizations is to promote community development; and

(B) any assistance received is matched with funds—

(i) from sources other than the Federal Government;

(ii) on the basis of not less than one dollar for each dollar provided by the Fund; and

(iii) that are comparable in form and value to the assistance provided by the Fund.

(2) LIMITATION ON OTHER ASSISTANCE.—An organization that receives assistance under this section may not receive other financial or technical assistance under this subtitle.

(3) CONSTRUCTION OF FEDERAL GOVERNMENT FUNDS.—For purposes of this subsection, notwithstanding section 105(a)(9) of the Housing and Community Development Act of 1974, funds provided pursuant to such Act shall be considered to be Federal Government funds.

(b) SELECTION.—The selection of organizations to receive assistance under this section shall be at the discretion of the Fund and in accordance with criteria established by the Fund. In establishing such criteria, the Fund shall take into account the criteria contained in sections 105(b) and 107, as appropriate.

(c) AMOUNT OF ASSISTANCE.—The Fund may provide a total of not more than $5,000,000 of assistance to an organization or its subsidiaries or affiliates under this section during any 3-year period. Assistance may be provided in a lump sum or over a period of time, as determined by the Fund.

(d) AUDIT AND REPORT REQUIREMENTS.—Organizations that receive assistance from the Fund in accordance with this section shall—

(1) submit to the Fund, not less than once in every 18-month period, financial statements audited by an independent certified public accountant, as part of the report required by paragraph (2);

(2) submit an annual report on its activities; and

(3) keep such records as may be necessary to disclose the manner in which any assistance under this section is used.

(e) LIMITATIONS ON LIABILITY.—

(1) LIABILITY OF FUND.—The liability of the Fund and the United States Government arising out of the provision of assistance to any organization in accordance with this section shall be limited to the amount of such assistance. The Fund shall be exempt from any assessments and any other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, or territory. Nothing in this paragraph shall affect the application of Federal tax law.

(2) LIABILITY OF GOVERNMENT.—This section does not oblige the Federal Government, either directly or indirectly, to provide any funds to any organization assisted pursuant to this section, or to honor, reimburse, or otherwise guarantee any obligation or liability of such an organization. This section shall not be construed to imply that any such organization or any obligations or securities of any such organization are backed by the full faith and credit of the United States.

(f) USE OF PROCEEDS.—Any proceeds from the sale of loans by an organization assisted under this section shall be used by the seller for community development purposes.

SEC. 114. INCENTIVES FOR DEPOSITORY INSTITUTION PARTICIPATION.

(a) FUNCTION OF ADMINISTRATOR.—

(1) IN GENERAL.—Of any funds appropriated pursuant to the authorization in section 121(a), the funds made available for use in carrying out this section in accordance with section 121(a)(4) shall be administered by the Administrator of the Fund, in consultation with—

(A) the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and the National Credit Union Administration;

(B) the individuals named pursuant to clauses (ii) and (iv) of section 104(d)(2)(G); and

(C) any other representatives of insured depository institutions or other persons as the Administrator may determine to be appropriate.

(2) APPLICABILITY OF BANK ENTERPRISE ACT OF 1991.—Subject to subsection (b) and the consultation requirement of paragraph (1)—

(A) section 233 of the Bank Enterprise Act of 1991 shall be applicable to the Administrator, for purposes of this section, in the same manner and to the same extent that such section is applicable to the Community Enterprise Assessment Credit Board;

(B) the Administrator shall, for purposes of carrying out this section and section 233 of the Bank Enterprise Act of 1991—

(i) have all powers and rights of the Community Enterprise Assessment Credit Board under section 233 of the Bank Enterprise Act of 1991 to administer and enforce any provision of such section 233 which is applicable to the Administrator under this section; and

(ii) shall be subject to the same duties and restrictions imposed on the Community Enterprise Assessment Credit Board; and

(C) the Administrator shall—

(i) have all powers and rights of an appropriate Federal banking agency under section 233(b)(2) of the Bank Enterprise Act of 1991 to approve or disapprove the designation of qualified distressed communities for purposes of this section and provide information and assistance with respect to any such designation; and

(ii) shall be subject to the same duties imposed on the appropriate Federal banking agencies under such section 233(b)(2).

(3) AWARDS.—The Administrator shall determine the amount of assessment credits, and shall make awards of those credits.

(4) REGULATIONS AND GUIDELINES.—The Administrator may prescribe such regulations and issue such guidelines as the Administrator determines to be appropriate to carry out this section.

(5) EXCEPTIONS TO APPLICABILITY.—Notwithstanding paragraphs (1) through (4) of this subsection, subsections (a)(1) and (e)(2) of section 233 of the Bank Enterprise Act of 1991, and any other provision of the Federal Deposit Insurance Act relating to the Bank Enterprise Act of 1991, do not apply to the Administrator for purposes of this subtitle.

(b) PROVISIONS RELATING TO ADMINISTRATION OF THIS SECTION.—

(1) NEW LIFELINE ACCOUNTS.—In applying section 233 of the Bank Enterprise Act of 1991 for purposes of this section, the Administrator shall treat the provision of new lifeline accounts by an insured depository institution as an activity which is qualified to be taken into account under section 233(a)(2)(A) of such Act.

(2) DETERMINATION OF ASSESSMENT CREDIT.—For the purpose of this subtitle, section 233(a)(3) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(3)) shall be applied by substituting the following text:

"(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of an assessment credit which may be awarded to an insured depository institution to carry out the qualified activities of the institution or of the subsidiaries of the institution pursuant to this section for any semiannual period shall be equal to the sum of—

"(A) with respect to qualifying activities described in paragraph (2)(A), the amount which is equal to—

"(i) 5 percent of the sum of the amounts determined under such subparagraph, in the case of an institution which is not a community development financial institution; or

"(ii) 15 percent of the sum of the amounts determined under such subparagraph, in the case of an institution which is a community development financial institution; and

"(B) with respect to qualifying activities described in paragraph (2)(C), 15 percent of the amounts determined under such subparagraph.".

(3) ADJUSTMENT OF PERCENTAGE.—Section 233(a)(5) of the Bank Enterprise Act of 1991 shall be applied for purposes of this section by—

(A) substituting "institutions which are community development financial institutions" for "institutions which meet the community development organization requirements under section 234"; and

(B) substituting "institutions which are not community development financial institutions" for "institutions which do not meet such requirements".

(4) DESIGNATION OF QDC.—Section 233(b)(2) of the Bank Enterprise Act of 1991 shall be applied for purposes this section without regard to subparagraph (A)(ii) of such section 233(b)(2).

(5) OPERATION ON ANNUAL BASIS.—The Administrator may, in the Administrator's discretion, apply section 233 of the Bank Enterprise Act of 1991 for purposes of this section by providing community enterprise assessment credits with respect to annual periods rather than semiannual periods.

(6) OUTREACH.—The Administrator shall ensure that information about the Bank Enterprise Act of 1991 under this section is widely disseminated to all interested parties.

(7) QUALIFIED ACTIVITIES.—For the purpose of this subtitle, section 233(a)(2)(A) of the Bank Enterprise Act of 1991 shall be applied by inserting "of the increase" after "the amount".

(c) TECHNICAL AND CONFORMING AMENDMENTS TO THE BANK ENTERPRISE ACT OF 1991.—

(1) ASSISTANCE TO CDFI MAY BE TAKEN INTO ACCOUNT AS QUALIFYING ACTIVITY.—Section 233(a)(2) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(2)) is amended—

(A) in the material preceding subparagraph (A), by striking "shall be eligible" and inserting "may apply for";

(B) in subparagraph (A), by striking "financial assistance" and inserting "assistance";

(C) by striking "and" at the end of subparagraph (A);

(D) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(E) by adding at the end the following new subparagraph;

"(C) any increase during the period in the amount of new equity investments in community development financial institutions.".

(2) ADDITIONAL ASSISTANCE WHICH MAY BE CONSIDERED AS QUALIFYING ACTIVITIES.—Section 233(a)(4) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(4)) is amended—

(A) in the material preceding subparagraph (A), by striking "financial"; and

(B) by adding at the end the following new subparagraphs:

"(L) Loans made for the purpose of developing or supporting—

"(i) commercial facilities that enhance revitalization, community stability, or job creation and retention efforts;

"(ii) business creation and expansion efforts that—

"(I) create or retain jobs for low-income people;

"(II) enhance the availability of products and services to low-income people; or

"(III) create or retain businesses owned by low-income people or residents of a targeted area;

"(iii) community facilities that provide benefits to low-income people or enhance community stability;

"(iv) home ownership opportunities that are affordable to low-income households;

"(v) rental housing that is principally affordable to low-income households; and

"(vi) other activities deemed appropriate by the Board.

"(M) The provision of technical assistance to residents of qualified distressed communities in managing their personal finances through consumer education programs either sponsored or offered by insured depository institutions.

"(N) The provision of technical assistance and consulting services to newly formed small businesses located in qualified distressed communities.

"(O) The provision of technical assistance to, or servicing the loans of low- or moderate-income homeowners and homeowners located in qualified distressed communities.".

(3) RESTRICTION ON ADJUSTMENT OF PERCENTAGES.—Section 233(a)(5) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(5) is amended by striking "paragraph (3)" and inserting "paragraph(3)(A)".

(4) CREDIT LIMITED TO ORIGINATIONS BY INSTITUTIONS.—Section 233(a)(6) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(6)) is amended by striking "Investments by any insured depository institution in loans and securities" and inserting "Loans, financial assistance, and equity investments made by any insured depository institution".

(5) QUANTITATIVE ANALYSIS OF TECHNICAL ASSISTANCE.—Section 233(a) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)) is amended by adding at the end the following new paragraph:

"(7) QUANTITATIVE ANALYSIS OF TECHNICAL ASSISTANCE.—The Board may establish guidelines for analyzing the technical assistance described in subparagraphs (M), (N), and (O) of paragraph (4) for the purpose of quantifying the results of such assistance in determining the amount of any community assessment credit under this subsection.".

(6) PROHIBITION ON DOUBLE FUNDING FOR SAME ACTIVITIES.—Section 233 of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a) is amended—

(A) by redesignating subsection (g) as subsection (j); and

(B) by inserting after subsection (f) the following new subsection:

"(g) PROHIBITION ON DOUBLE FUNDING FOR SAME ACTIVITIES.—No community development financial institution may receive a community enterprise assessment credit if such institution, either directly or through a community partnership—

"(1) has received assistance within the preceding 12-month period, or has an application for assistance pending, under section 105 of the Community Development Banking and Financial Institutions Act of 1994; or

"(2) has ever received assistance, under section 108 of the Community Development Banking and Financial Institutions Act of 1994, for the same activity during the same semiannual period for which the institution seeks a community enterprise assessment credit under this section.".

(7) ADDITIONAL ADMINISTRATIVE REQUIREMENTS.—Section 233 of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a) is amended by inserting after subsection (g) (as added by paragraph (6) of this subsection) the following new subsections:

"(h) PRIORITY OF AWARDS.—

"(1) QUALIFYING LOANS AND SERVICES.—

"(A) IN GENERAL.—If the amount of funds appropriated for purposes of carrying out this section for any fiscal year are insufficient to award the amount of assessment credits for which insured depository institutions have applied and are eligible under this section, the Board shall, in awarding community enterprise assessment credits for qualifying activities under subparagraphs (A) and (B) of subsection (a)(2) for any semiannual period for which such appropriation is available, determine which institutions shall receive an award.

"(B) PRIORITY FOR SUPPORT OF EFFORTS OF CDFI.—The Board shall give priority to institutions that have supported the efforts of community development financial institutions in the qualified distressed community.

"(C) OTHER FACTORS.—The Board may also consider the following factors:

"(i) DEGREE OF DIFFICULTY.—The degree of difficulty in carrying out the activities that form the basis for the institution's application.

"(ii) COMMUNITY IMPACT.—The extent to which the activities that form the basis for the institution's application have benefited the qualified distressed community.

"(iii) INNOVATION.—The degree to which the activities that form the basis for the institution's application have incorporated innovative methods for meeting community needs.

"(iv) LEVERAGE.—The leverage ratio between the dollar amount of the activities that form the basis for the institution's application and the amount of the assessment credit calculated in accordance with this section for such activities.

"(v) SIZE.—The amount of total assets of the institution.

"(vi) NEW ENTRY.—Whether the institution had provided financial services in the designated distressed community before such semiannual period.

"(vii) NEED FOR SUBSIDY.—The degree to which the qualified activity which forms the basis for the application needs enhancement through an assessment credit.

"(viii) EXTENT OF DISTRESS IN COMMUNITY.—The degree of poverty and unemployment in the designated distressed community, the proportion of the total population of the community which are low-income families and unrelated individuals, and the extent of other adverse economic conditions in such community.

"(2) QUALIFYING INVESTMENTS.—If the amount of funds appropriated for purposes of carrying out this section for any fiscal year are insufficient to award the amount of assessment credits for which insured depository institutions have applied and are eligible under this section, the Board shall, in awarding community enterprise assessment credits for qualifying activities under subsection (a)(2)(C) for any semiannual period for which such appropriation is available, determine which institutions shall receive an award based on the leverage ratio between the dollar amount of the activities that form the basis for the institution's application and the amount of the assessment credit calculated in accordance with this section for such activities.

"(i) DETERMINATION OF AMOUNT OF ASSESSMENT CREDIT.—Notwithstanding any other provision of this section, the determination of the amount of any community enterprise assessment credit under subsection (a)(3) for any insured depository institution for any semiannual period shall be made solely at the discretion of the Board. No insured depository institution shall be awarded community enterprise assessment credits for any semiannual period in excess of an amount determined by the Board.".

(8) ADDITIONAL DEFINITIONS.—Subsection (j) of section 233 of the Bank Enterprise Act of 1991 (as redesignated by paragraph (6) of this subsection) is amended by adding at the end the following new paragraphs:

"(4) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term 'community development financial institution' has the same meaning as in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994.

"(5) AFFILIATE.—The term 'affiliate' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.".

SEC. 115. RECORDKEEPING.

(a) IN GENERAL.—A community development financial institution receiving assistance from the Fund shall keep such records, for such periods as may be prescribed by the Fund and necessary to disclose the manner in which any assistance under this subtitle is used and to demonstrate compliance with the requirements of this subtitle.

(b) USER PROFILE INFORMATION.—The Fund shall require each community development financial institution or other organization receiving assistance from the Fund to compile such data, as is determined to be appropriate by the Fund, on the gender, race, ethnicity, national origin, or other pertinent information concerning individuals that utilize the services of the assisted institution to ensure that targeted populations and low-income residents of investment areas are adequately served.

(c) ACCESS TO RECORDS.—The Fund shall have access on demand, for the purpose of determining compliance with this subtitle, to any records of a community development financial institution or other organization that receives assistance from the Fund.

(d) REVIEW.—Not less than annually, the Fund shall review the progress of each assisted community development financial institution in carrying out its strategic plan, meeting its performance goals, and satisfying the terms and conditions of its assistance agreement.

(e) REPORTING.—

(1) ANNUAL REPORTS.—The Fund shall require each community development financial institution receiving assistance under this subtitle to submit an annual report to the Fund on its activities, its financial condition, and its success in meeting performance goals, in satisfying the terms and conditions of its assistance agreement, and in complying with other requirements of this subtitle, in such form and manner as the Fund shall specify.

(2) AVAILABILITY OF REPORTS.—The Fund, after deleting or redacting any material as appropriate to protect privacy or proprietary interests, shall make such reports submitted under paragraph (1) available for public inspection.

SEC. 116. SPECIAL PROVISIONS WITH RESPECT TO INSTITUTIONS THAT ARE SUPERVISED BY FEDERAL BANKING AGENCIES.

(a) CONSULTATION WITH APPROPRIATE AGENCIES.—The Fund shall consult with and consider the views of the appropriate Federal banking agency prior to providing assistance under this subtitle to—

(1) an insured community development financial institution;

(2) any community development financial institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency; or

(3) any community development financial institution that has as its community partner an institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

(b) REQUESTS FOR INFORMATION, REPORTS, OR RECORDS.—

(1) IN GENERAL.—Except as provided in paragraph (4), notwithstanding any other provisions of this subtitle, prior to directly requesting information from or imposing reporting or recordkeeping requirements on an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, the Fund shall consult with the appropriate Federal banking agency to determine if the information requested is available from or may be obtained by such agency in the form, format, or detail required by the Fund.

(2) TIMING OF RESPONSE FROM APPROPRIATE FEDERAL BANKING AGENCY.—If the information, reports, or records requested by the Fund pursuant to paragraph (1) are not provided by the appropriate Federal banking agency in less than 15 calendar days after the date on which the material is requested, the Fund may request the information from or impose the recordkeeping or reporting requirements directly on such institutions with notice to the appropriate Federal banking agency.

(3) ELIMINATION OF DUPLICATIVE INFORMATION AND REPORTING REQUIREMENTS.—The Fund shall use any information provided the appropriate Federal banking agency under this section to the extent practicable to eliminate duplicative requests for information and reports from, and recordkeeping by an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

(4) EXCEPTION.—Notwithstanding paragraphs (1) and (2), the Fund may require an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency to provide information with respect to the institution's implementation of its strategic plan or compliance with the terms of its assistance agreement under this subtitle, after providing notice to the appropriate Federal banking agency.

(c) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this section shall be construed to permit the Fund to require an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, to obtain, maintain, or furnish an examination report of any appropriate Federal banking agency or records contained in or related to such a report.

(d) SHARING OF INFORMATION.—The Fund and the appropriate Federal banking agency shall promptly notify each other of material concerns about an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, and share appropriate information relating to such concerns.

(e) DISCLOSURE PROHIBITED.—Neither the Fund nor the appropriate Federal banking agency shall disclose confidential information obtained pursuant to this section from any party without the written consent of that party.

(f) PRIVILEGE MAINTAINED.—The Fund, the appropriate Federal banking agency, and any other party providing information under this section shall not be deemed to have waived any privilege applicable to any information or data, or any portion thereof, by providing such information or data to the other party or by permitting such data or information, or any copies or portions thereof, to be used by the other party.

(g) EXCEPTIONS.—Nothing in this section shall authorize the Fund or the appropriate Federal banking agency to withhold information from the Congress or prevent it from complying with a request for information from a Federal department or agency in compliance with applicable law.

(h) SANCTIONS.—

(1) NOTIFICATION.—The Fund shall notify the appropriate Federal banking agency before imposing any sanction pursuant to the authority in section 108(f)(2)(C) on an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of that agency.

(2) EXCEPTIONS.—The Fund shall not impose a sanction referred to in paragraph (1) if the appropriate Federal banking agency, in writing, not later than 30 calendar days after receiving notice from the Fund—

(A) objects to the proposed sanction;

(B) determines that the sanction would—

(i) have a material adverse effect on the safety and soundness of the institution; or

(ii) impede or interfere with an enforcement action against that institution by that agency;

(C) proposes a comparable alternative action; and

(D) specifically explains—

(i) the basis for the determination under subparagraph (B) and, if appropriate, provides documentation to support the determination; and

(ii) how the alternative action suggested pursuant to subparagraph (C) would be as effective as the sanction proposed by the Fund in securing compliance with this subtitle and deterring future noncompliance.

(i) SAFETY AND SOUNDNESS CONSIDERATIONS.—The Fund and each appropriate Federal banking agency shall cooperate and respond to requests from each other and from other appropriate Federal banking agencies in a manner that ensures the safety and soundness of the insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

SEC. 117. STUDIES AND REPORTS; EXAMINATION AND AUDIT.

(a) ANNUAL REPORT BY THE FUND.—The Fund shall conduct an annual evaluation of the activities carried out by the Fund and the community development financial institutions and other organizations assisted pursuant to this subtitle, and shall submit a report of its findings to the President and the Congress not later than 120 days after the end of each fiscal year of the Fund. The report shall include financial statements audited in accordance with subsection (f).

(b) OPTIONAL STUDIES.—The Fund may conduct such studies as the Fund determines necessary to further the purpose of this subtitle and to facilitate investment in distressed communities. The findings of any studies conducted pursuant to this subsection shall be included in the report required by subsection (a).

(c) NATIVE AMERICAN LENDING STUDY.—

(1) IN GENERAL.—The Fund shall conduct a study on lending and investment practices on Indian reservations and other land held in trust by the United States. Such study shall—

(A) identify barriers to private financing on such lands; and

(B) identify the impact of such barriers on access to capital and credit for Native American populations.

(2) REPORT.—Not later than 12 months after the date on which the Administrator is appointed, the Fund shall submit a report to the President and the Congress that—

(A) contains the findings of the study conducted under paragraph (1);

(B) recommends any necessary statutory and regulatory changes to existing Federal programs; and

(C) makes policy recommendations for community development financial institutions, insured depository institutions, secondary market institutions, and other private sector capital institutions to better serve such populations.

(d) INVESTMENT, GOVERNANCE, AND ROLE OF FUND.—Thirty months after the appointment and qualification of the Administrator, the Comptroller General of the United States shall submit to the President and the Congress a study evaluating the structure, governance, and performance of the Fund.

(e) CONSULTATION.—In the conduct of the studies required under this section, the Fund shall consult, as appropriate, with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Farm Credit Administration, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, Indian tribal governments, community reinvestment organizations, civil rights organizations, consumer organizations, financial organizations, and such representatives of agencies or other persons, at the discretion of the Fund.

(f) EXAMINATION AND AUDIT.—The financial statements of the Fund shall be audited in accordance with section 9105 of title 31, United States Code, except that audits required by section 9105(a) of such title shall be performed annually.

SEC. 118. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App. 11) is amended—

(1) in paragraph (1), by inserting "; the Administrator of the Community Development Financial Institutions Fund;" before "and the chief"; and

(2) in paragraph (2), by inserting "the Community Development Financial Institutions Fund," after "the Agency for International Development,".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendments made by subsection (a).

SEC. 119. ENFORCEMENT.

(a) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the appointment and qualification of the Administrator, the Fund shall promulgate such regulations as may be necessary to carry out this subtitle.

(2) REGULATIONS REQUIRED.—The regulations promulgated under paragraph (1) shall include regulations applicable to community development financial institutions that are not insured depository institutions to—

(A) prevent conflicts of interest on the part of directors, officers, and employees of community development financial institutions as the Fund determines to be appropriate; and

(B) establish such standards with respect to loans by a community development financial institution to any director, officer, or employee of

such institution as the Fund determines to be appropriate, including loan amount limitations.

(b) ADMINISTRATIVE ENFORCEMENT.—The provisions of this subtitle, and regulations prescribed and agreements entered into under this subtitle, shall be enforced under section 8 of the Federal Deposit Insurance Act by the appropriate Federal banking agency, in the case of an insured community development financial institution. A violation of this subtitle, or any regulation prescribed under or any agreement entered into under this subtitle, shall be treated as a violation of the Federal Deposit Insurance Act.

(c) CRIMINAL PROVISION.—Section 657 of title 18, United States Code, is amended by inserting "or any community development financial institution receiving financial assistance under the Riegle Community Development and Regulatory Improvement Act of 1994," after "small business investment company,".

SEC. 120. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS.

(a) REPEAL.—Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by striking subsection (k).

(b) REVOLVING LOAN FUND.—The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by inserting after section 129 the following new section:

"SEC. 130. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS.

"(a) IN GENERAL.—The Board may exercise the authority granted to it by the Community Development Credit Union Revolving Loan Fund Transfer Act, including any additional appropriation made or earnings accrued, subject only to this section and to regulations prescribed by the Board.

"(b) INVESTMENT.—The Board may invest any idle Fund moneys in United States Treasury securities. Any interest accrued on such securities shall become a part of the Fund.

"(c) LOANS.—The Board may require that any loans made from the Fund be matched by increased shares in the borrower credit union.

"(d) INTEREST.—Interest earned by the Fund may be allocated by the Board for technical assistance to community development credit unions, subject to an appropriations Act.

"(e) DEFINITION.—As used in this section, the term 'Fund' means the Community Development Credit Union Revolving Loan Fund.".

SEC. 121. AUTHORIZATION OF APPROPRIATIONS.

(a) FUND AUTHORIZATION.—

(1) IN GENERAL.—To carry out this subtitle, there are authorized to be appropriated to the Fund, to remain available until expended—

(A) $60,000,000 for fiscal year 1995;

(B) $104,000,000 for fiscal year 1996;

(C) $107,000,000 for fiscal year 1997; and

(D) $111,000,000 for fiscal year 1998;

or such greater sums as may be necessary to carry out this subtitle.

(2) ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—Of amounts authorized to be appropriated to the Fund pursuant to this section, not more than $5,550,000 may be used by the Fund in each fiscal year to pay the administrative costs and expenses of the Fund. Costs associated with the training program established under section 109 and the technical assistance program established under section 108 shall not be considered to be administrative expenses for purposes of this paragraph.

(B) CALCULATIONS.—The amounts referred to in paragraphs (3) and (4) shall be calculated after subtracting the amount referred to in subparagraph (A) of this paragraph from the total amount appropriated to the Fund in accordance with paragraph (1) in any fiscal year.

(3) CAPITALIZATION ASSISTANCE.—Not more than 5 percent of the amounts authorized to be appropriated under paragraph (1) may be used as provided in section 113.

(4) AVAILABILITY FOR FUNDING SECTION 114.—33⅓ percent of the amounts appropriated to the Fund for any fiscal year pursuant to the authorization in paragraph (1) shall be available for use in carrying out section 114.

(5) SUPPORT OF COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.—The Administrator shall allocate funds authorized under this section, to the maximum extent practicable, for the support of community development financial institutions.

(b) COMMUNITY DEVELOPMENT CREDIT UNION REVOLVING LOAN FUND.—There are authorized to be appropriated for the purposes of the Community Development Credit Union Revolving Loan Fund—

(1) $4,000,000 for fiscal year 1995;

(2) $2,000,000 for fiscal year 1996;

(3) $2,000,000 for fiscal year 1997; and

(4) $2,000,000 for fiscal year 1998.

(c) BUDGETARY TREATMENT.—Amounts authorized to be appropriated under this section shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

Subtitle B—Home Ownership and Equity Protection

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Home Ownership and Equity Protection Act of 1994".

SEC. 152. CONSUMER PROTECTIONS FOR CERTAIN MORTGAGES.

(a) MORTGAGE DEFINITION.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

"(aa)(1) A mortgage referred to in this subsection means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction, or a transaction under an open end credit plan, if—

"(A) the annual percentage rate at consummation of the transaction will exceed by more than 10 percentage points the yield on Treasury securities having comparable periods of maturity on the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

"(B) the total points and fees payable by the consumer at or before closing will exceed the greater of—

"(i) 8 percent of the total loan amount; or

"(ii) $400.

"(2)(A) After the 2-year period beginning on the effective date of the regulations promulgated under section 155 of the Riegle Community Development and Regulatory Improvement Act of 1994, and no more frequently than biennially after the first increase or decrease under this subparagraph, the Board may by regulation increase or decrease the number of percentage points specified in paragraph (1)(A), if the Board determines that the increase or decrease is—

"(i) consistent with the consumer protections against abusive lending provided by the amendments made by subtitle B of title I of the Riegle Community Development and Regulatory Improvement Act of 1994; and

"(ii) warranted by the need for credit.

"(B) An increase or decrease under subparagraph (A) may not result in the number of percentage points referred to in subparagraph (A) being—

"(i) less that 8 percentage points; or

"(ii) greater than 12 percentage points.

"(C) In determining whether to increase or decrease the number of percentage points referred to in subparagraph (A), the Board shall consult with representatives of consumers, including low-income consumers, and lenders.

"(3) The amount specified in paragraph (1)(B)(ii) shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index, as reported on June 1 of the year preceding such adjustment.

"(4) For purposes of paragraph (1)(B), points and fees shall include—

"(A) all items included in the finance charge, except interest or the time-price differential;

"(B) all compensation paid to mortgage brokers;

"(C) each of the charges listed in section 106(e) (except an escrow for future payment of taxes), unless—

"(i) the charge is reasonable;

"(ii) the creditor receives no direct or indirect compensation; and

"(iii) the charge is paid to a third party unaffiliated with the creditor; and

"(D) such other charges as the Board determines to be appropriate.

"(5) This subsection shall not be construed to limit the rate of interest or the finance charge that a person may charge a consumer for any extension of credit.".

(b) MATERIAL DISCLOSURES.—Section 103(u) of the Truth in Lending Act (15 U.S.C. 1602(u)) is amended—

(1) by striking "and the due dates" and inserting "the due dates"; and

(2) by inserting before the period ", and the disclosures required by section 129(a)".

(c) DEFINITION OF CREDITOR CLARIFIED.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by adding at the end the following: "Any person who originates 2 or more mortgages referred to in subsection (aa) in any 12-month period or any person who originates 1 or more such mortgages through a mortgage broker shall be considered to be a creditor for purposes of this title.".

(d) DISCLOSURES REQUIRED AND CERTAIN TERMS PROHIBITED.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 128 the following new section:

"SEC. 129. REQUIREMENTS FOR CERTAIN MORTGAGES.

"(a) DISCLOSURES.—

"(1) SPECIFIC DISCLOSURES.—In addition to other disclosures required under this title, for each mortgage referred to in section 103(aa), the creditor shall provide the following disclosures in conspicuous type size:

"(A) 'You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application.'

"(B) 'If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.'.

"(2) ANNUAL PERCENTAGE RATE.—In addition to the disclosures required under paragraph (1), the creditor shall disclose—

"(A) in the case of a credit transaction with a fixed rate of interest, the annual percentage rate and the amount of the regular monthly payment; or

"(B) in the case of any other credit transaction, the annual percentage rate of the loan, the amount of the regular monthly payment, a statement that the interest rate and monthly payment may increase, and the amount of the maximum monthly payment, based on the maximum interest rate allowed pursuant to section 1204 of the Competitive Equality Banking Act of 1987.

"(b) TIME OF DISCLOSURES.—

"(1) IN GENERAL.—The disclosures required by this section shall be given not less than 3 business days prior to consummation of the transaction.

"(2) NEW DISCLOSURES REQUIRED.—

"(A) IN GENERAL.—After providing the disclosures required by this section, a creditor may not change the terms of the extension of credit if such changes make the disclosures inaccurate, unless new disclosures are provided that meet the requirements of this section.

"(B) TELEPHONE DISCLOSURE.—A creditor may provide new disclosures pursuant to subparagraph (A) by telephone, if—

"(i) the change is initiated by the consumer; and

"(ii) at the consummation of the transaction under which the credit is extended—

"(I) the creditor provides to the consumer the new disclosures, in writing; and

"(II) the creditor and consumer certify in writing that the new disclosures were provided by telephone, by not later than 3 days prior to the date of consummation of the transaction.

"(3) MODIFICATIONS.—The Board may, if it finds that such action is necessary to permit homeowners to meet bona fide personal financial emergencies, prescribe regulations authorizing the modification or waiver of rights created under this subsection, to the extent and under the circumstances set forth in those regulations.

"(c) NO PREPAYMENT PENALTY.—

"(1) IN GENERAL.—

"(A) LIMITATION ON TERMS.—A mortgage referred to in section 103(aa) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due.

"(B) CONSTRUCTION.—For purposes of this subsection, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

"(2) EXCEPTION.—Notwithstanding paragraph (1), a mortgage referred to in section 103(aa) may contain a prepayment penalty (including terms calculating a refund by a method that is not prohibited under section 933(b) of the Housing and Community Development Act of 1992 for the transaction in question) if—

"(A) at the time the mortgage is consummated—

"(i) the consumer is not liable for an amount of monthly indebtedness payments (including the amount of credit extended or to be extended under the transaction) that is greater than 50 percent of the monthly gross income of the consumer; and

"(ii) the income and expenses of the consumer are verified by a financial statement signed by the consumer, by a credit report, and in the case of employment income, by payment records or by verification from the employer of the consumer (which verification may be in the form of a copy of a pay stub or other payment record supplied by the consumer);

"(B) the penalty applies only to a prepayment made with amounts obtained by the consumer by means other than a refinancing by the creditor under the mortgage, or an affiliate of that creditor;

"(C) the penalty does not apply after the end of the 5-year period beginning on the date on which the mortgage is consummated; and

"(D) the penalty is not prohibited under other applicable law.

"(d) LIMITATIONS AFTER DEFAULT.—A mortgage referred to in section 103(aa) may not provide for an interest rate applicable after default that is higher than the interest rate that applies before default. If the date of maturity of a mortgage referred to in subsection 103(aa) is accelerated due to default and the consumer is entitled to a rebate of interest, that rebate shall be computed by any method that is not less favorable than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

"(e) NO BALLOON PAYMENTS.—A mortgage referred to in section 103(aa) having a term of less than 5 years may not include terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance.

"(f) NO NEGATIVE AMORTIZATION.—A mortgage referred to in section 103(aa) may not include terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

"(g) NO PREPAID PAYMENTS.—A mortgage referred to in section 103(aa) may not include terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer.

"(h) PROHIBITION ON EXTENDING CREDIT WITHOUT REGARD TO PAYMENT ABILITY OF CONSUMER.—A creditor shall not engage in a pattern or practice of extending credit to consumers under mortgages referred to in section 103(aa) based on the consumers' collateral without regard to the consumers' repayment ability, including the consumers' current and expected income, current obligations, and employment.

"(i) REQUIREMENTS FOR PAYMENTS UNDER HOME IMPROVEMENT CONTRACTS.—A creditor shall not make a payment to a contractor under a home improvement contract from amounts extended as credit under a mortgage referred to in section 103(aa), other than—

"(1) in the form of an instrument that is payable to the consumer or jointly to the consumer and the contractor; or

"(2) at the election of the consumer, by a third party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor, and the contractor before the date of payment.

"(j) CONSEQUENCE OF FAILURE TO COMPLY.—Any mortgage that contains a provision prohibited by this section shall be deemed a failure to deliver the material disclosures required under this title, for the purpose of section 125.

"(k) DEFINITION.—For purposes of this section, the term 'affiliate' has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

"(l) DISCRETIONARY REGULATORY AUTHORITY OF BOARD.—

"(1) EXEMPTIONS.—The Board may, by regulation or order, exempt specific mortgage products or categories of mortgages from any or all of the prohibitions specified in subsections (c) through (i), if the Board finds that the exemption—

"(A) is in the interest of the borrowing public; and

"(B) will apply only to products that maintain and strengthen home ownership and equity protection.

"(2) PROHIBITIONS.—The Board, by regulation or order, shall prohibit acts or practices in connection with—

"(A) mortgage loans that the Board finds to be unfair, deceptive, or designed to evade the provisions of this section; and

"(B) refinancing of mortgage loans that the Board finds to be associated with abusive lending practices, or that are otherwise not in the interest of the borrower.".

(e) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking the item relating to section 129 and inserting the following:

"129. Requirements for certain mortgages.".

(2) TRUTH IN LENDING ACT.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended—

(A) in the second sentence of section 105(a), by striking "These" and inserting "Except in the case of a mortgage referred to in section 103(aa), these";

(B) in section 111(a)(2), by inserting before the period the following: ", and such State-required disclosure may not be made in lieu of the disclosures applicable to certain mortgages under section 129"; and

(C) in section 111(b)—

(i) by striking "This" and inserting "Except as provided in section 129, this"; and

(ii) by adding at the end the following: "The provisions of section 129 do not annul, alter, or affect the applicability of the laws of any State or exempt any person subject to the provisions of section 129 from complying with the laws of any State, with respect to the requirements for mortgages referred to in section 103(aa), except to the extent that those State laws are inconsistent with any provisions of section 129, and then only to the extent of the inconsistency.".

SEC. 153. CIVIL LIABILITY.

(a) DAMAGES.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) by striking "and" at the end of paragraph (2)(B);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a failure to comply with any requirement under section 129, an amount equal to the sum of all finance charges and fees paid by the consumer, unless the creditor demonstrates that the failure to comply is not material.".

(b) STATE ATTORNEY GENERAL ENFORCEMENT.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by adding at the end the following: "An action to enforce a violation of section 129 may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction, not later than 3 years after the date on which the violation occurs. The State attorney general shall provide prior written notice of any such civil action to the Federal agency responsible for enforcement under section 108 and shall provide the agency with a copy of the complaint. If prior notice is not feasible, the State attorney general shall provide notice to such agency immediately upon instituting the action. The Federal agency may—

"(1) intervene in the action;

"(2) upon intervening—

"(A) remove the action to the appropriate United States district court, if it was not originally brought there; and

"(B) be heard on all matters arising in the action; and

"(3) file a petition for appeal.".

(c) ASSIGNEE LIABILITY.—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following new subsection:

"(d) RIGHTS UPON ASSIGNMENT OF CERTAIN MORTGAGES.—

"(1) IN GENERAL.—Any person who purchases or is otherwise assigned a mortgage referred to in section 103(aa) shall be subject to all claims and defenses with respect to that mortgage that the consumer could assert against the creditor of the mortgage, unless the purchaser or assignee demonstrates, by a preponderance of the evidence, that a reasonable person exercising ordinary due diligence, could not determine, based on the documentation required by this title, the itemization of the amount financed, and other disclosure of disbursements that the mortgage was a mortgage referred to in section 103(aa). The preceding sentence does not affect rights of a consumer under subsection (a), (b), or (c) of this section or any other provision of this title.

"(2) LIMITATION ON DAMAGES.—Notwithstanding any other provision of law, relief provided as a result of any action made permissible by paragraph (1) may not exceed—

"(A) with respect to actions based upon a violation of this title, the amount specified in section 130; and

"(B) with respect to all other causes of action, the sum of—

"(i) the amount of all remaining indebtedness; and

"(ii) the total amount paid by the consumer in connection with the transaction.

"(3) OFFSET.—The amount of damages that may be awarded under paragraph (2)(B) shall be reduced by the amount of any damages awarded under paragraph (2)(A).

"(4) NOTICE.—Any person who sells or otherwise assigns a mortgage referred to in section 103(aa) shall include a prominent notice of the potential liability under this subsection as determined by the Board.".

SEC. 154. REVERSE MORTGAGE DISCLOSURE.

(a) DEFINITION OF REVERSE MORTGAGE.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

"(bb) The term 'reverse mortgage transaction' means a nonrecourse transaction in which a mortgage, deed of trust, or equivalent consensual security interest is created against the consumer's principal dwelling—

"(1) securing one or more advances; and

"(2) with respect to which the payment of any principal, interest, and shared appreciation or equity is due and payable (other than in the case of default) only after—

"(A) the transfer of the dwelling;

"(B) the consumer ceases to occupy the dwelling as a principal dwelling; or

"(C) the death of the consumer.".

(b) DISCLOSURE.—Chapter 2 of title I of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

"SEC. 138. REVERSE MORTGAGES.

"(a) IN GENERAL.—In addition to the disclosures required under this title, for each reverse mortgage, the creditor shall, not less than 3 days prior to consummation of the transaction, disclose to the consumer in conspicuous type a good faith estimate of the projected total cost of the mortgage to the consumer expressed as a table of annual interest rates. Each annual interest rate shall be based on a projected total future credit extension balance under a projected appreciation rate for the dwelling and a term for the mortgage. The disclosure shall include—

"(1) statements of the annual interest rates for not less than 3 projected appreciation rates and not less than 3 credit transaction periods, as determined by the Board, including—

"(A) a short-term reverse mortgage;

"(B) a term equaling the actuarial life expectancy of the consumer; and

"(C) such longer term as the Board deems appropriate; and

"(2) a statement that the consumer is not obligated to complete the reverse mortgage transaction merely because the consumer has received the disclosure required under this section or has signed an application for the reverse mortgage.

"(b) PROJECTED TOTAL COST.—In determining the projected total cost of the mortgage to be disclosed to the consumer under subsection (a), the creditor shall take into account—

"(1) any shared appreciation or equity that the lender will, by contract, be entitled to receive;

"(2) all costs and charges to the consumer, including the costs of any associated annuity that the consumer elects or is required to purchase as part of the reverse mortgage transaction;

"(3) all payments to and for the benefit of the consumer, including, in the case in which an associated annuity is purchased (whether or not required by the lender as a condition of making the reverse mortgage), the annuity payments received by the consumer and financed from the proceeds of the loan, instead of the proceeds used to finance the annuity; and

"(4) any limitation on the liability of the consumer under reverse mortgage transactions (such as nonrecourse limits and equity conservation agreements).".

(c) HOME EQUITY PLAN EXEMPTION.—Section 137(b) of the Truth in Lending Act (15 U.S.C. 1647(b)) is amended by adding at the end the following:

"This subsection does not apply to reverse mortgage transactions.".

(d) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 137 the following:

"138. Reverse mortgages.".

SEC. 155. REGULATIONS.

Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to carry out this subtitle, and such regulations shall become effective on the date on which disclosure regulations are required to become effective under section 105(d) of the Truth in Lending Act.

SEC. 156. APPLICABILITY.

This subtitle, and the amendments made by this subtitle, shall apply to every mortgage referred to in section 103(aa) of the Truth in Lending Act (as added by section 152(a) of this Act) consummated on or after the date on which regulations issued under section 155 become effective.

SEC. 157. FEDERAL RESERVE STUDY.

During the period beginning 180 days after the date of enactment of this Act and ending 2 years after that date of enactment, the Board of Governors of the Federal Reserve System shall conduct a study and submit to the Congress a report, including recommendations for any appropriate legislation, regarding—

(1) whether a consumer engaging in an open end credit transaction (as defined in section 103 of the Truth in Lending Act) secured by the consumer's principal dwelling is provided adequate protections under Federal law, including section 127A of the Truth in Lending Act; and

(2) whether a more appropriate interest rate index exists for purposes of subparagraph (A) of section 103(aa)(1) of the Truth in Lending Act (as added by section 152(a) of this Act) than the yield on Treasury securities referred to in that subparagraph.

SEC. 158. HEARINGS ON HOME EQUITY LENDING.

(a) HEARINGS.—Not less than once during the 3-year period beginning on the date of enactment of this Act, and regularly thereafter, the Board of Governors of the Federal Reserve System, in consultation with the Consumer Advisory Council of the Board, shall conduct a public hearing to examine the home equity loan market and the adequacy of existing regulatory and legislative provisions and the provisions of this subtitle in protecting the interests of consumers, and low-income consumers in particular.

(b) PARTICIPATION.—In conducting hearings required by subsection (a), the Board of Governors of the Federal Reserve System shall solicit participation from consumers, representatives of consumers, lenders, and other interested parties.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A—Small Business Loan Securitization

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Small Business Loan Securitization and Secondary Market Enhancement Act of 1994".

SEC. 202. SMALL BUSINESS RELATED SECURITY.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraph:

"(53)(A) The term 'small business related security' means a security that is rated in 1 of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization, and either—

"(i) represents an interest in 1 or more promissory notes or leases of personal property evidencing the obligation of a small business concern and originated by an insured depository institution, insured credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or a finance company or leasing company; or

"(ii) is secured by an interest in 1 or more promissory notes or leases of personal property (with or without recourse to the issuer or lessee) and provides for payments of principal in relation to payments, or reasonable projections of payments, on notes or leases described in clause (i).

"(B) For purposes of this paragraph—

"(i) an 'interest in a promissory note or a lease of personal property' includes ownership rights, certificates of interest or participation in such notes or leases, and rights designed to assure servicing of such notes or leases, or the receipt or timely receipt of amounts payable under such notes or leases;

"(ii) the term 'small business concern' means a business that meets the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act;

"(iii) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

"(iv) the term 'insured credit union' has the same meaning as in section 101 of the Federal Credit Union Act.".

SEC. 203. APPLICABILITY OF MARGIN REQUIREMENTS.

Section 7(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(g)) is amended by inserting "or a small business related security" after "mortgage related security".

SEC. 204. BORROWING IN THE COURSE OF BUSINESS.

Section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) is amended in the last sentence by inserting "or a small business related security" after "mortgage related security".

SEC. 205. SMALL BUSINESS RELATED SECURITIES AS COLLATERAL.

Clause (ii) of section 11(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by inserting "or any small business related security" after "mortgage related security".

SEC. 206. INVESTMENT BY DEPOSITORY INSTITUTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraph:

"(S) SMALL BUSINESS RELATED SECURITIES.—Investments in small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Director may prescribe, including regulations concerning the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both.".

(b) CREDIT UNIONS.—Section 107(15) of the Federal Credit Union Act (12 U.S.C. 1757(15)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by inserting "or" at the end; and

(3) by adding at the end the following new subparagraph:

"(C) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Board may prescribe, including regulations prescribing the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both;".

(c) NATIONAL BANKING ASSOCIATIONS.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the last sentence in the first full paragraph of paragraph Seventh, by striking "or (B) are mortgage related securities" and inserting the following: "(B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934); or (C) are mortgage related securities".

SEC. 207. PREEMPTION OF STATE LAW.

(a) IN GENERAL.—Section 106(a)(1) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(b) OBLIGATIONS OF THE UNITED STATES.—Section 106(a)(2) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(c) PREEMPTION OF STATE LAWS.—Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(c)) is amended—

(1) in the first sentence, by striking "or that" and inserting ", that"; and

(2) by inserting ", or that are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934)" before "shall be exempt".

(d) IMPLEMENTATION.—Section 106 of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1) is amended by adding at the end the following new subsection:

"(d) IMPLEMENTATION.—

"(1) LIMITATION.—The provisions of subsections (a) and (b) concerning small business related securities shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of 7 years after the date of enactment of this subsection, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such small business related securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in this section. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to such enactment, and shall not require the sale or other disposition of any small business related securities acquired prior to the date of such enactment.

"(2) STATE REGISTRATION OR QUALIFICATION REQUIREMENTS.—Any State may, not later than 7 years after the date of enactment of this subsection, enact a statute that specifically refers to this section and requires registration or qualification of any small business related securities on terms that differ from those applicable to any obligation issued by the United States.".

SEC. 208. INSURED DEPOSITORY INSTITUTION CAPITAL REQUIREMENTS FOR TRANSFERS OF SMALL BUSINESS OBLIGATIONS.

(a) ACCOUNTING PRINCIPLES.—The accounting principles applicable to the transfer of a small business loan or a lease of personal property with recourse contained in reports or statements required to be filed with Federal banking agencies by a qualified insured depository institution shall be consistent with generally accepted accounting principles.

(b) CAPITAL AND RESERVE REQUIREMENTS.—With respect to the transfer of a small business loan or lease of personal property with recourse that is a sale under generally accepted accounting principles, each qualified insured depository institution shall—

(1) establish and maintain a reserve equal to an amount sufficient to meet the reasonable estimated liability of the institution under the recourse arrangement; and

(2) include, for purposes of applicable capital standards and other capital measures, only the amount of the retained recourse in the risk-weighted assets of the institution.

(c) QUALIFIED INSTITUTIONS CRITERIA.—An insured depository institution is a qualified insured depository institution for purposes of this section if, without regard to the accounting principles or capital requirements referred to in subsections (a) and (b), the institution is—

(1) well capitalized; or

(2) with the approval, by regulation or order, of the appropriate Federal banking agency, adequately capitalized.

(d) AGGREGATE AMOUNT OF RECOURSE.—The total outstanding amount of recourse retained by a qualified insured depository institution with respect to transfers of small business loans and leases of personal property under subsections (a) and (b) shall not exceed—

(1) 15 percent of the risk-based capital of the institution; or

(2) such greater amount, as established by the appropriate Federal banking agency by regulation or order.

(e) INSTITUTIONS THAT CEASE TO BE QUALIFIED OR EXCEED AGGREGATE LIMITS.—If an insured depository institution ceases to be a qualified insured depository institution or exceeds the limits under subsection (d), this section shall remain applicable to any transfers of small business loans or leases of personal property that occurred during the time that the institution was qualified and did not exceed such limit.

(f) PROMPT CORRECTIVE ACTION NOT AFFECTED.—The capital of an insured depository institution shall be computed without regard to this section in determining whether the institution is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under section 38 of the Federal Deposit Insurance Act.

(g) REGULATIONS REQUIRED.—Not later than 180 days after the date of enactment of this Act each appropriate Federal banking agency shall promulgate final regulations implementing this section.

(h) ALTERNATIVE SYSTEM PERMITTED.—

(1) IN GENERAL.—At the discretion of the appropriate Federal banking agency, this section shall not apply if the regulations of the agency provide that the aggregate amount of capital and reserves required with respect to the transfer of small business loans and leases of personal property with recourse does not exceed the aggregate amount of capital and reserves that would be required under subsection (b).

(2) EXISTING TRANSACTIONS NOT AFFECTED.—Notwithstanding paragraph (1), this section shall remain in effect with respect to transfers of small business loans and leases of personal property with recourse by qualified insured depository institutions occurring before the effective date of regulations referred to in paragraph (1).

(i) DEFINITIONS.—For purposes of this section—

(1) the term "adequately capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act;

(2) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(3) the term "capital standards" has the same meaning as in section 38(c) of the Federal Deposit Insurance Act;

(4) the term "Federal banking agencies" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(5) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(6) the term "other capital measures" has the meaning as in section 38(c) of the Federal Deposit Insurance Act;

(7) the term "recourse" has the meaning given to such term under generally accepted accounting principles;

(8) the term "small business" means a business that meets the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act; and

(9) the term "well capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act.

SEC. 209. JOINT STUDY ON THE IMPACT OF ADDITIONAL SECURITIES BASED ON POOLED OBLIGATIONS.

(a) JOINT STUDY REQUIRED.—The Board and the Commission shall conduct a joint study of the impact of the provisions of this subtitle (including the amendments made by this subtitle) on the credit and securities markets. Such study shall evaluate—

(1) the impact of the provisions of this subtitle on the availability of credit for business and commercial enterprises in general, and the availability of credit in particular for—

(A) businesses in low- and moderate-income areas;

(B) businesses owned by women and minorities;

(C) community development efforts;

(D) community development financial institutions;

(E) businesses in different geographical regions; and

(F) a diversity of types of businesses;

(2) the structure and operation of the markets that develop for small business related securities and commercial mortgage related securities, including the types of entities (such as pension funds and insurance companies) that are significant purchasers of such securities, the extent to which such entities are sophisticated investors, the use of credit enhancements in obtaining investment-grade ratings, any conflicts of interest that arise in such markets, and any adverse effects of such markets on commercial real estate ventures, pension funds, or pension fund beneficiaries;

(3) the extent to which the provisions of this subtitle with regard to margin requirements, the number of eligible investment rating categories,

preemption of State law, and the treatment of such securities as government securities for the purpose of State investment limitations, affect the structure and operation of such markets; and

(4) in view of the findings made pursuant to paragraphs (2) and (3), any additional suitability or disclosure requirements or other investor protections that should be required.

(b) REPORTS.—

(1) IN GENERAL.—The Board and the Commission shall submit to the Congress a report on the results of the study required by subsection (a) before the end of—

(A) the 2-year period beginning on the date of enactment of this Act;

(B) the 4-year period beginning on such date of enactment; and

(C) the 6-year period beginning on such date of enactment.

(2) CONTENTS OF REPORT.—Each report required under paragraph (1) shall contain or be accompanied by such recommendations for administrative or legislative action as the Board and the Commission consider appropriate and may include recommendations regarding the need to develop a system for reporting additional information concerning investments by the entities described in subsection (a)(2).

(c) DEFINITIONS.—As used in this section—

(1) the term "Board" means the Board of Governors of the Federal Reserve System; and

(2) the term "Commission" means the Securities and Exchange Commission.

SEC. 210. CONSISTENT USE OF FINANCIAL TERMINOLOGY.

Not later than 2 years after the date of enactment of this Act, the Financial Institutions Examination Council shall report to the Congress on its recommendations for the use of consistent financial terminology by depository institutions for small business loans or leases of personal property which are sold for the creation of small business related securities (as defined in section 3(a)(53)(A) of the Securities Exchange Act of 1934).

Subtitle B—Small Business Capital Enhancement

SEC. 251. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) small business concerns are a vital part of the economy, accounting for the majority of new jobs, new products, and new services created in the United States;

(2) adequate access to debt capital is a critical component for small business development, productivity, expansion, and success in the United States;

(3) commercial banks are the most important suppliers of debt capital to small business concerns in the United States;

(4) commercial banks and other depository institutions have various incentives to minimize their risk in financing small business concerns;

(5) as a result of such incentives, many small business concerns with economically sound financing needs are unable to obtain access to needed debt capital;

(6) the small business capital access programs implemented by certain States are a flexible and efficient tool to assist financial institutions in providing access to needed debt capital for many small business concerns in a manner consistent with safety and soundness regulations;

(7) a small business capital access program would complement other programs which assist small business concerns in obtaining access to capital; and

(8) Federal policy can stimulate and accelerate efforts by States to implement small business capital access programs by providing an incentive to States, while leaving the administration of such programs to each participating State.

(b) PURPOSES.—By encouraging States to implement administratively efficient capital access programs that encourage commercial banks and other depository institutions to provide access to debt capital for a broad portfolio of small business concerns, and thereby promote a more efficient and effective debt market, the purposes of this subtitle are—

(1) to promote economic opportunity and growth;

(2) to create jobs;

(3) to promote economic efficiency;

(4) to enhance productivity; and

(5) to spur innovation.

SEC. 252. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Fund" means the Community Development Financial Institutions Fund established under section 104;

(2) the term "appropriate Federal banking agency"—

(A) has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

(B) includes the National Credit Union Administration Board in the case of any credit union the deposits of which are insured in accordance with the Federal Credit Union Act;

(3) the term "early loan" means a loan enrolled at a time when the aggregate covered amount of loans previously enrolled under the Program by a particular participating financial institution is less than $5,000,000;

(4) the term "enrolled loan" means a loan made by a participating financial institution that is enrolled by a participating State in accordance with this subtitle;

(5) the term "financial institution" means any federally chartered or State-chartered commercial bank, savings association, savings bank, or credit union;

(6) the term "participating financial institution" means any financial institution that has entered into a participation agreement with a participating State in accordance with section 254;

(7) the term "participating State" means any State that has been approved for participation in the Program in accordance with section 253;

(8) the term "passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, except that such term shall not include—

(A) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate (other than the business of passive ownership of real estate); or

(B) the ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase;

(9) the term "Program" means the Small Business Capital Enhancement Program established under this subtitle;

(10) the term "reserve fund" means a fund, established by a participating State, earmarked for a particular participating financial institution, for the purposes of—

(A) depositing all required premium charges paid by the participating financial institution and by each borrower receiving a loan under the Program from a participating financial institution;

(B) depositing contributions made by the participating State; and

(C) covering losses on enrolled loans by disbursing accumulated funds; and

(11) the term "State" means—

(A) a State of the United States;

(B) the District of Columbia;

(C) any political subdivision of a State of the United States, which subdivision has a population in excess of the population of the least populated State of the United States; and

(D) any other political subdivision of a State of the United States that the Fund determines has the capacity to participate in the program.

SEC. 253. APPROVING STATES FOR PARTICIPATION.

(a) APPLICATION.—Any State may apply to the Fund for approval to be a participating State under the Program and to be eligible for reimbursement by the Fund pursuant to section 257.

(b) APPROVAL CRITERIA.—The Fund shall approve a State to be a participating State, if—

(1) a specific department or agency of the State has been designated to implement the Program;

(2) all legal actions necessary to enable such designated department or agency to implement the Program have been accomplished;

(3) funds in the amount of at least $1 for every 2 people residing in the State (as of the last decennial census for which data have been released) are available and have been legally committed to contributions by the State to reserve funds, with such funds being available without time limit and without requiring additional legal action, except that such requirements shall not be construed to limit the authority of the State to take action at a later time that results in the termination of its obligation to enroll loans and make contributions to reserve funds;

(4) the State has prescribed a form of participation agreement to be entered into between it and each participating financial institution that is consistent with the requirements and purposes of this subtitle; and

(5) the State and the Fund have executed a reimbursement agreement that conforms to the requirements of this subtitle.

(c) EXISTING STATE PROGRAMS.—

(1) IN GENERAL.—A State that is not a participating State, but that has its own capital access program providing portfolio insurance for business loans (based on a separate loss reserve fund for each financial institution), may apply at any time to the Fund to be approved to be a participating State. The Fund shall approve such State to be a participating State, and to be eligible for reimbursements by the Fund pursuant to section 257, if the State—

(A) satisfies the requirements of subsections (a) and (b); and

(B) certifies that each affected financial institution has satisfied the requirements of section 254.

(2) APPLICABLE TERMS OF PARTICIPATION.—

(A) STATUS OF INSTITUTIONS.—If a State is approved for participation under paragraph (1), each financial institution with a participation agreement in effect with the participating State shall immediately be considered a participating financial institution. Reimbursements may be made under section 237 in connection with all contributions made to the reserve fund by the State in connection with lending that occurs on or after the date on which the Fund approves the State for participation.

(B) EFFECTIVE DATE OF PARTICIPATION.—If an amended participation agreement that conforms with section 255 is required in order to secure participation approval by the Fund, contributions subject to reimbursement under section 257 shall include only those contributions made to a reserve fund with respect to loans enrolled on or after the date that an amended participation agreement between the participating State and the participating financial institution becomes effective.

(C) USE OF ACCUMULATED RESERVE FUNDS.—A State that is approved for participation in accordance with this subsection may continue to implement the program utilizing the reserve funds accumulated under the State program.

(d) PRIOR APPROPRIATIONS REQUIREMENT.—The Fund shall not approve a State for participation in the Program until at least $50,000,000 has been appropriated to the Fund (subject to an appropriations Act), without fiscal year limitation, for the purpose of making reimbursements pursuant to section 257 and otherwise carrying out this subtitle.

(e) AMENDMENTS TO AGREEMENTS.—If a State that has been approved to be a participating State wishes to amend its form of participation agreement and continue to be a participating State, such State shall submit such amendment for review by the Fund in accordance with subsection (b)(4). Any such amendment shall become effective only after it has been approved by the Fund.

SEC. 254. PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—A participating State may enter into a participation agreement with any financial institution determined by the participating State, after consultation with the appropriate Federal banking agency, to have sufficient commercial lending experience and financial and managerial capacity to participate in the Program. The determination by the State shall not be reviewable by the Fund.

(b) PARTICIPATING FINANCIAL INSTITUTIONS.—Upon entering into the participation agreement with the participating State, the financial institution shall become a participating financial institution eligible to enroll loans under the Program.

SEC. 255. TERMS OF PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—The participation agreement to be entered into by a participating State and a participating financial institution shall include all provisions required by this section, and shall not include any provisions inconsistent with the provisions of this section.

(b) ESTABLISHMENT OF SEPARATE RESERVE FUNDS.—A separate reserve fund shall be established by the participating State for each participating financial institution. All funds credited to a reserve fund shall be the exclusive property of the participating State. Each reserve fund shall be an administrative account for the purposes of—

(1) receiving all required premium charges to be paid by the borrower and participating financial institution and contributions by the participating State; and

(2) disbursing funds, either to cover losses sustained by the participating financial institution in connection with loans made under the Program, or as contemplated by subsections (d) and (r).

(c) INVESTMENT AUTHORITY.—Subject to applicable State law, the participating State may invest, or cause to be invested, funds held in a reserve fund by establishing a deposit account at the participating financial institution in the name of the participating State. In the event that funds in the reserve fund are not deposited in such an account, such funds shall be invested in a form that the participating State determines is safe and liquid.

(d) EARNED INCOME AND INTEREST.—Interest or income earned on the funds credited to a reserve fund shall be deemed to be part of the reserve fund, except that a participating State may, as further specified in the participation agreement, provide authority for the participating State to withdraw some or all of such interest or income earned.

(e) LOAN TERMS AND CONDITIONS.—

(1) IN GENERAL.—A loan to be filed for enrollment under the Program may be made with such interest rate, fees, and other terms and conditions as agreed upon by the participating financial institution and the borrower, consistent with applicable law.

(2) LINES OF CREDIT.—If a loan to be filed for enrollment is in the form of a line of credit, the amount of the loan shall be considered to be the maximum amount that can be drawn by the borrower against the line of credit.

(f) ENROLLMENT PROCESS.—

(1) FILING.—

(A) IN GENERAL.—A participating financial institution shall file each loan made under the Program for enrollment by completing and submitting to the participating State a form prescribed by the participating State.

(B) FORM.—The form referred to in subparagraph (A) shall include a representation by the participating financial institution that it has complied with the participation agreement in enrolling the loan with the State.

(C) PREMIUM CHARGES.—Accompanying the completed form shall be the nonrefundable premium charges paid by the borrower and the participating financial institution, or evidence that such premium charges have been deposited into the deposit account containing the reserve fund, if applicable.

(D) SUBMISSION.—The participation agreement shall require that the items required by this subsection shall be submitted to the participating State by the participating financial institutions not later than 10 calendar days after a loan is made.

(2) ENROLLMENT BY STATE.—Upon receipt by the participating State of the filing submitted in accordance with paragraph (1), the participating State shall promptly enroll the loan and make a matching contribution to the reserve fund in accordance with subsection (j), unless the information submitted indicates that the participating financial institution has not complied with the participation agreement in enrolling the loan.

(g) COVERAGE AMOUNT.—In filing a loan for enrollment under the Program, the participating financial institution may specify an amount to be covered under the Program that is less than the full amount of the loan.

(h) PREMIUM CHARGES.—

(1) MINIMUM AND MAXIMUM AMOUNTS.—The premium charges payable to the reserve fund by the borrower and the participating financial institution shall be prescribed by the participating financial institution, within minimum and maximum limits set forth in the participation agreement. The participation agreement shall establish minimum and maximum limits whereby the sum of the premium charges paid in connection with a loan by the borrower and the participating financial institution is not less than 3 percent nor more than 7 percent of the amount of the loan covered under the Program.

(2) ALLOCATION OF PREMIUM CHARGES.—The participation agreement shall specify terms for allocating premium charges between the borrower and the participating financial institution. However, if the participating financial institution is required to pay any of the premium charges, the participation agreement shall authorize the participating financial institution to recover from the borrower the cost of the payment of the participating financial institution, in any manner on which the participating financial institution and the borrower agree.

(i) RESTRICTIONS.—

(1) ACTIONS PROHIBITED.—Except as provided in subsection (h) and paragraph (2) of this subsection, the participating State may not—

(A) impose any restrictions or requirements, relating to the interest rate, fees, collateral, or other business terms and conditions of the loan; or

(B) condition enrollment of a loan in the Program on the review by the State of the risk or creditworthiness of a loan.

(2) EFFECT ON OTHER LAW.—Nothing in this subtitle shall affect the applicability of any other law to the conduct by a participating financial institution of its business.

(j) STATE CONTRIBUTIONS.—In enrolling a loan under the Program, the participating State shall contribute to the reserve fund an amount, as provided for in the participation agreement, which shall not be less than the sum of the amount of premium charges paid by the borrower and the participating financial institution.

(k) ELEMENTS OF CLAIMS.—

(1) FILING.—If a participating financial institution charges off all or part of an enrolled loan, such participating financial institution may file a claim for reimbursement with the participating State by submitting a form that—

(A) includes the representation by the participating financial institution that it is filing the claim in accordance with the terms of the applicable participation agreement; and

(B) contains such other information as may be required by the participating State.

(2) TIMING.—Any claim filed under paragraph (1) shall be filed contemporaneously with the action of the participating financial institution to charge off all or part of an enrolled loan. The participating financial institution shall determine when and how much to charge off on an enrolled loan, in a manner consistent with its usual method for making such determinations on business loans that are not enrolled loans under this subtitle.

(l) ELEMENTS OF CLAIMS.—A claim filed by a participating financial institution may include the amount of principal charged off, not to exceed the covered amount of the loan. Such claim may also include accrued interest and out-of-pocket expenses, if and to the extent provided for under the participation agreement.

(m) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—Except as provided in subsection (n) and paragraph (2) of this subsection, upon receipt of a claim filed in accordance with this section and the participation agreement, the participating State shall promptly pay to the participating financial institution, from funds in the reserve fund, the full amount of the claim as submitted.

(2) INSUFFICIENT RESERVE FUNDS.—If there are insufficient funds in the reserve fund to cover the entire amount of a claim of a participating financial institution, the participating State shall pay to the participating financial institution an amount equal to the current balance in the reserve fund. If the enrolled loan for which the claim has been filed—

(A) is not an early loan, such payment shall be deemed fully to satisfy the claim, and the participating financial institution shall have no other or further right to receive any amount from the reserve fund with respect to such claim; or

(B) is an early loan, such payment shall not be deemed fully to satisfy the claim of the participating financial institution, and at such time as the remaining balance of the claim does not exceed 75 percent of the balance in the reserve fund, the participating State shall, upon the request of the participating financial institution, pay any remaining amount of the claim.

(n) DENIAL OF CLAIMS.—A participating State may deny a claim if a representation or warranty made by the participating financial institution to the participating State at the time that the loan was filed for enrollment or at the time that the claim was submitted was known by the participating financial institution to be false.

(o) SUBSEQUENT RECOVERY OF CLAIM AMOUNT.—If, subsequent to payment of a claim by the participating State, a participating financial institution recovers from a borrower any amount for which payment of the claim was made, the participating financial institution shall promptly pay to the participating State for deposit into the reserve fund the amount recovered, less any expenses incurred by the institution in collection of such amount.

(p) PARTICIPATION AGREEMENT TERMS.—

(1) IN GENERAL.—In connection with the filing of a loan for enrollment in the Program, the participation agreement—

(A) shall require the participating financial institution to obtain an assurance from each borrower that—

(i) the proceeds of the loan will be used for a business purpose;

(ii) the loan will not be used to finance passive real estate ownership; and

(iii) the borrower is not—

(I) an executive officer, director, or principal shareholder of the participating financial institution;

(II) a member of the immediate family of an executive officer, director, or principal shareholder of the participating financial institution; or

(III) a related interest of any such executive officer, director, principal shareholder, or member of the immediate family;

(B) shall require the participating financial institution to provide assurances to the participating State that the loan has not been made in order to place under the protection of the Program prior debt that is not covered under the Program and that is or was owed by the borrower to the participating financial institution or to an affiliate of the participating financial institution;

(C) may provide that if—

(i) a participating financial institution makes a loan to a borrower that is a refinancing of a loan previously made to the borrower by the participating financial institution or an affiliate of the participating financial institution;

(ii) such prior loan was not enrolled in the Program; and

(iii) additional or new financing is extended by the participating financial institution as part of the refinancing,

the participating financial institution may file the loan for enrollment, with the amount to be covered under the Program not to exceed the amount of any additional or new financing; and

(D) may include additional restrictions on the eligibility of loans or borrowers that are not inconsistent with the provisions and purposes of this subtitle.

(2) DEFINITIONS.—For purposes of this subsection, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a participating financial institution as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

(q) TERMINATION CLAUSE.—In each participation agreement, the participating State shall reserve for itself the ability to terminate its obligation to enroll loans under the Program. Any such termination shall be prospective only, and shall not apply to amounts of loans enrolled under the Program prior to such termination.

(r) ALLOWABLE WITHDRAWALS FROM FUND.—The participation agreement may provide that, if, for any consecutive period of not less than 24 months, the aggregate outstanding balance of all enrolled loans for a participating financial institution is continually less than the outstanding balance in the reserve fund for that participating financial institution, the participating State, in its discretion, may withdraw an amount from the reserve fund to bring the balance in the reserve fund down to the outstanding balance of all such enrolled loans.

(s) GRANDFATHERED PROVISION.—

(1) SPECIAL TREATMENT OF PREMIUM CHARGES.—Notwithstanding subsection (b) or (d), the participation agreement, if explicitly authorized by a statute enacted by the State before the date of enactment of this Act, may allow a participating financial institution to treat the premium charges paid by the participating financial institution and the borrower into the reserve fund, and interest or income earned on funds in the reserve fund that are deemed to be attributable to such premium charges, as assets of the participating financial institution for accounting purposes, subject to withdrawal by the participating financial institution only—

(A) for the payment of claims approved by the participating State in accordance with this section; and

(B) upon the participating financial institution's withdrawal from authority to make new loans under the Program.

(2) PAYMENT OF POST-WITHDRAWAL CLAIMS.—After any withdrawal of assets from the reserve fund pursuant to paragraph (1)(B), any future claims filed by the participating financial institution on loans remaining in its capital access program portfolio shall only be paid from funds remaining in the reserve fund to the extent that, in the aggregate, such claims exceed the sum of the amount of such withdrawn assets, and interest on that amount, imputed at the same rate as income would have accrued had the amount not been withdrawn.

(3) CONDITIONS FOR TERMINATING SPECIAL AUTHORITY.—If the Fund determines that the inclusion in a participation agreement of the provisions authorized by this subsection is resulting in the enrollment of loans under the Program that are likely to have been made without assistance provided under this subtitle, the Fund may notify the participating State that henceforth, the Fund will only make reimbursements to the State under section 257 with respect to a loan if the participation agreement between the participating State and each participating financial institution has been amended to conform with this section, without exercise of the special authority granted by this subsection.

SEC. 256. REPORTS.

(a) RESERVE FUNDS REPORT.—On or before the last day of each calendar quarter, a participating State shall submit to the Fund a report of contributions to reserve funds made by the participating State during the previous calendar quarter. If the participating State has made contributions to one or more reserve funds during the previous quarter, the report shall—

(1) indicate the total amount of such contributions;

(2) indicate the amount of contributions which is subject to reimbursement, which shall be equal to the total amount of contributions, unless one of the limitations contained in section 257 is applicable;

(3) if one of the limitations in section 257 is applicable, provide documentation of the applicability of such limitation for each loan for which the limitation applies; and

(4) include a certification by the participating State that—

(A) the information provided in accordance with paragraphs (1), (2), and (3) is accurate;

(B) funds in an amount meeting the minimum requirements of section 253(b)(3) continue to be available and legally committed to contributions by the State to reserve funds, less any amount that has been contributed by the State to reserve funds subsequent to the State being approved for participation in the Program;

(C) there has been no unapproved amendment to any participation agreement or the form of participation agreements; and

(D) the participating State is otherwise implementing the Program in accordance with this subtitle and regulations issued pursuant to section 259.

(b) ANNUAL DATA.—Not later than March 31 of each year, each participating State shall submit to the Fund annual data indicating the number of borrowers financed under the Program, the total amount of covered loans, and breakdowns by industry type, loan size, annual sales, and number of employees of the borrowers financed.

(c) FORM.—The reports and data filed pursuant to subsections (a) and (b) shall be in such form as the Fund may require.

SEC. 257. REIMBURSEMENT BY THE FUND.

(a) REIMBURSEMENTS.—Not later than 30 calendar days after receiving a report filed in compliance with section 256, the Fund shall reimburse the participating State in an amount equal to 50 percent of the amount of contributions by the participating State to the reserve funds that are subject to reimbursement by the Fund pursuant to section 256 and this section. The Fund shall reimburse participating States, as it receives reports pursuant to section 256(a), until available funds are expended.

(b) SIZE OF ASSISTED BORROWER.—The Fund shall not provide any reimbursement to a participating State with respect to an enrolled loan made to a borrower that has 500 or more employees at the time that the loan is enrolled in the Program.

(c) THREE-YEAR MAXIMUM.—The amount of reimbursement to be provided by the Fund to a participating State over any 3-year period in connection with loans made to any single borrower or any group of borrowers among which a common enterprise exists shall not exceed $75,000. For purposes of this subsection, "common enterprise" shall have the same meaning as in part 32 of title 12 of the Code of Federal Regulations, or any successor to that part.

(d) LOANS TOTALING LESS THAN $2,000,000.—In connection with a loan in which the covered amount of the loan plus the covered amount of all previous loans enrolled by a participating financial institution does not exceed $2,000,000, the amount of reimbursement by the Fund to the participating State shall not exceed the lesser of—

(1) 75 percent of the sum of the premium charges paid to the reserve fund by the borrower and the participating financial institution; or

(2) 5.25 percent of the covered amount of the loan.

(e) LOANS TOTALING MORE THAN $2,000,000.—In connection with a loan in which the sum of the covered amounts of all previous loans enrolled by the participating financial institution in the Program equals or exceeds $2,000,000, the amount of reimbursement to be provided by the Fund to the participating State shall not exceed the lesser of—

(1) 50 percent of the sum of the premium charges paid by the borrower and the participating financial institution; or

(2) 3.5 percent of the covered amount of the loan.

(f) OTHER AMOUNTS.—In connection with the enrollment of a loan that will cause the aggregate covered amount of all enrolled loans to exceed $2,000,000, the amount of reimbursement by the Fund to the participating State shall be determined—

(1) by applying subsection (d) to the portion of the loan, which when added to the aggregate covered amount of all previously enrolled loans equals $2,000,000; and

(2) by applying subsection (e) to the balance of the loan.

SEC. 258. REIMBURSEMENT TO THE FUND.

(a) IN GENERAL.—If a participating State withdraws funds from a reserve fund pursuant to terms of the participation agreement permitted by subsection (d) or (r) of section 255, such participating State shall, not later than 15 calendar days after such withdrawal, submit to the Fund an amount computed by multiplying the amount withdrawn by the appropriate factor, as determined under subsection (b).

(b) FACTOR.—The appropriate factor shall be obtained by dividing the total amount of contributions that have been made by the participating State to all reserve funds which were subject to reimbursement—

(1) by 2; and

(2) by the total amount of contributions made by the participating State to all reserve funds, including if applicable, contributions that have been made by the State prior to becoming a participating State if the State continued its own

capital access program in accordance with section 253(b).

(c) USE OF REIMBURSEMENTS.—The Fund may use funds reimbursed pursuant to this section to make reimbursements under section 257.

SEC. 259. REGULATIONS.

The Fund shall promulgate appropriate regulations to implement this subtitle.

SEC. 260. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are authorized to be appropriated to the Fund $50,000,000 to carry out this subtitle.

(b) BUDGETARY TREATMENT.—The amount authorized to be appropriated under subsection (a) shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

SEC. 261. EFFECTIVE DATE.

This subtitle shall become effective on January 6, 1996.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

SEC. 301. INCORPORATED DEFINITIONS.

Unless otherwise specifically provided in this title, for purposes of this title—

(1) the terms "appropriate Federal banking agency", "Federal banking agencies", "insured depository institution", and "State bank supervisor" have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(2) the term "insured credit union" has the same meaning as in section 101 of the Federal Credit Union Act.

SEC. 302. ADMINISTRATIVE CONSIDERATION OF BURDEN WITH NEW REGULATIONS.

(a) AGENCY CONSIDERATIONS.—In determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency shall consider, consistent with the principles of safety and soundness and the public interest—

(1) any administrative burdens that such regulations would place on depository institutions, including small depository institutions and customers of depository institutions; and

(2) the benefits of such regulations.

(b) ADEQUATE TRANSITION PERIOD FOR NEW REGULATIONS.—

(1) IN GENERAL.—New regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, unless—

(A) the agency determines, for good cause published with the regulation, that the regulation should become effective before such time;

(B) the regulation is issued by the Board of Governors of the Federal Reserve System in connection with the implementation of monetary policy; or

(C) the regulation is required to take effect on a date other than the date determined under this paragraph pursuant to any other Act of Congress.

(2) EARLY COMPLIANCE.—Any person who is subject to a regulation described in paragraph (1) may comply with the regulation before the effective date of the regulation.

SEC. 303. STREAMLINING OF REGULATORY REQUIREMENTS.

(a) REVIEW OF REGULATIONS; REGULATORY UNIFORMITY.—During the 2-year period beginning on the date of enactment of this Act, each Federal banking agency shall, consistent with the principles of safety and soundness, statutory law and policy, and the public interest—

(1) conduct a review of the regulations and written policies of that agency to—

(A) streamline and modify those regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability;

(B) remove inconsistencies and outmoded and duplicative requirements; and

(C) with respect to regulations prescribed pursuant to section 18(o) of the Federal Deposit Insurance Act, consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low- and moderate-income communities;

(2) work jointly with the other Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or supervisory policies; and

(3) submit a joint report to the Congress at the end of such 2-year period detailing the progress of the agencies in carrying out this subsection.

(b) REVIEW OF DISCLOSURES.—The Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, consumers, representatives of consumers, lenders, and other interested persons, shall—

(1) review the regulations and written policies of the Board with respect to disclosures pursuant to the Truth in Lending Act with regard to variable-rate mortgages in order to simplify the disclosures, if necessary, and make the disclosures more meaningful and comprehensible to consumers;

(2) implement any necessary regulatory changes, consistent with applicable law; and

(3) not later than 2 years after completion of the review required by paragraph (1), submit a report to the Congress on the results of its actions taken in accordance with this subsection and any recommended legislative actions.

SEC. 304. ELIMINATION OF DUPLICATIVE FILINGS.

The Federal banking agencies shall work jointly—

(1) to eliminate, to the extent practicable, duplicative or otherwise unnecessary requests for information in connection with applications or notices to the agencies; and

(2) to harmonize, to the extent practicable, any inconsistent publication and public notice requirements.

SEC. 305. COORDINATED AND UNIFIED EXAMINATIONS.

(a) IN GENERAL.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraphs:

"(6) COORDINATED EXAMINATIONS.—To minimize the disruptive effects of examinations on the operations of insured depository institutions—

"(A) each appropriate Federal banking agency shall, to the extent practicable and consistent with principles of safety and soundness and the public interest—

"(i) coordinate examinations to be conducted by that agency at an insured depository institution and its affiliates;

"(ii) coordinate with the other appropriate Federal banking agencies in the conduct of such examinations;

"(iii) work to coordinate with the appropriate State bank supervisor—

"(I) the conduct of all examinations made pursuant to this subsection; and

"(II) the number, types, and frequency of reports required to be submitted to such agencies and supervisors by insured depository institutions, and the type and amount of information required to be included in such reports; and

"(iv) use copies of reports of examinations of insured depository institutions made by any other Federal banking agency or appropriate State bank supervisor to eliminate duplicative requests for information; and

"(B) not later than 2 years after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, the Federal banking agencies shall jointly establish and implement a system for determining which one of the Federal banking agencies shall be the lead agency responsible for managing a unified examination of each insured depository institution and its affiliates, as required by this subsection.

"(7) SEPARATE EXAMINATIONS PERMITTED.—Notwithstanding paragraph (6), each appropriate Federal banking agency may conduct a separate examination in an emergency or under other exigent circumstances, or when the agency believes that a violation of law may have occurred.

"(8) REPORT.—At the time the system provided for in paragraph (6) is established, the Federal banking agencies shall submit a joint report describing the system to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Thereafter, the Federal banking agencies shall annually submit a joint report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives regarding the progress of the agencies in implementing the system and indicating areas in which enhancements to the system, including legislature improvements, would be appropriate.".

(b) STATE ACCESS TO FEDERAL AGENCY REPORTS.—The first sentence of section 7(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)(A)) is amended by inserting "and, with respect to any State depository institution, any appropriate State bank supervisor for such institution," after "The Corporation".

SEC. 306. EIGHTEEN-MONTH EXAMINATION RULE FOR CERTAIN SMALL INSTITUTIONS.

(a) IN GENERAL.—Section 10(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)) is amended—

(1) in subparagraph (A), by striking "$100,000,000" and inserting "$250,000,000";

(2) in subparagraph (C), by striking "and its composite condition was found to be outstanding; and" and inserting "and its composite condition—

"(i) was found to be outstanding; or

"(ii) was found to be outstanding or good, in the case of an insured depository institution that has total assets of not more than $100,000,000;";

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) the insured institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and".

(b) AGENCY DISCRETION TO RAISE ASSET LIMIT.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(8) AGENCIES AUTHORIZED TO INCREASE MAXIMUM ASSET AMOUNT OF INSTITUTIONS FOR CERTAIN PURPOSES.—At any time after the end of the 2-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, the appropriate Federal banking agency, in the agency's discretion, may increase the maximum amount limitation contained in paragraph (4)(C)(ii), by regulation, from $100,000,000 to an amount not to exceed $175,000,000 for purposes of such paragraph, if the agency determines

that the greater amount would be consistent with the principles of safety and soundness for insured depository institutions.".

SEC. 307. CALL REPORT SIMPLIFICATION.

(a) MODERNIZATION OF CALL REPORT FILING AND DISCLOSURE SYSTEM.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated and parent-only financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates may file such reports and statements electronically; and

(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than 1 year after the date of enactment of this Act, report to the Congress and make recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) UNIFORM REPORTS AND SIMPLIFICATION OF INSTRUCTIONS.—The Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly—

(1) to adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a); and

(2) to simplify instructions accompanying such reports and statements and to provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) REVIEW OF CALL REPORT SCHEDULE.—Each Federal banking agency shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 308. REPEAL OF PUBLICATION REQUIREMENTS.

(a) REVISED STATUTES.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) in the 5th sentence of subsection (a), by striking "; and the statement of resources" and all that follows through "as may be required by the Comptroller"; and

(2) in subsection (c), by striking the 4th sentence.

(b) FDIA.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the 4th sentence.

(c) FEDERAL RESERVE ACT.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended in the last sentence of the 6th undesignated paragraph, by striking "and shall be published" and all that follows through the end of the sentence and inserting a period.

SEC. 309. REGULATORY APPEALS PROCESS, OMBUDSMAN, AND ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review material supervisory determinations made at insured depository institutions or at insured credit unions that the agency supervises.

(b) REVIEW PROCESS.—In establishing the independent appellate process under subsection (a), each agency shall ensure that—

(1) any appeal of a material supervisory determination by an insured depository institution or insured credit union is heard and decided expeditiously; and

(2) appropriate safeguards exist for protecting the appellant from retaliation by agency examiners.

(c) COMMENT PERIOD.—Not later than 90 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall provide public notice and opportunity for comment on proposed guidelines for the establishment of an appellate process under this section.

(d) AGENCY OMBUDSMAN.—

(1) ESTABLISHMENT REQUIRED.—Not later than 180 days after the date of enactment of this Act, each Federal banking agency and the National Credit Union Administration Board shall appoint an ombudsman.

(2) DUTIES OF OMBUDSMAN.—The ombudsman appointed in accordance with paragraph (1) for any agency shall—

(A) act as a liaison between the agency and any affected person with respect to any problem such party may have in dealing with the agency resulting from the regulatory activities of the agency; and

(B) assure that safeguards exist to encourage complainants to come forward and preserve confidentiality.

(e) ALTERNATIVE DISPUTE RESOLUTION PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, each Federal banking agency and the National Credit Union Administration Board shall develop and implement a pilot program for using alternative means of dispute resolution of issues in controversy (hereafter in this section referred to as the "alternative dispute resolution program") that is consistent with the requirements of subchapter IV of chapter 5 of title 5, United States Code, if the parties to the dispute, including the agency, agree to such proceeding.

(2) STANDARDS.—An alternative dispute resolution pilot program developed under paragraph (1) shall—

(A) be fair to all interested parties to a dispute;

(B) resolve disputes expeditiously; and

(C) be less costly than traditional means of dispute resolution, including litigation.

(3) INDEPENDENT EVALUATION.—Not later than 18 months after the date on which a pilot program is implemented under paragraph (1), the Administrative Conference of the United States shall submit to the Congress a report containing—

(A) an evaluation of that pilot program;

(B) the extent to which the pilot programs meet the standards established under paragraph (2);

(C) the extent to which parties to disputes were offered alternative means of dispute resolution and the frequency with which the parties, including the agencies, accepted or declined to use such means; and

(D) any recommendations of the Conference to improve the alternative dispute resolution procedures of the Federal banking agencies and the National Credit Union Administration Board.

(4) IMPLEMENTATION OF PROGRAM.—At any time after completion of the evaluation under paragraph (3)(A), any Federal banking agency and the National Credit Union Administration Board may implement an alternative dispute resolution program throughout the agency, taking into account the results of that evaluation.

(5) COORDINATION WITH EXISTING AGENCY ADR PROGRAMS.—

(A) EVALUATION REQUIRED.—If any Federal banking agency or the National Credit Union Administration maintains an alternative dispute resolution program as of the date of enactment of this Act under any other provision of law, the Administrative Conference of the United States shall include such program in the evaluation conducted under paragraph (3)(A).

(B) MULTIPLE ADR PROGRAMS.—No provision of this section shall be construed as precluding any Federal banking agency or the National Credit Union Administration Board from establishing more than 1 alternative means of dispute resolution.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MATERIAL SUPERVISORY DETERMINATIONS.—The term "material supervisory determinations"—

(A) includes determinations relating to—

(i) examination ratings;

(ii) the adequacy of loan loss reserve provisions; and

(iii) loan classifications on loans that are significant to an institution; and

(B) does not include a determination by a Federal banking agency or the National Credit Union Administration Board to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act or section 212 of the Federal Credit Union Act, as appropriate.

(2) INDEPENDENT APPELLATE PROCESS.—The term "independent appellate process" means a review by an agency official who does not directly or indirectly report to the agency official who made the material supervisory determination under review.

(3) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—The term "alternative means of dispute resolution" has the meaning given to such term in section 571 of title 5, United States Code.

(4) ISSUES IN CONTROVERSY.—The term "issues in controversy" means—

(A) any final agency decision involving any claim against an insured depository institution or insured credit union for which the agency has been appointed conservator or receiver or for which a liquidating agent has been appointed, as the case may be;

(B) any final action taken by an agency in the agency's capacity as conservator or receiver for an insured depository institution or by the liquidating agent appointed for an insured credit union; and

(C) any other issue for which the appropriate Federal banking agency or the National Credit Union Administration Board determines that alternative means of dispute resolution would be appropriate.

(g) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall affect the authority of an appropriate Federal banking agency or the National Credit Union Administration Board to take enforcement or supervisory action.

SEC. 310. ELECTRONIC FILING OF CURRENCY TRANSACTION REPORTS.

Section 123 of Public Law 91–508 (12 U.S.C. 1953) is amended by adding at the end the following new subsection:

"(c) ACCEPTANCE OF AUTOMATED RECORDS.—The Secretary shall permit an uninsured bank or financial institution to retain or maintain records referred to in subsection (a) in electronic or automated form, subject to terms and conditions established by the Secretary.".

SEC. 311. BANK SECRECY ACT PUBLICATION REQUIREMENTS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"SEC. 5329. STAFF COMMENTARIES.

"The Secretary shall—

"(1) publish all written rulings interpreting this subchapter; and

"(2) annually issue a staff commentary on the regulations issued under this subchapter.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5328 the following new item:

"5329. Staff commentaries.".

SEC. 312. EXEMPTION OF BUSINESS LOANS FROM REAL ESTATE SETTLEMENT PROCEDURES ACT REQUIREMENTS.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 6 the following new section:

"SEC. 7. EXEMPTED TRANSACTIONS.

"This Act does not apply to credit transactions involving extensions of credit—

"(1) primarily for business, commercial, or agricultural purposes; or

"(2) to government or governmental agencies or instrumentalities.".

SEC. 313. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the 1st sentence, by striking "two thirds" and inserting "a majority".

SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.

(a) IN GENERAL.—Section 36(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)) is amended—

(1) by redesignating paragraph (1) as subparagraph (A) and indenting appropriately;

(2) by striking "Except with respect" and inserting the following:

"(1) IN GENERAL.—Except with respect"; and

(3) by striking paragraph (2) and inserting the following:

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(ii) has—

"(I) total assets, as of the beginning of such fiscal year, of $5,000,000,000, or more; and

"(II) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(2) LARGE INSTITUTIONS.—For purposes of this subsection, in the case of an insured depository institution described in paragraph (1)(B)(ii) that the Corporation determines to be a large institution, the audit committee of the holding company of such an institution shall not include any large customers of the institution.

"(3) APPLICABILITY BASED ON RISK TO FUND.—The appropriate Federal banking agency may require an institution with total assets in excess of $9,000,000,000 to comply with this section, notwithstanding the exemption provided by this subsection, if it determines that such exemption would create a significant risk to the affected deposit insurance fund if applied to that institution.".

(b) WRITTEN NOTICE OF REQUIREMENT FOR AUDIT OF QUARTERLY REPORTS.—Section 36(g)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(g)(2)) is amended by adding at the end the following new subparagraph:

"(D) NOTICE TO INSTITUTION.—The Corporation shall promptly notify an insured depository institution, in writing, of a determination pursuant to subparagraph (A) to require a review of such institution's quarterly financial reports.".

SEC. 315. STATE REGULATION OF REAL ESTATE APPRAISALS.

Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by inserting after subsection (a) the following new subsection:

"(b) RECIPROCITY.—The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States."; and

(3) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(B) by striking "A State" and inserting the following:

"(1) IN GENERAL.—A State"; and

(C) by adding at the end the following new paragraph:

"(2) FEES FOR TEMPORARY PRACTICE.—A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.".

SEC. 316. ACCELERATION OF EFFECTIVE DATE FOR INTERAFFILIATE TRANSACTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) is amended by adding at the end the following new subparagraph:

"(C) TRANSITION RULE FOR WELL CAPITALIZED SAVINGS ASSOCIATIONS.—

"(i) IN GENERAL.—A savings association that is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act), as determined without including goodwill in calculating core capital, shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

"(ii) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—Any savings association that engages under clause (i) in a transaction that would not otherwise be permissible under this subsection, and any affiliated insured bank that is commonly controlled (as defined in section 5(e)(9) of the Federal Deposit Insurance Act), shall be subject to subsection (e) of section 5 of the Federal Deposit Insurance Act as if paragraph (6) of that subsection did not apply.".

(b) REPEAL PROVISION.—Effective on January 1, 1995, subparagraph (C) of section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) (as added by subsection (a) of this section) is repealed.

SEC. 317. COLLATERALIZATION OF PUBLIC DEPOSITS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indent appropriately;

(2) by striking "No agreement" and inserting the following:

"(1) IN GENERAL.—No agreement"; and

(3) by adding at the end the following new paragraph:

"(2) PUBLIC DEPOSITS.—An agreement to provide for the lawful collateralization of deposits of a Federal, State, or local governmental entity or of any depositor referred to in section 11(a)(2) shall not be deemed to be invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or with any changes in the collateral made in accordance with such agreement.".

SEC. 318. MODIFICATION OF REGULATORY PROVISIONS.

(a) IN GENERAL.—Section 39(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(b), as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended to read as follows:

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall prescribe standards, by regulation or guideline, for all insured depository institutions relating to asset quality, earnings, and stock valuation that the agency determines to be appropriate.".

(b) ESTABLISHING STANDARDS.—Section 39(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(d), as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in the subsection heading, by striking "BY REGULATION"; and

(2) in paragraph (1)—

(A) in the 1st sentence, by inserting "or guideline" before the period; and

(B) in the 2d sentence, by inserting "or guidelines" after "Such regulations".

(c) HOLDING COMPANIES EXCLUDED FROM SCOPE OF STANDARDS.—Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1, as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in subsections (a), by striking "and depository institution holding companies"; and

(2) in subsection (e)—

(A) by striking "or company" each place such term appears;

(B) in paragraphs (1)(A) and (2), by striking "or depository institution holding company";

(C) in paragraph (1)(A)—

(i) by striking "or (b) the agency shall require" and inserting the following: "or (b)—

"(i) if such standard is prescribed by regulation of the agency, the agency shall require"; and

(ii) by striking the period at the end and inserting the following: "; and

"(ii) if such standard is prescribed by guideline, the agency may require the institution to submit a plan described in clause (i)."; and

(D) in paragraph (1)(C)(i), by striking "and companies".

(d) EFFECTIVE DATE.—The amendments made by this section shall be construed to have the same effective date as section 39 of the Federal Deposit Insurance Act, as provided in section 132(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 319. EXPEDITED PROCEDURES.

(a) AMENDMENTS TO THE BANK HOLDING COMPANY ACT.—The 2d sentence of section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking "or (B)" and inserting "(B)"; and

(2) by inserting before the period the following: "; or (C) the acquisition, by a company, of control of a bank in a reorganization in which a person or group of persons exchanges their shares of the bank for shares of a newly formed bank holding company and receives after the reorganization substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if—

"(i) immediately following the acquisition—

"(I) the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company; and

"(II) the bank is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act);

"(ii) the holding company does not engage in any activities other than those of managing and controlling banks as a result of the reorganization;

"(iii) the company provides 30 days prior notice to the Board and the Board does not object to such transaction during such 30-day period; and

"(iv) the holding company will not acquire control of any additional bank as a result of the reorganization.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 5(d)(3) of the Federal

Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) CONVERSIONS ALLOWED.—Notwithstanding paragraph (2)(A), and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).";

(2) in subparagraph (E)—

(A) in clause (i), by striking "(and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board)";

(B) in clause (ii), by striking "or Board"; and

(C) in clause (iv)—

(i) by striking ", and the appropriate Federal banking agency for any depository institution holding company,";

(ii) by striking "each"; and

(iii) by striking ", and any depository institution holding company which controls such institution,";

(3) in subparagraph (F)—

(A) by striking "The Board" and all that follows through "a Bank" and inserting "A Bank"; and

(B) by striking "unless the Board determines that" and inserting "may not be the acquiring, assuming, or resulting depository institution in a transaction under subparagraph (A) unless"; and

(4) by striking subparagraph (K).

SEC. 320. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)) is amended by adding at the end the following new paragraph:

"(12) Any equity security issued in connection with the acquisition by a holding company of a bank under section 3(a) of the Bank Holding Company Act of 1956 or a savings association under section 10(e) of the Home Owners' Loan Act, if—

"(A) the acquisition occurs solely as part of a reorganization in which security holders exchange their shares of a bank or savings association for shares of a newly formed holding company with no significant assets other than securities of the bank or savings association and the existing subsidiaries of the bank or savings association;

"(B) the security holders receive, after that reorganization, substantially the same proportional share interests in the holding company as they held in the bank or savings association, except for nominal changes in shareholders' interests resulting from lawful elimination of fractional interests and the exercise of dissenting shareholders' rights under State or Federal law;

"(C) the rights and interests of security holders in the holding company are substantially the same as those in the bank or savings association prior to the transaction, other than as may be required by law; and

"(D) the holding company has substantially the same assets and liabilities, on a consolidated basis, as the bank or savings association had prior to the transaction.

For purposes of this paragraph, the term 'savings association' means a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation.".

SEC. 321. REDUCTION OF POST-APPROVAL WAITING PERIODS FOR CERTAIN ACQUISITIONS AND MERGERS.

(a) ACQUISITIONS.—Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting before the period at the end of the 4th sentence the following: "or, if the Board has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

(b) MERGERS.—Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence the following: "or, if the agency has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

SEC. 322. BANKERS' BANKS.

(a) OWNERSHIP BY BANKERS' BANKS.—

(1) SECTION 5136.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the 5th proviso—

(A) by inserting "or depository institution holding companies (as defined in section 3 of the Federal Deposit Insurance Act)" after "(except to the extent directors' qualifying shares are required by law) by depository institutions"; and

(B) by striking "services for other depository institutions and their officers, directors and employees" and inserting the following: "services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a 'banker's bank')".

(2) SECTION 5169.—Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended—

(A) by inserting "or depository institution holding companies" after "(except to the extent directors' qualifying shares are required by law) by other depository institutions"; and

(B) by striking "services for other depository institutions and their officers, directors and employees" and inserting the following: "services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a 'banker's bank')".

(b) OWNERSHIP BY SAVINGS ASSOCIATIONS.—Section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended by adding at the end the following new subparagraph:

"(E) BANKERS' BANKS.—A Federal savings association may purchase for its own account shares of stock of a bankers' bank, described in Paragraph Seventh of section 5136 of the Revised Statutes or in section 5169(b) of the Revised Statutes, on the same terms and conditions as a national bank may purchase such shares.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) BANK HOLDING COMPANY ACT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking the 2d sentence.

(2) MANAGEMENT INTERLOCKS ACT.—Section 202(3)(D) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(D)) is amended by striking "the voting securities" the first place such term appears and all that follows through the end of the subparagraph and inserting "and is a bankers' bank, described in Paragraph Seventh of section 5136 of the Revised Statutes; or".

(d) LENDING LIMIT FOR LOANS SECURED BY SECURITIES.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking "10 percentum" each place such term appears and inserting "15 percent".

SEC. 323. BANK SERVICE CORPORATION ACT AMENDMENT.

Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended—

(1) in subsection (a), by striking "the prior approval of" and inserting "prior notice, as determined by"; and

(2) in subsection (c), by inserting "or whether to approve or disapprove any notice" after "approval".

SEC. 324. MERGER TRANSACTION REPORTS.

Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)) is amended by adding at the end the following: "Notwithstanding the preceding sentence, a banking agency shall not be required to file a report requested by the responsible agency under this paragraph if such banking agency advises the responsible agency by the applicable date under the preceding sentence that the report is not necessary because none of the effects described in paragraph (5) are likely to occur as a result of the transaction.".

SEC. 325. CREDIT CARD ACCOUNTS RECEIVABLE SALES.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from the waiver of or failure to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right

to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list, except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation.".

SEC. 326. LIMITING POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 25B the following new section:

"SEC. 25C. POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

"(a) EXCEPTIONS FROM REPAYMENT REQUIREMENT.—A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(1) an act of war, insurrection, or civil strife; or

"(2) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located;

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances.

"(b) REGULATIONS.—The Board and the Comptroller of the Currency may jointly prescribe such regulations as they deem necessary to implement this section.".

(b) CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (p) the following new subsection:

"(q) SOVEREIGN RISK.—Section 25C of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and would be payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED—Section 25C of the Federal Reserve Act (as added by subsection (a)) shall not be applied retroactively and shall not be construed to affect or apply to any claim or cause of action addressed by that section arising from events or circumstances that occurred before the date of enactment of this Act.

SEC. 327. GAO REPORTS.

Section 102(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1825 note) is amended to read as follows:

"(1) QUARTERLY REPORTING.—Not later than 90 days after the end of any calendar quarter in which the Federal Deposit Insurance Corporation (hereafter in this section referred to as the 'Corporation') has any obligations pursuant to section 14 of the Federal Deposit Insurance Act outstanding, the Comptroller General of the United States shall submit a report on the Corporation's compliance at the end of that quarter with section 15(c) of the Federal Deposit Insurance Act to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Such report shall be included in the Comptroller General's audit report for that year, as required by section 17 of the Federal Deposit Insurance Act.".

SEC. 328. STUDY AND REPORT ON CAPITAL STANDARDS AND THEIR IMPACT ON THE ECONOMY.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Federal banking agencies, shall conduct a study of the effect that the implementation of risk-based capital standards for depository institutions, including the Basle international capital standards, is having on—

(1) the safety and soundness of insured depository institutions;

(2) the availability of credit, particularly to individuals and small businesses; and

(3) economic growth.

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 1-year period beginning on the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the findings and conclusions of the Secretary with respect to the study conducted under subsection (a).

(2) RECOMMENDATIONS.—The report shall contain any recommendations with respect to capital standards that the Secretary of the Treasury may determine to be appropriate.

SEC. 329. STUDY ON THE IMPACT OF THE PAYMENT OF INTEREST ON RESERVES.

(a) FEDERAL RESERVE STUDY.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Federal Deposit Insurance Corporation and the National Credit Union Administration Board, shall conduct a study and report to the Congress on—

(1) the necessity, for monetary policy purposes, of continuing to require insured depository institutions to maintain sterile reserves;

(2) the appropriateness of paying a market rate of interest to insured depository institutions on sterile reserves or, in the alternative, providing for payment of such interest into the appropriate deposit insurance fund;

(3) the monetary impact that the failure to pay interest on sterile reserves has had on insured depository institutions, including an estimate of the total dollar amount of interest and the potential income lost by insured depository institutions; and

(4) the impact that the failure to pay interest on sterile reserves has had on the ability of the banking industry to compete with nonbanking providers of financial services and with foreign banks.

(b) BUDGETARY IMPACT STUDY.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, in consultation with the Committees on the Budget of the Senate and the House of Representatives, shall jointly conduct a study and report to the Congress on the budgetary impact of—

(1) paying a market rate of interest to insured depository institutions on sterile reserves; and

(2) paying such interest into the respective deposit insurance funds.

SEC. 330. STUDY AND REPORT ON THE CONSUMER CREDIT SYSTEM.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, the Administrator of the Small Business Administration, the Secretary of Housing and Urban Development, and the other Federal banking agencies, shall conduct a study of the process, including any Federal laws, by which credit is made available for consumers and small businesses in order to identify procedures, including any Federal laws, which have the effect of—

(1) reducing the amount of credit available for such purposes or the number of persons eligible for such credit;

(2) increasing the level of consumer inconvenience, cost, and time delays in connection with the extension of consumer and small business credit without corresponding benefit with respect to the protection of consumers or small businesses or the safety and soundness of insured depository institutions; and

(3) increasing costs and burdens on insured depository institutions, insured credit unions, and other lenders without corresponding benefit with respect to the protection of consumers or small business concerns or to the safety and soundness of insured institutions.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the findings and conclusions of the Secretary with respect to the study conducted under subsection (a).

(2) RECOMMENDATIONS.—The report required by paragraph (1) shall contain any recommendations for administrative action or statutory changes that the Secretary of the Treasury may determine to be appropriate.

(c) PUBLIC PARTICIPATION.—In conducting the study required by subsection (a), comments shall be solicited from consumers, representatives of consumers, insured depository institutions, insured credit unions, other lenders, and other interested parties.

SEC. 331. CLARIFICATION OF PROVISIONS RELATING TO ADMINISTRATIVE AUTONOMY.

(a) PUBLIC LAW 93–495.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by inserting "the Comptroller of the Currency," after "Federal Deposit Insurance Corporation,".

(b) REVISED STATUTES.—

(1) SECTION 5240.—The third paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is amended by inserting "or section 301(f)(1) of title 31, United States Code," after "provisions of this section".

(2) SECTION 324.—Section 324 of the Revised Statutes (12 U.S.C. 1) is amended by adding at the end the following: "The Comptroller of the Currency shall have the same authority over matters within the jurisdiction of the Comptroller as the Director of the Office of Thrift Supervision has over matters within the Director's jurisdiction under section 3(b)(3) of the Home Owners' Loan Act. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency.".

(3) SECTION 5239.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following new subsection:

"(d) AUTHORITY.—The Comptroller of the Currency may act in the Comptroller's own name and through the Comptroller's own attorneys in enforcing any provision of this title, regulations thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Comptroller of the Currency is a party.".

(c) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 3(b) of the Home Owners' Loan Act (12 U.S.C. 1462a(b)) is amended—

(1) in paragraph (3), by striking "unless otherwise provided by law" and inserting "(including agency enforcement actions) unless otherwise specifically provided by law"; and

(2) by adding at the end the following new paragraph:

"(4) BANKING AGENCY RULEMAKING.—The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Director.".

(d) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(p) AUTHORITY.—The Board may act in its own name and through its own attorneys in enforcing any provision of this title, regulations promulgated hereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Board is a party and which involves the Board's regulation or supervision of any bank, bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956), or other entity, or the administration of its operations.".

(e) AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 9(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819(a)) is amended in paragraph Fourth, by inserting "by and through its own attorneys," after "complain and defend,".

SEC. 332. EXEMPTION FOR BUSINESS ACCOUNTS.

Section 274(1) of the Truth in Savings Act (12 U.S.C. 4313(1)) is amended to read as follows:

"(1) ACCOUNT.—The term 'account' means any account intended for use by and generally used by consumers primarily for personal, family, or household purposes that is offered by a depository institution into which a consumer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.".

SEC. 333. STUDY ON CHECK-RELATED FRAUD.

(a) STUDY.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study on the advisability of extending the 1-business-day period specified in section 603(b)(1) of the Expedited Funds Availability Act, regarding availability of funds deposited by local checks, to 2 business days.

(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Board shall consider—

(1) whether there is a pattern of significant increases in check-related losses at depository institutions attributable to the provisions of the Expedited Funds Availability Act; and

(2) whether extension of the time period referred to in subsection (a) is necessary to diminish the volume of any such check-related losses.

(c) REPORT TO THE CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Board shall submit a report to the Congress concerning the results of the study conducted under this section and including any recommendations for legislative action.

SEC. 334. INSIDER LENDING.

(a) LOANS TO EXECUTIVE OFFICERS BY MEMBER BANKS.—Section 22(g)(2) of the Federal Reserve Act (12 U.S.C. 375a(2)) is amended by striking "With the specific prior approval of its board of directors, a member" and inserting "A member".

(b) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(8)) is amended—

(1) by striking "MEMBER BANK.—FOR" and inserting the following: "MEMBER BANK.—

"(A) IN GENERAL.—For"; and

(2) by adding at the end the following:

"(B) EXCEPTION.—The Board may, by regulation, make exceptions to subparagraph (A), except as that subparagraph makes applicable paragraph (2), for an executive officer or director of a subsidiary of a company that controls the member bank, if that executive officer or director does not have authority to participate, and does not participate, in major policymaking functions of the member bank.".

SEC. 335. REVISIONS OF STANDARDS.

Section 305(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) take into account the size and activities of the institutions and do not cause undue reporting burdens.".

SEC. 336. ALTERNATIVE RULES FOR RADIO ADVERTISING.

(a) AMENDMENT TO THE TRUTH IN LENDING ACT.—Section 184 of the Truth in Lending Act (15 U.S.C. 1667c) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) RADIO ADVERTISEMENTS.—

"(1) IN GENERAL.—An advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, any consumer lease shall be deemed to be in compliance with the requirements of subsection (a) if such advertisement clearly and conspicuously—

"(A) states the information required by paragraphs (1) and (2) of subsection (a);

"(B) states the number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease;

"(C) includes—

"(i) a referral to—

"(I) a toll-free telephone number established in accordance with paragraph (2) that may be used by consumers to obtain the information required under subsection (a); or

"(II) a written advertisement that—

"(aa) appears in a publication in general circulation in the community served by the radio station on which such advertisement is broadcast during the period beginning 3 days before any such broadcast and ending 10 days after such broadcast; and

"(bb) includes the information required to be disclosed under subsection (a); and

"(ii) the name and dates of any publication referred to in clause (i)(II); and

"(D) includes any other information which the Board determines necessary to carry out this chapter.

"(2) ESTABLISHMENT OF TOLL-FREE NUMBER.—

"(A) IN GENERAL.—In the case of a radio broadcast advertisement described in paragraph (1) that includes a referral to a toll-free telephone number, the lessor who offers the consumer lease shall—

"(i) establish such a toll-free telephone number not later than the date on which the advertisement including the referral is broadcast;

"(ii) maintain such telephone number for a period of not less than 10 days, beginning on the date of any such broadcast; and

"(iii) provide the information required under subsection (a) with respect to the lease to any person who calls such number.

"(B) FORM OF INFORMATION.—The information required to be provided under subparagraph (A)(iii) shall be provided verbally or, if requested by the consumer, in written form.

"(3) NO EFFECT ON OTHER LAW.—Nothing in this subsection shall affect the requirements of Federal law as such requirements apply to advertisement by any medium other than radio broadcast.".

(b) STUDY OF ADVERTISING RULES.—Not later than 365 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall submit a report to the Congress on—

(1) the current rules applicable to credit advertising;

(2) how such rules could be modified to increase consumer benefit and decrease creditor costs; and

(3) how such rules could be modified, if at all, for radio advertisements without diminishing consumer protection.

SEC. 337. DEPOSIT BROKER REGISTRATION.

Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—

(1) by inserting "that is not well capitalized (as defined in section 38)" after "includes any insured depository institution";

(2) by striking "of any insured depository" and inserting "of such";

(3) by striking "(with respect to such deposits)"; and

(4) by striking "having the same type of charter".

SEC. 338. AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

(a) MANAGEMENT EXEMPTION.—Section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) is amended—

(1) in subsections (a) and (b), by striking "15 years after the date of enactment of this title" each place it appears and inserting ", subject to the requirements of subsection (c), 20 years after the date of enactment of this title"; and

(2) by adding at the end the following new subsection:

"(c) REVIEW OF EXISTING MANAGEMENT INTERLOCKS.—Upon the timely filing of a submission by a person petitioning to serve as a management official in more than 1 position pursuant to subsection (a) or (b), each appropriate Federal depository institutions regulatory agency shall, not later than 6 months after the date of enactment of this Act—

"(1) review, on a case-by-case basis, the circumstances under which such person has served as a management official under the provisions of subsection (a) or (b); and

"(2) permit the management official to continue to serve in such position only if—

"(A) such person has provided a resolution from the boards of directors of each affected depository institution, depository holding company, or company described in subsection (b), certifying to the appropriate Federal depository institutions regulatory agency for each of the institutions involved that there is no other qualified candidate from the community described in paragraph (1) or (2) of section 203 who—

"(i) possesses the level of expertise necessary for such service with respect to the affected depository institution, depository holding company, or company described in subsection (b); and

"(ii) is willing to serve as a management official at the affected depository institution, depository holding company, or company described in subsection (b); and

"(B) the appropriate Federal depository institutions regulatory agency determines that continuation of service by the management official does not produce an anticompetitive effect with respect to each affected depository institution, depository holding company, or company described in subsection (b).".

(b) AMENDMENTS TO SECTION 209.—Section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207) is amended—

(1) by striking "Rules" and inserting "(a) IN GENERAL.—Rules";

(2) by striking ", including rules or regulations which permit service by a management official which would otherwise be prohibited by section 203 or section 204,"; and

(3) by adding at the end the following new subsections:

"(b) REGULATORY STANDARDS.—An appropriate Federal depository institution regulatory agency may permit, on a case-by-case basis, service by a management official which would otherwise be prohibited by section 203 or 204 only if—

"(1) the board of directors of the affected depository institution, depository institution holding company, or company described in section 206(b), provides a resolution to the appropriate Federal depository institutions regulatory agency certifying that there is no other candidate from the community described in paragraph (1) or (2) of section 203 who—

"(A) possesses the level of expertise necessary for such service with respect to the affected depository institution, depository institution holding company, or company described in section 206(b) and is not prohibited from service under section 203 or 204; and

"(B) is willing to serve as a management official at the affected depository institution, depository institution holding company, or company described in section 206(b); and

"(2) the appropriate Federal depository institutions regulatory agency determines that—

"(A) the management official is critical to the safe and sound operations of the affected depository institution, depository institution holding company, or company described in section 206(b);

"(B) continuation of service by the management official does not produce an anticompetitive effect with respect to the affected depository institution, depository institution holding company, or company described in section 206(b); and

"(C) the management official meets such additional requirements as the agency may impose.

"(c) LIMITED EXCEPTION FOR MANAGEMENT OFFICIAL CONSIGNMENT PROGRAM.—

"(1) IN GENERAL.—Notwithstanding the requirements of subsection (b), an appropriate Federal depository institutions regulatory agency may establish a program to permit, on a case-by-case basis, service by a management official which would otherwise be prohibited by section 203 or 204, for a period of not more than 2 years, if the agency determines that such service would—

"(A) improve the provision of credit to low- and moderate-income areas;

"(B) increase the competitive position of minority- and woman-owned institutions; or

"(C) strengthen the management of newly chartered institutions that are in an unsafe or unsound condition.

"(2) EXTENSION OF SERVICE PERIOD.—The appropriate Federal depository institutions regulatory agency may extend the 2-year period referred to in paragraph (1) for one additional period of not more than 2 years, subject to making a new determination described in subparagraphs (A) through (C) of paragraph (1).".

SEC. 339. ADVERSE INFORMATION ABOUT CONSUMERS.

Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following new paragraph:

"(4) The dates, original payees, and amounts of any checks upon which is based any adverse characterization of the consumer, included in the file at the time of the disclosure.".

SEC. 340. SIMPLIFIED DISCLOSURE FOR EXISTING DEPOSITORS.

(a) IN GENERAL.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

"(3) ACKNOWLEDGEMENT OF DISCLOSURE.—

"(A) NEW DEPOSITORS.—With respect to any depositor who was not a depositor at the depository institution before June 19, 1994, receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) CURRENT DEPOSITORS.—Receive any deposit after the effective date of this paragraph for the account of any depositor who was a depositor before June 19, 1994, only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution has complied with the provisions of subparagraph (C) which are applicable as of the date of the deposit.

"(C) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS.—

"(i) IN GENERAL.—Transmit to each depositor who was a depositor before June 19, 1994, and has not signed a written acknowledgement described in subparagraph (A)—

"(I) a card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(ii) MANNER AND TIMING OF NOTICE.—

"(I) FIRST NOTICE.—Make the transmission described in clause (i) via first class mail not later than September 12, 1994.

"(II) SECOND NOTICE.—Make a second transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i) which has been signed by the depositor.

"(III) THIRD NOTICE.—Make a third transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (II), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i) which has been signed by the depositor.".

(b) EFFECTIVE DATE.—Section 43(b)(3) of the Federal Deposit Insurance Act, as amended by subsection (a), shall take effect in accordance with section 151(a)(2)(D) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 341. FEASIBILITY STUDY OF DATA BANK.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Federal Financial Institutions Examination Council shall—

(1) study the feasibility, including the costs and benefits to insured depository institutions, of establishing and maintaining a data bank for reports submitted by any depository institution to a Federal banking agency; and

(2) report the results of such study to the Congress.

(b) ADDITIONAL FACTORS.—The study required under subsection (a) shall consider the feasibility of—

(1) permitting depository institutions to file reports directly with the data bank; and

(2) permitting Federal banking agencies, State bank supervisors, and the public to obtain access to any appropriate report on file with the data bank which such agency or supervisor or the public is otherwise authorized to receive.

SEC. 342. TIMELY COMPLETION OF CRA REVIEW.

The comprehensive regulatory review of the Community Reinvestment Act of 1977 that, as of the date of enactment of this Act, is being conducted by the Federal banking agencies, shall be completed at the earliest practicable time.

SEC. 343. TIME LIMIT ON AGENCY CONSIDERATION OF COMPLETED APPLICATIONS.

(a) IN GENERAL.—Each Federal banking agency shall take final action on any application to the agency before the end of the 1-year period beginning on the date on which a completed application is received by the agency.

(b) WAIVER BY APPLICANT AUTHORIZED.—Any person submitting an application to a Federal banking agency may waive the applicability of subsection (a) with respect to such application at any time.

SEC. 344. WAIVER OF RIGHT OF RESCISSION FOR CERTAIN REFINANCING TRANSACTIONS.

Not later than 6 months after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, consumers, representatives of consumers, lenders, and other interested parties, shall submit recommendations to the Congress regarding whether a waiver or modification, at the option of a consumer, of the right of rescission under section 125 of the Truth in Lending Act with respect to transactions which constitute a refinancing or consolidation (with no new advances) of the principal balance then due, and any accrued and unpaid finance charges of an existing extension of credit by a different creditor secured by an interest in the same property, would benefit consumers.

SEC. 345. CLARIFICATION OF RESPA DISCLOSURE REQUIREMENTS.

Section 6(a)(1)(B) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(a)(1)(B)) is amended—

(1) by striking "(B) for each of the most recent" and inserting "(B) at the choice of the person making a federally related mortgage loan—

"(i) for each of the most recent";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and indenting appropriately;

(3) by striking "and" at the end of subclause (II) (as redesignated by paragraph (2)) and inserting "or"; and

(4) by inserting after clause (i) (as redesignated by paragraph (1)) the following new clause:

"(ii) a statement that the person making the loan has previously assigned, sold, or transferred the servicing of federally related mortgage loans; and".

SEC. 346. NOTICE PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN CERTAIN ACTIVITIES.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) by adding at the end the following new subsection:

"(j) NOTICE PROCEDURES FOR NONBANKING ACTIVITIES.—

"(1) GENERAL NOTICE PROCEDURE.—

"(A) NOTICE REQUIREMENT.—No bank holding company may engage in any nonbanking activity or acquire or retain ownership or control of the shares of a company engaged in activities based on subsection (c)(8) or (a)(2) without providing the Board with written notice of the proposed transaction or activity at least 60 days before the transaction or activity is proposed to occur or commence.

"(B) CONTENTS OF NOTICE.—The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice.

"(C) PROCEDURE FOR AGENCY ACTION.—

"(i) NOTICE OF DISAPPROVAL.—Any notice filed under this subsection shall be deemed to be approved by the Board unless, before the end of the 60-day period beginning on the date the Board receives a complete notice under subparagraph (A), the Board issues an order disapproving the transaction or activity and setting forth the reasons for disapproval.

"(ii) EXTENSION OF PERIOD.—The Board may extend the 60-day period referred to in clause (i) for an additional 30 days. The Board may further extend the period with the agreement of the bank holding company submitting the notice pursuant to this subsection.

"(iii) DETERMINATION OF PERIOD IN CASE OF PUBLIC HEARING.—In the event a hearing is requested or the Board determines that a hearing is warranted, the Board may extend the notice period provided in this subsection for such time as is reasonably necessary to conduct a hearing and to evaluate the hearing record. Such extension shall not exceed the 91-day period beginning on the date that the hearing record is complete.

"(D) APPROVAL BEFORE END OF PERIOD.—

"(i) IN GENERAL.—Any transaction or activity may commence before the expiration of any period for disapproval established under this paragraph if the Board issues a written notice of approval.

"(ii) SHORTER PERIODS BY REGULATION.—The Board may prescribe regulations which provide for a shorter notice period with respect to particular activities or transactions.

"(E) EXTENSION OF PERIOD.—In the case of any notice to engage in, or to acquire or retain ownership or control of shares of any company engaged in, any activity pursuant to subsection (c)(8) or (a)(2) that has not been previously approved by regulation, the Board may extend the notice period under this subsection for an additional 90 days. The Board may further extend the period with the agreement of the bank holding company submitting the notice pursuant to this subsection.

"(2) GENERAL STANDARDS FOR REVIEW.—

"(A) CRITERIA.—In connection with a notice under this subsection, the Board shall consider whether performance of the activity by a bank holding company or a subsidiary of such company can 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 interests, or unsound banking practices.

"(B) GROUNDS FOR DISAPPROVAL.—The Board may deny any proposed transaction or activity for which notice has been submitted pursuant to this subsection if the bank holding company submitting such notice neglects, fails, or refuses to furnish the Board all the information required by the Board.

"(C) CONDITIONAL ACTION.—Nothing in this subsection limits the authority of the Board to impose conditions in connection with an action under this section."; and

(2) in subsection (c), by striking the penultimate sentence.

SEC. 347. COMMERCIAL MORTGAGE RELATED SECURITIES.

(a) IN GENERAL.—Section 3(a)(41)(A)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)(A)(i)) is amended —

(1) by striking "or on a residential" and inserting "on a residential"; and

(2) by inserting before the semicolon ", or on one or more parcels of real estate upon which is located one or more commercial structures".

(b) AMENDMENT TO THE REVISED STATUTES.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the twelfth sentence, by striking "(15 U.S.C. 78c(a)(41))), subject to such regulations" and inserting "(15 U.S.C. 78c(a)(41)). The exception provided for the securities described in subparagraphs (A), (B), and (C) shall be subject to such regulations".

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Comptroller of the Currency shall promulgate final regulations, in accordance with the thirteenth sentence of Paragraph Seventh of section 5136 of the Revised Statutes (as amended by subsection (b)), to carry out the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the date of promulgation of final regulations under subsection (c).

(e) STATE OPT OUT.—Notwithstanding the amendments made by this section, a note that is directly secured by a first lien on one or more parcels of real estate upon which is located one or more commercial structures shall not be considered to be a mortgage related security under section 3(a)(41) of the Securities Exchange Act of 1934 in any State that, prior to the expiration of 7 years after the date of enactment of this Act, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided by the amendments made by this subsection. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior thereto, and shall not require the sale or other disposition of any securities acquired prior thereto.

SEC. 348. CLARIFYING AMENDMENT RELATING TO DATA COLLECTION.

Section 7(a)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(9)) is amended by adding at the end the following: "In prescribing reporting and other requirements for the collection of actual and accurate information pursuant to this paragraph, the Corporation shall minimize the regulatory burden imposed upon insured depository institutions that are well capitalized (as defined in section 38) while taking into account the benefit of the information to the Corporation, including the use of the information to enable the Corporation to more accurately determine the total amount of insured deposits in each insured depository institution for purposes of compliance with this Act.".

SEC. 349. GUIDELINES FOR EXAMINATIONS.

(a) ADEQUACY OF STATE EXAMINATIONS.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(9) STANDARDS FOR DETERMINING ADEQUACY OF STATE EXAMINATIONS.—The Federal Financial Institutions Examination Council shall issue guidelines establishing standards to be used at the discretion of the appropriate Federal banking agency for purposes of making a determination under paragraph (3).".

(b) EFFECTIVE DATE OF INITIAL GUIDELINES.—The initial guidelines required to be issued pursuant to the amendment made by subsection (a) shall become effective not later than 1 year after the date of enactment of this Act.

SEC. 350. REVISING REGULATORY REQUIREMENTS FOR TRANSFERS OF ALL TYPES OF ASSETS WITH RECOURSE.

(a) REVIEW AND REVISION OF REGULATIONS.—

(1) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall, consistent with the principles of safety and soundness and the public interest—

(A) review the agency's regulations and written policies relating to transfers of assets with recourse by insured depository institutions; and

(B) in consultation with the other Federal banking agencies, promulgate regulations that better reflect the exposure of an insured depository institution to credit risk from transfers of assets with recourse.

(2) REGULATIONS REQUIRED.—Before the end of the 180-day period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall prescribe the regulations developed pursuant to paragraph (1)(B).

(b) REGULATIONS REQUIRED.—

(1) IN GENERAL.—After the end of the 180-day period beginning on the date of enactment of this Act, the amount of risk-based capital required to be maintained, under regulations prescribed by the appropriate Federal banking agency, by any insured depository institution with respect to assets transferred with recourse by such institution may not exceed the maximum amount of recourse for which such institution is contractually liable under the recourse agreement.

(2) EXCEPTION FOR SAFETY AND SOUNDNESS.—The appropriate Federal banking agency may require any insured depository institution to maintain risk-based capital in an amount greater than the amount determined under paragraph (1), if the agency determines, by regulation or order, that such higher amount is necessary for safety and soundness reasons.

(c) COORDINATION WITH SECTION 208(b).—This section shall not be construed as superseding the applicability of section 208(b).

(d) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency", "Federal banking agency", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

TITLE IV—MONEY LAUNDERING

SEC. 401. SHORT TITLE.

This title may be cited as the "Money Laundering Suppression Act of 1994".

SEC. 402. REFORM OF CTR EXEMPTION REQUIREMENTS TO REDUCE NUMBER AND SIZE OF REPORTS CONSISTENT WITH EFFECTIVE LAW ENFORCEMENT.

(a) IN GENERAL.—Section 5313 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(d) MANDATORY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall exempt, pursuant to section 5318(a)(6), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and the following categories of entities:

"(A) Another depository institution.

"(B) A department or agency of the United States, any State, or any political subdivision of any State.

"(C) Any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between 2 or more States, which exercises governmental authority on behalf of the United States or any such State or political subdivision.

"(D) Any business or category of business the reports on which have little or no value for law enforcement purposes.

"(2) NOTICE OF EXEMPTION.—The Secretary of the Treasury shall publish in the Federal Register at such times as the Secretary determines to be appropriate (but not less frequently than once each year) a list of all the entities whose transactions with a depository institution are exempt under this subsection from the reporting requirements of subsection (a).

"(e) DISCRETIONARY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury may exempt, pursuant to section 5318(a)(6), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and a qualified business customer of the institution on the basis of information submitted to the Secretary by the institution in accordance with procedures which the Secretary shall establish.

"(2) QUALIFIED BUSINESS CUSTOMER DEFINED.—For purposes of this subsection, the term 'qualified business customer' means a business which—

"(A) maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) at the depository institution;

"(B) frequently engages in transactions with the depository institution which are subject to the reporting requirements of subsection (a); and

"(C) meets criteria which the Secretary determines are sufficient to ensure that the purposes of this subchapter are carried out without requiring a report with respect to such transactions.

"(3) CRITERIA FOR EXEMPTION.—The Secretary of the Treasury shall establish, by regulation, the criteria for granting and maintaining an exemption under paragraph (1).

"(4) GUIDELINES.—

"(A) IN GENERAL.—The Secretary of the Treasury shall establish guidelines for depository institutions to follow in selecting customers for an exemption under this subsection.

"(B) CONTENTS.—The guidelines may include a description of the types of businesses or an itemization of specific businesses for which no exemption will be granted under this subsection to any depository institution.

"(5) ANNUAL REVIEW.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to—

"(A) review, at least once each year, the qualified business customers of such institution with respect to whom an exemption has been granted under this subsection; and

"(B) upon the completion of such review, resubmit information about such customers, with such modifications as the institution determines to be appropriate, to the Secretary for the Secretary's approval.

"(6) 2-YEAR PHASE-IN PROVISION.—During the 2-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994, this subsection shall be applied by the Secretary on the basis of such criteria as the Secretary determines to be appropriate to achieve an orderly implementation of the requirements of this subsection.

"(f) PROVISIONS APPLICABLE TO MANDATORY AND DISCRETIONARY EXEMPTIONS.—

"(1) LIMITATION ON LIABILITY OF DEPOSITORY INSTITUTIONS.—No depository institution shall be subject to any penalty which may be imposed under this subchapter for the failure of the institution to file a report with respect to a transaction with a customer for whom an exemption has been granted under subsection (d) or (e) unless the institution—

"(A) knowingly files false or incomplete information to the Secretary with respect to the transaction or the customer engaging in the transaction; or

"(B) has reason to believe at the time the exemption is granted or the transaction is entered into that the customer or the transaction does not meet the criteria established for granting such exemption.

"(2) COORDINATION WITH OTHER PROVISIONS.—Any exemption granted by the Secretary of the Treasury under section 5318(a) in accordance with this section, and any transaction which is subject to such exemption, shall be subject to any other provision of law applicable to such exemption, including—

"(A) the authority of the Secretary, under section 5318(a)(6), to revoke such exemption at any time; and

"(B) any requirement to report, or any authority to require a report on, any possible violation of any law or regulation or any suspected criminal activity.

"(g) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution'—

"(1) has the meaning given to such term in section 19(b)(1)(A) of the Federal Reserve Act; and

"(2) includes—

"(A) any branch, agency, or commercial lending company (as such terms are defined in section 1(b) of the International Banking Act of 1978);

"(B) any corporation chartered under section 25A of the Federal Reserve Act; and

"(C) any corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.".

(b) REPORT REDUCTION GOAL; REPORTS.—

(1) IN GENERAL.—In implementing the amendment made by subsection (a), the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31, United States Code, by at least 30 percent of the number filed during the year preceding the date of enactment of this Act.

(2) INTERIM REPORT.—The Secretary of the Treasury shall submit a report to the Congress not later than the end of the 180-day period beginning on the date of enactment of this Act on the progress made by the Secretary in implementing the amendment made by subsection (a).

(3) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress after the end of each of the first 5 calendar years which begin after the date of enactment of this Act on the extent to which the Secretary has reduced the overall number of currency transaction reports filed with the Secretary pursuant to section 5313(a) of title 31, United States Code, consistent with the purposes of such section and effective law enforcement.

(c) STREAMLINED CURRENCY TRANSACTION REPORTS.—The Secretary of the Treasury shall take such action as may be appropriate to—

(1) redesign the format of reports required to be filed under section 5313(a) of title 31, United States Code, by any financial institution (as defined in section 5312(a)(2) of such title) to eliminate the need to report information which has little or no value for law enforcement purposes; and

(2) reduce the time and effort required to prepare such report for filing by any such financial institution under such section.

SEC. 403. SINGLE DESIGNEE FOR REPORTING OF SUSPICIOUS TRANSACTIONS.

(a) IN GENERAL.—Section 5318(g) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) SINGLE DESIGNEE FOR REPORTING SUSPICIOUS TRANSACTIONS.—

"(A) IN GENERAL.—In requiring reports under paragraph (1) of suspicious transactions, the Secretary of the Treasury shall designate, to the extent practicable and appropriate, a single officer or agency of the United States to whom such reports shall be made.

"(B) DUTY OF DESIGNEE.—The officer or agency of the United States designated by the Secretary of the Treasury pursuant to subparagraph (A) shall refer any report of a suspicious transaction to any appropriate law enforcement or supervisory agency.

"(C) COORDINATION WITH OTHER REPORTING REQUIREMENTS.—Subparagraph (A) shall not be construed as precluding any supervisory agency for any financial institution from requiring the financial institution to submit any information or report to the agency or another agency pursuant to any other applicable provision of law.".

(b) REPORTS.—

(1) REPORTS REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress at the times required under paragraph (2) on the number of suspicious transactions reported to the officer or agency designated under section 5318(g)(4)(A) of title 31, United States Code, during the period covered by the report and the disposition of such reports.

(2) TIME FOR SUBMITTING REPORTS.—The 1st report required under paragraph (1) shall be filed before the end of the 1-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994 and each subsequent report shall be filed within 90 days after the end of each of the 5 calendar years which begin after such date of enactment.

(c) DESIGNATION REQUIRED TO BE MADE EXPEDITIOUSLY.—The initial designation of an officer or agency of the United States pursuant to the amendment made by subsection (a) shall be made before the end of the 180-day period beginning on the date of enactment of this Act.

SEC. 404. IMPROVEMENT OF IDENTIFICATION OF MONEY LAUNDERING SCHEMES.

(a) ENHANCED TRAINING, EXAMINATIONS, AND REFERRALS BY BANKING AGENCIES.—Before the end of the 6-month period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall, in consultation with the Secretary of the Treasury and other appropriate law enforcement agencies—

(1) review and enhance training and examination procedures to improve the identification of money laundering schemes involving depository institutions; and

(2) review and enhance procedures for referring cases to any appropriate law enforcement agency.

(b) IMPROVED REPORTING OF CRIMINAL SCHEMES BY LAW ENFORCEMENT AGENCIES.—The Secretary of the Treasury and each appropriate law enforcement agency shall provide, on a regular basis, information regarding money laundering schemes and activities involving depository institutions to each appropriate Federal banking agency in order to enhance each agency's ability to examine for and identify money laundering activity.

(c) REPORT TO CONGRESS.—The Financial Institutions Examination Council shall submit a report on the progress made in carrying out subsection (a) and the usefulness of information received pursuant to subsection (b) to the Congress by the end of the 1-year period beginning on the date of enactment of this Act.

(d) DEFINITION.—For purposes of this section, the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEC. 405. NEGOTIABLE INSTRUMENTS DRAWN ON FOREIGN BANKS SUBJECT TO RECORDKEEPING AND REPORTING REQUIREMENTS.

Section 5312(a)(3) of title 31, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) as the Secretary of the Treasury shall provide by regulation for purposes of section

5316, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form.".

SEC. 406. IMPOSITION OF CIVIL MONEY PENALTIES BY APPROPRIATE FEDERAL BANKING AGENCIES.

Section 5321 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e) DELEGATION OF ASSESSMENT AUTHORITY TO BANKING AGENCIES.—

"(1) IN GENERAL.—The Secretary of the Treasury shall delegate, in accordance with section 5318(a)(1) and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) to the appropriate Federal banking agencies (as defined in such section 3).

"(2) AUTHORITY OF AGENCIES.—Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

"(3) TERMS AND CONDITIONS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

"(B) MAXIMUM DOLLAR AMOUNT.—The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).".

SEC. 407. UNIFORM STATE LICENSING AND REGULATION OF CHECK CASHING, CURRENCY EXCHANGE, AND MONEY TRANSMITTING BUSINESSES.

(a) UNIFORM LAWS AND ENFORCEMENT.—For purposes of preventing money laundering and protecting the payment system from fraud and abuse, it is the sense of the Congress that the several States should—

(1) establish uniform laws for licensing and regulating businesses which—

(A) provide check cashing, currency exchange, or money transmitting or remittance services, or issue or redeem money orders, travelers' checks, and other similar instruments; and

(B) are not depository institutions (as defined in section 5313(g) of title 31, United States Code); and

(2) provide sufficient resources to the appropriate State agency to enforce such laws and regulations prescribed pursuant to such laws.

(b) MODEL STATUTE.—It is the sense of the Congress that the several States should develop, through the auspices of the National Conference of Commissioners on Uniform State Laws, the American Law Institute, or such other forum as the States may determine to be appropriate, a model statute to carry out the goals described in subsection (a) which would include the following:

(1) LICENSING REQUIREMENTS.—A requirement that any business described in subsection (a)(1) be licensed and regulated by an appropriate State agency in order to engage in any such activity within the State.

(2) LICENSING STANDARDS.—A requirement that—

(A) in order for any business described in subsection (a)(1) to be licensed in the State, the appropriate State agency shall review and approve—

(i) the business record and the capital adequacy of the business seeking the license; and

(ii) the competence, experience, integrity, and financial ability of any individual who—

(I) is a director, officer, or supervisory employee of such business; or

(II) owns or controls such business; and

(B) any record, on the part of any business seeking the license or any person referred to in subparagraph (A)(ii), of—

(i) any criminal activity;

(ii) any fraud or other act of personal dishonesty;

(iii) any act, omission, or practice which constitutes a breach of a fiduciary duty; or

(iv) any suspension or removal, by any agency or department of the United States or any State, from participation in the conduct of any federally or State licensed or regulated business,

may be grounds for the denial of any such license by the appropriate State agency.

(3) REPORTING REQUIREMENTS.—A requirement that any business described in subsection (a)(1)—

(A) disclose to the appropriate State agency the fees charged to consumers for services described in subsection (a)(1)(A); and

(B) conspicuously disclose to the public, at each location of such business, the fees charged to consumers for such services.

(4) PROCEDURES TO ENSURE COMPLIANCE WITH FEDERAL CASH TRANSACTION REPORTING REQUIREMENTS.—A civil or criminal penalty for operating any business referred to in paragraph (1) without establishing and complying with appropriate procedures to ensure compliance with subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions).

(5) CRIMINAL PENALTIES FOR OPERATION OF BUSINESS WITHOUT A LICENSE.—A criminal penalty for operating any business referred to in paragraph (1) without a license within the State after the end of an appropriate transition period beginning on the date of enactment of such model statute by the State.

(c) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of—

(1) the progress made by the several States in developing and enacting a model statute which—

(A) meets the requirements of subsection (b); and

(B) furthers the goals of—

(i) preventing money laundering by businesses which are required to be licensed under any such statute; and

(ii) protecting the payment system, including the receipt, payment, collection, and clearing of checks, from fraud and abuse by such businesses; and

(2) the adequacy of—

(A) the activity of the several States in enforcing the requirements of such statute; and

(B) the resources made available to the appropriate State agencies for such enforcement activity.

(d) REPORT REQUIRED.—Not later than the end of the 3-year period beginning on the date of enactment of this Act and not later than the end of each of the first two 1-year periods beginning after the end of such 3-year period, the Secretary of the Treasury shall submit a report to the Congress containing the findings and recommendations of the Secretary in connection with the study under subsection (c), together with such recommendations for legislative and administrative action as the Secretary may determine to be appropriate.

(e) RECOMMENDATIONS IN CASES OF INADEQUATE REGULATION AND ENFORCEMENT BY STATES.—If the Secretary of the Treasury determines that any State has been unable to—

(1) enact a statute which meets the requirements described in subsection (b);

(2) undertake adequate activity to enforce such statute; or

(3) make adequate resources available to the appropriate State agency for such enforcement activity,

the report submitted pursuant to subsection (d) shall contain recommendations of the Secretary which are designed to facilitate the enactment and enforcement by the State of such a statute.

(f) FEDERAL FUNDING STUDY.—

(1) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study to identify possible available sources of Federal funding to cover costs which will be incurred by the States in carrying out the purposes of this section.

(2) REPORT.—The Secretary of the Treasury shall submit a report to the Congress on the study conducted pursuant to paragraph (1) not later than the end of the 18-month period beginning on the date of enactment of this Act.

SEC. 408. REGISTRATION OF MONEY TRANSMITTING BUSINESSES TO PROMOTE EFFECTIVE LAW ENFORCEMENT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress hereby finds the following:

(A) Money transmitting businesses are subject to the recordkeeping and reporting requirements of subchapter II of chapter 53 of title 31, United States Code.

(B) Money transmitting businesses are largely unregulated businesses and are frequently used in sophisticated schemes to—

(i) transfer large amounts of money which are the proceeds of unlawful enterprises; and

(ii) evade the requirements of such subchapter II, the Internal Revenue Code of 1986, and other laws of the United States.

(C) Information on the identity of money transmitting businesses and the names of the persons who own or control, or are officers or employees of, a money transmitting business would have a high degree of usefulness in criminal, tax, or regulatory investigations and proceedings.

(2) PURPOSE.—It is the purpose of this section to establish a registration requirement for businesses engaged in providing check cashing, currency exchange, or money transmitting or remittance services, or issuing or redeeming money orders, travelers' checks, and other similar instruments to assist the Secretary of the Treasury, the Attorney General, and other supervisory and law enforcement agencies to effectively enforce the criminal, tax, and regulatory laws and prevent such money transmitting businesses from engaging in illegal activities.

(b) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"§5330. Registration of money transmitting businesses

"(a) REGISTRATION WITH SECRETARY OF THE TREASURY REQUIRED.—

"(1) IN GENERAL.—Any person who owns or controls a money transmitting business shall register the business (whether or not the business is licensed as a money transmitting business in any State) with the Secretary of the Treasury not later than the end of the 180-day period beginning on the later of—

"(A) the date of enactment of the Money Laundering Suppression Act of 1994; or

"(B) the date on which the business is established.

"(2) FORM AND MANNER OF REGISTRATION.—Subject to the requirements of subsection (b), the Secretary of the Treasury shall prescribe, by regulation, the form and manner for registering a money transmitting business pursuant to paragraph (1).

"(3) BUSINESSES REMAIN SUBJECT TO STATE LAW.—This section shall not be construed as superseding any requirement of State law relating to money transmitting businesses operating in such State.

"(4) FALSE AND INCOMPLETE INFORMATION.—The filing of false or materially incomplete information in connection with the registration of a money transmitting business shall be considered as a failure to comply with the requirements of this subchapter.

"(b) CONTENTS OF REGISTRATION.—The registration of a money transmitting business under subsection (a) shall include the following information:

"(1) The name and location of the business.

"(2) The name and address of each person who—

"(A) owns or controls the business;

"(B) is a director or officer of the business; or

"(C) otherwise participates in the conduct of the affairs of the business.

"(3) The name and address of any depository institution at which the business maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).

"(4) An estimate of the volume of business in the coming year (which shall be reported annually to the Secretary).

"(5) Such other information as the Secretary of the Treasury may require.

"(c) AGENTS OF MONEY TRANSMITTING BUSINESSES.—

"(1) MAINTENANCE OF LISTS OF AGENTS OF MONEY TRANSMITTING BUSINESSES.—Pursuant to regulations which the Secretary of the Treasury shall prescribe, each money transmitting business shall—

"(A) maintain a list containing the names and addresses of all persons authorized to act as an agent for such business in connection with activities described in subsection (d)(1)(A) and such other information about such agents as the Secretary may require; and

"(B) make the list and other information available on request to any appropriate law enforcement agency.

"(2) TREATMENT OF AGENT AS MONEY TRANSMITTING BUSINESS.—The Secretary of the Treasury shall prescribe regulations establishing, on the basis of such criteria as the Secretary determines to be appropriate, a threshold point for treating an agent of a money transmitting business as a money transmitting business for purposes of this section.

"(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MONEY TRANSMITTING BUSINESS.—The term 'money transmitting business' means any business other than the United States Postal Service which—

"(A) provides check cashing, currency exchange, or money transmitting or remittance services, or issues or redeems money orders, travelers' checks, and other similar instruments;

"(B) is required to file reports under section 5313; and

"(C) is not a depository institution (as defined in section 5313(g)).

"(2) MONEY TRANSMITTING SERVICE.—The term 'money transmitting service' includes accepting currency or funds denominated in the currency of any country and transmitting the currency or funds, or the value of the currency or funds, by any means through a financial agency or institution, a Federal reserve bank or other facility of the Board of Governors of the Federal Reserve System, or an electronic funds transfer network.

"(e) CIVIL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—

"(1) IN GENERAL.—Any person who fails to comply with any requirement of this section or any regulation prescribed under this section shall be liable to the United States for a civil penalty of $5,000 for each such violation.

"(2) CONTINUING VIOLATION.—Each day a violation described in paragraph (1) continues shall constitute a separate violation for purposes of such paragraph.

"(3) ASSESSMENTS.—Any penalty imposed under this subsection shall be assessed and collected by the Secretary of the Treasury in the manner provided in section 5321 and any such assessment shall be subject to the provisions of such section.".

(c) CRIMINAL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—Section 1960(b)(1) of title 18, United States Code, is amended to read as follows:

"(1) the term 'illegal money transmitting business' means a money transmitting business which affects interstate or foreign commerce in any manner or degree and—

"(A) is intentionally operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law; or

"(B) fails to comply with the money transmitting business registration requirements under section 5330 of title 31, United States Code, or regulations prescribed under such section;".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5329 (as added by section 311) the following new item:

"5330. Registration of money transmitting businesses.".

SEC. 409. UNIFORM FEDERAL REGULATION OF CASINOS.

Section 5312(a)(2) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (X) and (Y) as subparagraphs (Y) and (Z), respectively; and

(2) by inserting after subparagraph (W) the following new subparagraph:

"(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 which—

"(i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

"(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);".

SEC. 410. AUTHORITY TO GRANT EXEMPTIONS TO STATES WITH EFFECTIVE REGULATION AND ENFORCEMENT.

(a) IN GENERAL.—Section 5318(a) of title 31, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) exempt from the requirements of this subchapter any class of transactions within any State if the Secretary determines that—

"(A) under the laws of such State, that class of transactions is subject to requirements substantially similar to those imposed under this subchapter; and

"(B) there is adequate provision for the enforcement of such requirements; and".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The penultimate sentence of section 5318(a)(6) of title 31, United States Code (as so redesignated by the amendment made by subsection (a) of this section) is amended by inserting "under this paragraph or paragraph (5)" after "exemption".

SEC. 411. CRIMINAL AND CIVIL PENALTIES FOR STRUCTURING DOMESTIC AND INTERNATIONAL TRANSACTIONS.

(a) CRIMINAL PENALTY.—Section 5324 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(c) CRIMINAL PENALTY.—

"(1) IN GENERAL.—Whoever violates this section shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both.

"(2) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates this section while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.".

(b) AMENDMENT RELATING TO CIVIL PENALTY.—Section 5321(a)(4)(A) of title 31, United States Code, is amended by striking "willfully".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsections (a) and (b) of section 5322 of title 31, United States Code, are amended by inserting "or 5324" after "section 5315" each place such term appears.

(2) The following sections are each amended by striking "section 5322 of title 31" and inserting "section 5322 or 5324 of title 31" each place such term appears in such sections:

(A) Sections 8(g)(1)(A)(ii), 8(w)(1)(B), and 11(c)(5)(M) of the Federal Deposit Insurance Act.

(B) Sections 131(a)(2), 206(h)(1)(C), 206(i)(1)(A)(ii), and 206(v)(1)(B) of the Federal Credit Union Act.

(C) Section 5239(d)(1)(B) of the Revised Statutes of the United States (as redesignated by section 413(b)(2) of this Act).

(D) Section 5(w)(1)(B) of the Home Owners' Loan Act.

(E) Sections 984(a), 986(a), and 1956(g) (the first place it appears) of title 18, United States Code.

SEC. 412. GAO STUDY OF CASHIERS' CHECKS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to—

(1) determine the extent to which the practice of issuing of cashiers' checks by financial institutions is vulnerable to money laundering schemes;

(2) determine the extent to which additional recordkeeping requirements should be imposed on financial institutions which issue cashiers' checks; and

(3) analyze such other factors relating to the use and regulation of cashiers' checks as the Comptroller General determines to be appropriate.

(b) REPORT REQUIRED.—Before the end of the 6-month period beginning on the date of enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a); and

(2) such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

SEC. 413. TECHNICAL AMENDMENTS AND CORRECTIONS.

(a) TITLE 31, U.S.C., AMENDMENTS.—

(1) Section 5321(a)(5)(A) of title 31, United States Code, is amended by inserting "any violation of" after "causing".

(2) Section 5324(a) of title 31, United States Code, is amended—

(A) by striking "section 5313(a), section 5325, or the regulations issued thereunder or section 5325 or regulations prescribed under such section 5325" each place such term appears and inserting "section 5313(a) or 5325 or any regulation prescribed under any such section"; and

(B) by striking "with respect to such transaction".

(b) AMENDMENTS RELATING TO TITLE 31, U.S.C.—

(1) Effective as of the date of enactment of the Annunzio-Wylie Anti-Money Laundering Act, section 1517(b) of such Act is amended by striking "5314" and inserting "5318".

(2) Section 5239 of the Revised Statutes of the United States is amended by redesignating the 2d subsection (c) (as added by section 1502(a) of the Annunzio-Wylie Anti-Money Laundering Act) as subsection (d).

(c) TITLE 18, U.S.C., AMENDMENTS.—

(1) Section 1956 of title 18, United States Code, is amended—

(A) in subsection (a)(2)—

(i) by inserting "not more than" before "$500,000"; and

(ii) by striking "transfer." each place such term appears and inserting "transfer";

(B) in subsection (b)—

(i) by inserting "or (a)(3)" after "(a)(1)"; and

(ii) by striking "transfer." and inserting "transfer";

(C) in subsection (c)(7)(B)(iii), by inserting a close parenthesis after "1978";

(D) in subsection (c)(7)(D), by striking "section 9(c) of the Food Stamp Act of 1977" and inserting "section 15 of the Food Stamp Act of 1977";

(E) in subsection (c)(7)(E), by striking the period which follows a period;

(F) in subsection (e), by striking "Environmental" and inserting "Environmental"; and

(G) by redesignating subsection (g), the second place it appears, as subsection (h).

(2) Section 1957(f)(1) of title 18, United States Code, is amended by striking the comma which follows a comma.

(d) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1956 OF TITLE 18, U.S.C.—Section 3557(2)(E) of Public Law 101-647 is repealed, effective on the date of enactment of such Public Law.

TITLE V—NATIONAL FLOOD INSURANCE REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the "National Flood Insurance Reform Act of 1994".

Subtitle A—Definitions

SEC. 511. FLOOD DISASTER PROTECTION ACT OF 1973.

(a) IN GENERAL.—Section 3(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a)) is amended—

(1) by striking paragraph (5) and inserting the following new paragraph:

"(5) 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;";

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) 'Federal agency lender' means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

"(8) the term 'improved real estate' means real estate upon which a building is located;

"(9) 'lender' means a regulated lending institution or Federal agency lender;

"(10) 'regulated lending institution' means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation; and

"(11) 'servicer' means the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.".

(b) CONFORMING AMENDMENT.—Section 202(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106(b)) is amended by striking "Federal instrumentality described in such section shall by regulation require the institutions" and inserting "Federal entity for lending regulation shall by regulation require the regulated lending institutions described in such section, and each Federal agency lender shall issue regulations requiring the Federal agency lender,".

SEC. 512. NATIONAL FLOOD INSURANCE ACT OF 1968.

(a) IN GENERAL.—Section 1370(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) the term 'repetitive loss structure' means a structure covered by a contract for flood insurance under this title that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event;

"(8) the term 'Federal agency lender' means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

"(9) the term 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;

"(10) the term 'improved real estate' means real estate upon which a building is located;

"(11) the term 'lender' means a regulated lending institution or Federal agency lender;

"(12) the term 'natural and beneficial floodplain functions' means—

"(A) the functions associated with the natural or relatively undisturbed floodplain that (i) moderate flooding, retain flood waters, reduce erosion and sedimentation, and mitigate the effect of waves and storm surge from storms, and (ii) reduce flood related damage; and

"(B) ancillary beneficial functions, including maintenance of water quality and recharge of ground water, that reduce flood related damage;

"(13) the term 'regulated lending institution' means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation; and

"(14) the term 'servicer' means the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.".

(b) CONFORMING AMENDMENT.—Section 1322(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4029(d)) is amended by striking "federally supervised, approved, regulated or insured financial institution" and inserting "regulated lending institution or Federal agency lender".

Subtitle B—Compliance and Increased Participation

SEC. 521. NONWAIVER OF FLOOD PURCHASE REQUIREMENT FOR RECIPIENTS OF FEDERAL DISASTER ASSISTANCE.

Section 311(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5154(b)) is amended by adding at the end the following new sentence: "The requirements of this subsection may not be waived under section 301.".

SEC. 522. EXPANDED FLOOD INSURANCE PURCHASE REQUIREMENTS.

(a) IN GENERAL.—Section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)) is amended to read as follows:

"(b) REQUIREMENT FOR MORTGAGE LOANS.—

"(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974) shall by regulation direct regulated lending institutions not to make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available under the Act with respect to the particular type of property, whichever is less.

"(2) FEDERAL AGENCY LENDERS.—A Federal agency lender may not make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1). Each Federal agency lender shall issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issued under paragraph (1).

"(3) GOVERNMENT-SPONSORED ENTERPRISES FOR HOUSING.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall implement procedures reasonably designed to ensure that, for any loan that is—

"(A) secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Director as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, and

"(B) purchased by such entity,

the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1).

"(4) APPLICABILITY.—

"(A) EXISTING COVERAGE.—Except as provided in subparagraph (B), paragraph (1) shall apply on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.

"(B) NEW COVERAGE.—Paragraphs (2) and (3) shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994. Paragraph (1) shall apply with respect to any loan made, increased, extended, or renewed by any lender supervised by the Farm Credit Administration only after the expiration of the period under this subparagraph.

"(C) CONTINUED EFFECT OF REGULATIONS.—Notwithstanding any other provision of this subsection, the regulations to carry out paragraph (1), as in effect immediately before the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, shall continue to apply until the regulations issued to carry out paragraph (1) as amended by section 522(a) of such Act take effect.".

(b) EXEMPTION FOR SMALL LOANS.—Section 102(c) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(c)) is amended—

(1) by striking "(c) Notwithstanding" and inserting the following:

"(c) EXCEPTIONS TO PURCHASE REQUIREMENTS.—

"(1) STATE-OWNED PROPERTY.—Notwithstanding"; and

(2) by adding at the end the following new paragraph:

"(2) SMALL LOANS.—Notwithstanding any other provision of this section, subsections (a) and (b) shall not apply to any loan having—

"(A) an original outstanding principal balance of $5,000 or less; and

"(B) a repayment term of 1 year or less.".

SEC. 523. ESCROW OF FLOOD INSURANCE PAYMENTS.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended by adding at the end the following new subsection:

"(d) ESCROW OF FLOOD INSURANCE PAYMENTS.—

"(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential improved real estate or a mobile home, then all premiums and fees for flood insurance under the National Flood Insurance Act of 1968 for the real estate or mobile home shall be paid to the regulated lending institution or other servicer for the loan in a manner sufficient to make payments as due for the duration of the loan. Upon receipt of the premiums, the regulated lending institution or servicer of the loan shall deposit the premiums in an escrow account on behalf of the borrower. Upon receipt of a notice from the Director or the provider of the insurance that insurance premiums are due, the regulated lending institution or servicer shall pay from the escrow account to the provider of the insurance the amount of insurance premiums owed.

"(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation require and provide for escrow and payment of any flood insurance premiums and fees relating to residential improved real estate and mobile homes securing loans made by the Federal agency lender under the circumstances and in the manner provided under paragraph (1). Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

"(3) APPLICABILITY OF RESPA.—Escrow accounts established pursuant to this subsection shall be subject to the provisions of section 10 of the Real Estate Settlement Procedures Act of 1974.

"(4) DEFINITION.—For purposes of this subsection, the term 'residential improved real estate' means improved real estate for which the improvement is a residential building.

"(5) APPLICABILITY.—This subsection shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 524. PLACEMENT OF FLOOD INSURANCE BY LENDERS.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

"(e) PLACEMENT OF FLOOD INSURANCE BY LENDER.—

"(1) NOTIFICATION TO BORROWER OF LACK OF COVERAGE.—If, at the time of origination or at any time during the term of a loan secured by improved real estate or by a mobile home located in an area that has been identified by the Director (at the time of the origination of the loan or at any time during the term of the loan) as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, the lender or servicer for the loan determines that the building or mobile home and any personal property securing the loan is not covered by flood insurance or is covered by such insurance in an amount less than the amount required for the property pursuant to paragraph (1), (2), or (3) of subsection (b), the lender or servicer shall notify the borrower under the loan that the borrower should obtain, at the borrower's expense, an amount of flood insurance for the building or mobile home and such personal property that is not less than the amount under subsection (b)(1), for the term of the loan.

"(2) PURCHASE OF COVERAGE ON BEHALF OF BORROWER.—If the borrower fails to purchase such flood insurance within 45 days after notification under paragraph (1), the lender or servicer for the loan shall purchase the insurance on behalf of the borrower and may charge the borrower for the cost of premiums and fees incurred by the lender or servicer for the loan in purchasing the insurance.

"(3) REVIEW OF DETERMINATION REGARDING REQUIRED PURCHASE.—

"(A) IN GENERAL.—The borrower and lender for a loan secured by improved real estate or a mobile home may jointly request the Director to review a determination of whether the building or mobile home is located in an area having special flood hazards. Such request shall be supported by technical information relating to the improved real estate or mobile home. Not later than 45 days after the Director receives the request, the Director shall review the determination and provide to the borrower and the lender with a letter stating whether or not the building or mobile home is in an area having special flood hazards. The determination of the Director shall be final.

"(B) EFFECT OF DETERMINATION.—Any person to whom a borrower provides a letter issued by the Director pursuant to subparagraph (A), stating that the building or mobile home securing the loan of the borrower is not in an area having special flood hazards, shall have no obligation under this title to require the purchase of flood insurance for such building or mobile home during the period determined by the Director, which shall be specified in the letter and shall begin on the date on which such letter is provided.

"(C) EFFECT OF FAILURE TO RESPOND.—If a request under subparagraph (A) is made in connection with the origination of a loan and the Director fails to provide a letter under subparagraph (A) before the later of (i) the expiration of the 45-day period under such subparagraph, or (ii) the closing of the loan, no person shall have an obligation under this title to require the purchase of flood insurance for the building or mobile home securing the loan until such letter is provided.

"(4) APPLICABILITY.—This subsection shall apply to all loans outstanding on or after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 525. PENALTIES FOR FAILURE TO REQUIRE FLOOD INSURANCE OR NOTIFY.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsections:

"(f) CIVIL MONETARY PENALTIES FOR FAILURE TO REQUIRE FLOOD INSURANCE OR NOTIFY.—

"(1) CIVIL MONETARY PENALTIES AGAINST REGULATED LENDERS.—Any regulated lending institution that is found to have a pattern or practice of committing violations under paragraph (2) shall be assessed a civil penalty by the appropriate Federal entity for lending regulation in the amount provided under paragraph (5).

"(2) LENDER VIOLATIONS.—The violations referred to in paragraph (1) shall include—

"(A) making, increasing, extending, or renewing loans in violation of—

"(i) the regulations issued pursuant to subsection (b) of this section;

"(ii) the escrow requirements under subsection (d) of this section; or

"(iii) the notice requirements under section 1364 of the National Flood Insurance Act of 1968; or

"(B) failure to provide notice or purchase flood insurance coverage in violation of subsection (e) of this section.

"(3) CIVIL MONETARY PENALTIES AGAINST GSE'S.—

"(A) IN GENERAL.—If the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation is found by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development to have a pattern or practice of purchasing loans in violation of the procedures established pursuant to subsection (b)(3), the Director of such Office shall assess a civil penalty against such enterprise in the amount provided under paragraph (5) of this subsection.

"(B) DEFINITION.—For purposes of this subsection, the term 'enterprise' means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

"(4) NOTICE AND HEARING.—A penalty under this subsection may be issued only after notice and an opportunity for a hearing on the record.

"(5) AMOUNT.—A civil monetary penalty under this subsection may not exceed $350 for each violation under paragraph (2) or paragraph (3). The total amount of penalties assessed under this subsection against any single regulated lending institution or enterprise during any calendar year may not exceed $100,000.

"(6) LENDER COMPLIANCE.—Notwithstanding any State or local law, for purposes of this subsection, any regulated lending institution that purchases flood insurance or renews a contract for flood insurance on behalf of or as an agent of a borrower of a loan for which flood insurance is required shall be considered to have complied with the regulations issued under subsection (b).

"(7) EFFECT OF TRANSFER ON LIABILITY.—Any sale or other transfer of a loan by a regulated lending institution that has committed a violation under paragraph (1), that occurs subsequent to the violation, shall not affect the liability of the transferring lender with respect to any

penalty under this subsection. A lender shall not be liable for any violations relating to a loan committed by another regulated lending institution that previously held the loan.

"(8) DEPOSIT OF PENALTIES.—Any penalties collected under this subsection shall be paid into the National Flood Mitigation Fund under section 1367 of the National Flood Insurance Act of 1968.

"(9) ADDITIONAL PENALTIES.—Any penalty under this subsection shall be in addition to any civil remedy or criminal penalty otherwise available.

"(10) STATUTE OF LIMITATIONS.—No penalty may be imposed under this subsection after the expiration of the 4-year period beginning on the date of the occurrence of the violation for which the penalty is authorized under this subsection.

"(g) OTHER ACTIONS TO REMEDY PATTERN OF NONCOMPLIANCE.—

"(1) AUTHORITY OF FEDERAL ENTITIES FOR LENDING REGULATION.—A Federal entity for lending regulation may require a regulated lending institution to take such remedial actions as are necessary to ensure that the regulated lending institution complies with the requirements of the national flood insurance program if the Federal agency for lending regulation makes a determination under paragraph (2) regarding the regulated lending institution.

"(2) DETERMINATION OF VIOLATIONS.—A determination under this paragraph shall be a finding that—

"(A) the regulated lending institution has engaged in a pattern and practice of noncompliance in violation of the regulations issued pursuant to subsection (b), (d), or (e) or the notice requirements under section 1364 of the National Flood Insurance Act of 1968; and

"(B) the regulated lending institution has not demonstrated measurable improvement in compliance despite the assessment of civil monetary penalties under subsection (f).".

SEC. 526. FEES FOR DETERMINING APPLICABILITY OF FLOOD INSURANCE PURCHASE REQUIREMENTS.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

"(h) FEE FOR DETERMINING LOCATION.—Notwithstanding any other Federal or State law, any person who makes a loan secured by improved real estate or a mobile home or any servicer for such a loan may charge a reasonable fee for the costs of determining whether the building or mobile home securing the loan is located in an area having special flood hazards, but only in accordance with the following requirements:

"(1) BORROWER FEE.—The borrower under such a loan may be charged the fee, but only if the determination—

"(A) is made pursuant to the making, increasing, extending, or renewing of the loan that is initiated by the borrower;

"(B) is made pursuant to a revision or updating under section 1360(f) of the floodplain areas and flood-risk zones or publication of a notice or compendia under subsection (h) or (i) of section 1360 that affects the area in which the improved real estate or mobile home securing the loan is located or that, in the determination of the Director, may reasonably be considered to require a determination under this subsection; or

"(C) results in the purchase of flood insurance coverage pursuant to the requirement under subsection (e)(2).

"(2) PURCHASER OR TRANSFEREE FEE.—The purchaser or transferee of such a loan may be charged the fee in the case of sale or transfer of the loan.".

SEC. 527. NOTICE REQUIREMENTS.

Section 1364 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104a) is amended to read as follows:

"NOTICE REQUIREMENTS

"SEC. 1364. (a) NOTIFICATION OF SPECIAL FLOOD HAZARDS.—

"(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, as a condition of making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home that the regulated lending institution determines is located or is to be located in an area that has been identified by the Director under this title or the Flood Disaster Protection Act of 1973 as an area having special flood hazards, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) and the servicer of the loan of such special flood hazards, in writing, a reasonable period in advance of the signing of the purchase agreement, lease, or other documents involved in the transaction. The regulations shall also require that the regulated lending institution retain a record of the receipt of the notices by the purchaser or lessee and the servicer.

"(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation require notification in the manner provided under paragraph (1) with respect to any loan that is made by the Federal agency lender and secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director under this title or the Flood Disaster Protection Act of 1973 as an area having special flood hazards. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

"(3) CONTENTS OF NOTICE.—Written notification required under this subsection shall include—

"(A) a warning, in a form to be established by the Director, stating that the building on the improved real estate securing the loan is located, or the mobile home securing the loan is or is to be located, in an area having special flood hazards;

"(B) a description of the flood insurance purchase requirements under section 102(b) of the Flood Disaster Protection Act of 1973;

"(C) a statement that flood insurance coverage may be purchased under the national flood insurance program and is also available from private insurers; and

"(D) any other information that the Director considers necessary to carry out the purposes of the national flood insurance program.

"(b) NOTIFICATION OF CHANGE OF SERVICER.—

"(1) LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, in connection with the making, increasing, extending, renewing, selling, or transferring any loan described in subsection (a)(1), to notify the Director (or the designee of the Director) in writing during the term of the loan of the servicer of the loan. Such institutions shall also notify the Director (or such designee) of any change in the servicer of the loan, not later than 60 days after the effective date of such change. The regulations under this subsection shall provide that upon any change in the servicing of a loan, the duty to provide notification under this subsection shall transfer to the transferee servicer of the loan.

"(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation provide for notification in the manner provided under paragraph (1) with respect to any loan described in subsection (a)(1) that is made by the Federal agency lender. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1) of this subsection.

"(c) NOTIFICATION OF EXPIRATION OF INSURANCE.—The Director (or the designee of the Director) shall, not less than 45 days before the expiration of any contract for flood insurance under this title, issue notice of such expiration by first class mail to the owner of the property covered by the contract, the servicer of any loan secured by the property covered by the contract, and (if known to the Director) the owner of the loan.".

SEC. 528. STANDARD HAZARD DETERMINATION FORMS.

Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:

"STANDARD HAZARD DETERMINATION FORMS

"SEC. 1365. (a) DEVELOPMENT.—The Director, in consultation with representatives of the mortgage and lending industry, the Federal entities for lending regulation, the Federal agency lenders, and any other appropriate individuals, shall develop a standard form for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building or mobile home is located in an area identified by the Director as an area having special flood hazards and in which flood insurance under this title is available. The form shall be established by regulations issued not later than 270 days after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.

"(b) DESIGN AND CONTENTS.—

"(1) PURPOSE.—The form under subsection (a) shall be designed to facilitate compliance with the flood insurance purchase requirements of this title.

"(2) CONTENTS.—The form shall require identification of the type of flood-risk zone in which the building or mobile home is located, the complete map and panel numbers for the improved real estate or property on which the mobile home is located, the community identification number and community participation status (for purposes of the national flood insurance program) of the community in which the improved real estate or such property is located, and the date of the map used for the determination, with respect to flood hazard information on file with the Director. If the building or mobile home is not located in an area having special flood hazards the form shall require a statement to such effect and shall indicate the complete map and panel numbers of the improved real estate or property on which the mobile home is located. If the complete map and panel numbers are not available because the building or mobile home is not located in a community that is participating in the national flood insurance program or because no map exists for the relevant area, the form shall require a statement to such effect. The form shall provide for inclusion or attachment of any relevant documents indicating revisions or amendments to maps.

"(c) REQUIRED USE.—The Federal entities for lending regulation shall by regulation require the use of the form under this section by regulated lending institutions. Each Federal agency lender shall by regulation provide for the use of the form with respect to any loan made by such Federal agency lender. The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and the Government National Mortgage Association shall require the use of the form with respect to any loan purchased by such entities. A lender or other person may comply with the requirement

under this subsection by using the form in a printed, computerized, or electronic manner.

"(d) GUARANTEES REGARDING INFORMATION.—In providing information regarding special flood hazards on the form developed under this section, any lender (or other person required to use the form) who makes, increases, extends, or renews a loan secured by improved real estate or a mobile home may provide for the acquisition or determination of such information to be made by a person other than such lender (or other person), only to the extent such person guarantees the accuracy of the information.

"(e) RELIANCE ON PREVIOUS DETERMINATION.—Any person increasing, extending, renewing, or purchasing a loan secured by improved real estate or a mobile home may rely on a previous determination of whether the building or mobile home is located in an area having special flood hazards (and shall not be liable for any error in such previous determination), if the previous determination was made not more than 7 years before the date of the transaction and the basis for the previous determination has been set forth on a form under this section, unless—

"(1) map revisions or updates pursuant to section 1360(f) after such previous determination have resulted in the building or mobile home being located in an area having special flood hazards; or

"(2) the person contacts the Director to determine when the most recent map revisions or updates affecting such property occurred and such revisions and updates have occurred after such previous determination.

"(f) EFFECTIVE DATE.—The regulations under this section requiring use of the form established pursuant to this section shall be issued together with the regulations required under subsection (a) and shall take effect upon the expiration of the 180-day period beginning on such issuance.".

SEC. 529. EXAMINATIONS REGARDING COMPLIANCE.

(a) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

"(i) FLOOD INSURANCE COMPLIANCE BY INSURED DEPOSITORY INSTITUTIONS.—

"(1) EXAMINATIONS.—The appropriate Federal banking agency shall, during each scheduled on-site examination required by this section, determine whether the insured depository institution is complying with the requirements of the national flood insurance program.

"(2) REPORT.—

"(A) REQUIREMENT.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter for the next 4 years, each appropriate Federal banking agency shall submit a report to the Congress on compliance by insured depository institutions with the requirements of the national flood insurance program.

"(B) CONTENTS.—Each report submitted under this paragraph shall include a description of the methods used to determine compliance, the number of institutions examined during the reporting year, a listing and total number of institutions found not to be in compliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

(b) AMENDMENT TO FEDERAL CREDIT UNION ACT.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following new subsection:

"(e) FLOOD INSURANCE COMPLIANCE BY INSURED CREDIT UNIONS.—

"(1) EXAMINATION.—The Board shall, during each examination conducted under this section, determine whether the insured credit union is complying with the requirements of the national flood insurance program.

"(2) REPORT.—

"(A) REQUIREMENT.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter for the next 4 years, the Board shall submit a report to the Congress on compliance by insured credit unions with the requirements of the national flood insurance program.

"(B) CONTENTS.—The report shall include a description of the methods used to determine compliance, the number of insured credit unions examined during the reporting year, a listing and total number of insured credit unions found not to be in compliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

(c) AMENDMENT TO FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1992.—Section 1319B(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4521(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) a description of—

"(A) whether the procedures established by each enterprise pursuant to section 102(b)(3) of the Flood Disaster Protection Act of 1973 are adequate and being complied with, and

"(B) the results and conclusions of any examination, as determined necessary by the Director, to determine the compliance of the enterprises with the requirements of section 102(b)(3) of such Act, which shall include a description of the methods used to determine compliance and the types and sources of deficiencies (if any), and identify any corrective measures that have been taken to remedy any such deficiencies,

except that the information described in this paragraph shall be included only in each of the first, third, and fifth annual reports under this subsection required to be submitted after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 530. FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

Section 1006 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305) is amended by adding at the end the following new subsection:

"(g) FLOOD INSURANCE.—The Council shall consult with and assist the Federal entities for lending regulation, as such term is defined in section 1370(a) of the National Flood Insurance Act of 1968, in developing and coordinating uniform standards and requirements for use by regulated lending institutions under the national flood insurance program.".

SEC. 531. CLERICAL AMENDMENT.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended by striking the section heading and inserting the following new section heading:

"FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND ESCROW ACCOUNTS".

Subtitle C—Ratings and Incentives for Community Floodplain Management Programs

SEC. 541. COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.

Section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022) is amended—

(1) by striking "After December" and inserting the following:

"(a) REQUIREMENT FOR PARTICIPATION IN FLOOD INSURANCE PROGRAM.—

"(1) IN GENERAL.—After December"; and

(2) by adding at the end the following new subsection:

"(b) COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.—

"(1) AUTHORITY AND GOALS.—The Director shall carry out a community rating system program, under which communities participate voluntarily—

"(A) to provide incentives for measures that reduce the risk of flood or erosion damage that exceed the criteria set forth in section 1361 and evaluate such measures;

"(B) to encourage adoption of more effective measures that protect natural and beneficial floodplain functions;

"(C) to encourage floodplain and erosion management; and

"(D) to promote the reduction of Federal flood insurance losses.

"(2) INCENTIVES.—The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the Director determines have adopted and enforced measures that reduce the risk of flood and erosion damage that exceed the criteria set forth in section 1361. In providing incentives under this paragraph, the Director may provide for credits to flood insurance premium rates in communities that the Director determines have implemented measures that protect natural and beneficial floodplain functions.

"(3) CREDITS.—The credits on premium rates for flood insurance coverage shall be based on the estimated reduction in flood and erosion damage risks resulting from the measures adopted by the community under this program. If a community has received mitigation assistance under section 1366, the credits shall be phased in a manner, determined by the Director, to recover the amount of such assistance provided for the community.

"(4) REPORTS.—Not later than 2 years after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and not less than every 2 years thereafter, the Director shall submit a report to the Congress regarding the program under this subsection. Each report shall include an analysis of the cost-effectiveness of the program, any other accomplishments or shortcomings of the program, and any recommendations of the Director for legislation regarding the program.".

SEC. 542. FUNDING.

Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) for carrying out the program under section 1315(b);".

Subtitle D—Mitigation of Flood Risks

SEC. 551. REPEAL OF FLOODED PROPERTY PURCHASE AND LOAN PROGRAM.

(a) REPEAL.—Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) is hereby repealed.

(b) TRANSITION PHASE.—Notwithstanding subsection (a), during the 1-year period beginning on the date of enactment of this Act, the Director of the Federal Emergency Management Agency may enter into loan and purchase commitments as provided under section 1362 of the National Flood Insurance Act of 1968 (as in effect immediately before the enactment of this Act).

(c) SAVINGS PROVISION.—Notwithstanding subsection (a), the Director shall take any action necessary to comply with any purchase or loan commitment entered into before the expiration of the period referred to in subsection (b) pursuant to authority under section 1362 of the National Flood Insurance Act of 1968 or subsection (b).

SEC. 552. TERMINATION OF EROSION-THREATENED STRUCTURES PROGRAM.

(a) IN GENERAL.—Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) is amended by striking subsection (c).

(b) TRANSITION PHASE.—Notwithstanding subsection (a), during the 1-year period beginning on the date of enactment of this Act, the Director of the Federal Emergency Management Agency may pay amounts under flood insurance contracts for demolition or relocation of structures as provided in section 1306(c) of the National Flood Insurance Act of 1968 (as in effect immediately before the enactment of this Act).

(c) SAVINGS PROVISION.—Notwithstanding subsection (a), the Director shall take any action necessary to make payments under flood insurance contracts pursuant to any commitments made before the expiration of the period referred to in subsection (b) pursuant to the authority under section 1306(c) of the National Flood Insurance Act of 1968 or subsection (b).

(d) REPEAL OF FINDINGS PROVISION.—Section 1302 of the National Flood Insurance Act of 1968 (42 U.S.C. 4001) is amended by striking subsection (g).

SEC. 553. MITIGATION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

"MITIGATION ASSISTANCE

"SEC. 1366. (a) AUTHORITY.—The Director shall carry out a program to provide financial assistance to States and communities, using amounts made available from the National Flood Mitigation Fund under section 1367, for planning and carrying out activities designed to reduce the risk of flood damage to structures covered under contracts for flood insurance under this title. Such financial assistance shall be made available to States and communities in the form of grants under subsection (b) for planning assistance and in the form of grants under this section for carrying out mitigation activities.

"(b) PLANNING ASSISTANCE GRANTS.—

"(1) IN GENERAL.—The Director may make grants under this subsection to States and communities to assist in developing mitigation plans under subsection (c).

"(2) FUNDING.—Of any amounts made available from the National Flood Mitigation Fund for use under this section in any fiscal year, the Director may use not more than $1,500,000 to provide planning assistance grants under this subsection.

"(3) LIMITATIONS.—

"(A) TIMING.—A grant under this subsection may be awarded to a State or community not more than once every 5 years and each grant may cover a period of 1 to 3 years.

"(B) SINGLE GRANTEE AMOUNT.—A grant for planning assistance may not exceed—

"(i) $150,000, to any State; or

"(ii) $50,000, to any community.

"(C) CUMULATIVE STATE GRANT AMOUNT.—The sum of the amounts of grants made under this subsection in any fiscal year to any one State and all communities located in such State may not exceed $300,000.

"(c) ELIGIBILITY FOR MITIGATION ASSISTANCE.—To be eligible to receive financial assistance under this section for mitigation activities, a State or community shall develop, and have approved by the Director, a flood risk mitigation plan (in this section referred to as a 'mitigation plan'), that describes the mitigation activities to be carried out with assistance provided under this section, is consistent with the criteria established by the Director under section 1361, and provides protection against flood losses to structures for which contracts for flood insurance are available under this title. The mitigation plan shall be consistent with a comprehensive strategy for mitigation activities for the area affected by the mitigation plan, that has been adopted by the State or community following a public hearing.

"(d) NOTIFICATION OF APPROVAL AND GRANT AWARD.—

"(1) IN GENERAL.—The Director shall notify a State or community submitting a mitigation plan of the approval or disapproval of the plan not later than 120 days after submission of the plan.

"(2) NOTIFICATION OF DISAPPROVAL.—If the Director does not approve a mitigation plan submitted under this subsection, the Director shall notify, in writing, the State or community submitting the plan of the reasons for such disapproval.

"(e) ELIGIBLE MITIGATION ACTIVITIES.—

"(1) USE OF AMOUNTS.—Amounts provided under this section (other than under subsection (b)) may be used only for mitigation activities specified in a mitigation plan approved by the Director under subsection (d). The Director shall provide assistance under this section to the extent amounts are available in the National Flood Mitigation Fund pursuant to appropriation Acts, subject only to the absence of approvable mitigation plans.

"(2) DETERMINATION OF ELIGIBLE PLANS.—The Director may approve only mitigation plans that specify mitigation activities that the Director determines are technically feasible and cost-effective and only such plans that propose activities that are cost-beneficial to the National Flood Mitigation Fund.

"(3) STANDARD FOR APPROVAL.—The Director shall approve mitigation plans meeting the requirements for approval under paragraph (1) that will be most cost-beneficial to the National Flood Mitigation Fund.

"(4) PRIORITY.—The Director shall make every effort to provide mitigation assistance under this section for mitigation plans proposing activities for repetitive loss structures and structures that have incurred substantial damage.

"(5) ELIGIBLE ACTIVITIES.—The Director shall determine whether mitigation activities described in a mitigation plan submitted under subsection (d) comply with the requirements under paragraph (1). Such activities may include—

"(A) demolition or relocation of any structure located on land that is along the shore of a lake or other body of water and is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or flooding;

"(B) elevation, relocation, demolition, or floodproofing of structures (including public structures) located in areas having special flood hazards or other areas of flood risk;

"(C) acquisition by States and communities of properties (including public properties) located in areas having special flood hazards or other areas of flood risk and properties substantially damaged by flood, for public use, as the Director determines is consistent with sound land management and use in such area;

"(D) minor physical mitigation efforts that do not duplicate the flood prevention activities of other Federal agencies and that lessen the frequency or severity of flooding and decrease predicted flood damages, which shall not include major flood control projects such as dikes, levees, seawalls, groins, and jetties unless the Director specifically determines in approving a mitigation plan that such activities are the most cost-effective mitigation activities for the National Flood Mitigation Fund;

"(E) beach nourishment activities;

"(F) the provision of technical assistance by States to communities and individuals to conduct eligible mitigation activities;

"(G) other activities that the Director considers appropriate and specifies in regulation; and

"(H) other mitigation activities not described in subparagraphs (A) through (F) or the regulations issued under subparagraph (G), that are described in the mitigation plan of a State or community.

"(f) LIMITATIONS ON AMOUNT OF ASSISTANCE.—

"(1) AMOUNT.—The sum of the amounts of mitigation assistance provided under this section during any 5-year period may not exceed—

"(A) $10,000,000, to any State; or

"(B) $3,300,000, to any community.

"(2) GEOGRAPHIC.—The sum of the amounts of mitigation assistance provided under this section during any 5-year period to any one State and all communities located in such State may not exceed $20,000,000.

"(3) WAIVER.—The Director may waive the dollar amount limitations under paragraphs (1) and (2) for any State or community for any 5-year period during which a major disaster or emergency declared by the President (pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act) as a result of flood conditions is in effect with respect to areas in the State or community.

"(g) MATCHING REQUIREMENT.—

"(1) IN GENERAL.—The Director may not provide mitigation assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from non-Federal funds to develop a mitigation plan under subsection (c) and to carry out mitigation activities under the approved mitigation plan. In no case shall any in-kind contribution by any State or community exceed one-half of the amount of non-Federal funds contributed by the State or community.

"(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term 'non-Federal funds' includes State or local agency funds, in-kind contributions, any salary paid to staff to carry out the mitigation activities of the recipient, the value of the time and services contributed by volunteers to carry out such activities (at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

"(h) OVERSIGHT OF MITIGATION PLANS.—The Director shall conduct oversight of recipients of mitigation assistance under this section to ensure that the assistance is used in compliance with the approved mitigation plans of the recipients and that matching funds certified under subsection (g) are used in accordance with such certification.

"(i) RECAPTURE.—

"(1) NONCOMPLIANCE WITH PLAN.—If the Director determines that a State or community that has received mitigation assistance under this section has not carried out the mitigation activities as set forth in the mitigation plan, the Director shall recapture any unexpended

amounts and deposit the amounts in the National Flood Mitigation Fund under section 1367.

"(2) FAILURE TO PROVIDE MATCHING FUNDS.—If the Director determines that a State or community that has received mitigation assistance under this section has not provided matching funds in the amount certified under subsection (g), the Director shall recapture any unexpended amounts of mitigation assistance exceeding 3 times the amount of such matching funds actually provided and deposit the amounts in the National Flood Mitigation Fund under section 1367.

"(j) REPORTS.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter, the Director shall submit a report to the Congress describing the status of mitigation activities carried out with assistance provided under this section.

"(k) DEFINITION OF COMMUNITY.—For purposes of this section, the term 'community' means—

"(1) a political subdivision that (A) has zoning and building code jurisdiction over a particular area having special flood hazards, and (B) is participating in the national flood insurance program; or

"(2) a political subdivision of a State, or other authority, that is designated to develop and administer a mitigation plan by political subdivisions, all of which meet the requirements of paragraph (1).".

(b) REGULATIONS.—Not later than 6 months after date of enactment of this Act, the Director of the Federal Emergency Management Agency shall issue regulations to carry out section 1366 of the National Flood Insurance Act of 1968, as added by subsection (a).

SEC. 554. ESTABLISHMENT OF NATIONAL FLOOD MITIGATION FUND.

(a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

"NATIONAL FLOOD MITIGATION FUND

"SEC. 1367. (a) ESTABLISHMENT AND AVAILABILITY.—The Director shall establish in the Treasury of the United States a fund to be known as the National Flood Mitigation Fund, which shall be credited with amounts described in subsection (b) and shall be available, to the extent provided in appropriation Acts, for providing assistance under section 1366.

"(b) CREDITS.—The National Flood Mitigation Fund shall be credited with—

"(1) amounts from the National Flood Insurance Fund, in amounts not exceeding—

"(A) $10,000,000 in the fiscal year ending September 30, 1994;

"(B) $15,000,000 in the fiscal year ending September 30, 1995;

"(C) $20,000,000 in the fiscal year ending September 30, 1996; and

"(D) $20,000,000 in each fiscal year thereafter;

"(2) any penalties collected under section 102(f) of the Flood Disaster Protection Act of 1973; and

"(3) any amounts recaptured under section 1366(i).

"(c) INVESTMENT.—If the Director determines that the amounts in the National Flood Mitigation Fund are in excess of amounts needed under subsection (a), the Director may invest any excess amounts the Director determines advisable in interest-bearing obligations issued or guaranteed by the United States.

"(d) REPORT.—The Director shall submit a report to the Congress not later than the expiration of the 1-year period beginning on the date of enactment of this Act and not less than once during each successive 2-year period thereafter. The report shall describe the status of the Fund and any activities carried out with amounts from the Fund.".

(b) NATIONAL FLOOD INSURANCE FUND AS SEPARATE ACCOUNT.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "is authorized to" and inserting "shall"; and

(B) by inserting after "which shall be" the following: "an account separate from any other accounts or funds available to the Director and shall be"; and

(2) by adding after paragraph (6) (as added by the preceding provisions of this title) the following new paragraph:

"(7) for transfers to the National Flood Mitigation Fund, but only to the extent provided in section 1367(b)(1); and".

SEC. 555. ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.

(a) IN GENERAL.—Section 1304 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.—The national flood insurance program established pursuant to subsection (a) shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under section 1361 for—

"(1) properties that are repetitive loss structures;

"(2) properties that have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and

"(3) properties that have sustained flood damage on multiple occasions, if the Director determines that it is cost-effective and in the best interests of the National Flood Insurance Fund to require compliance with the land use and control measures.

The Director shall impose a surcharge on each insured of not more than $75 per policy to provide cost of compliance coverage in accordance with the provisions of this subsection.".

(b) APPLICABILITY.—The provisions of subsection (a) shall apply only to properties that sustain flood-related damage after the date of enactment of this Act.

Subtitle E—Task Forces

SEC. 561. FLOOD INSURANCE INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is hereby established an interagency task force to be known as the Flood Insurance Task Force (in this section referred to as the "Task Force").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall be composed of 10 members, who shall be the designees of—

(A) the Federal Insurance Administrator;

(B) the Federal Housing Commissioner;

(C) the Secretary of Veterans Affairs;

(D) the Administrator of the Farmers Home Administration;

(E) the Administrator of the Small Business Administration;

(F) the Chairman of the Board of Directors of the Farm Credit Administration;

(G) a designee of the Financial Institutions Examination Council;

(H) the Director of the Office of Federal Housing Enterprise Oversight;

(I) the chairman of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

(J) the chairman of the Board of Directors of the Federal National Mortgage Association.

(2) QUALIFICATIONS.—Members of the Task Force shall be designated for membership on the Task Force by reason of demonstrated knowledge and competence regarding the national flood insurance program.

(c) DUTIES.—The Task Force shall carry out the following duties:

(1) RECOMMENDATIONS OF STANDARDIZED ENFORCEMENT PROCEDURES.—Make recommendations to the head of each Federal agency and enterprise referred to under subsection (b)(1) regarding establishment or adoption of standardized enforcement procedures among such agencies and corporations responsible for enforcing compliance with the requirements under the national flood insurance program to ensure fullest possible compliance with such requirements.

(2) STUDY OF COMPLIANCE ASSISTANCE.—Conduct a study of the extent to which Federal agencies and the secondary mortgage market can provide assistance in ensuring compliance with the requirements under the national flood insurance program and submit to the Congress a report describing the study and any conclusions.

(3) STUDY OF COMPLIANCE MODEL.—Conduct a study of the extent to which existing programs of Federal agencies and corporations for compliance with the requirements under the national flood insurance program can serve as a model for other Federal agencies responsible for enforcing compliance, and submit to the Congress a report describing the study and any conclusions.

(4) RECOMMENDATIONS FOR ENFORCEMENT AND COMPLIANCE PROCEDURES.—Develop recommendations regarding enforcement and compliance procedures, based on the studies and findings of the Task Force, and publish such recommendations.

(5) STUDY OF DETERMINATION FEES.—Conduct a study of—

(A) the reasonableness of fees charged pursuant to 102(h) of the Flood Disaster Protection Act of 1973 for costs of determining whether the property securing a loan is located in an area having special flood hazards; and

(B) whether the fees charged pursuant to such section by lenders and servicers are greater than the amounts paid by such lenders and servicers to persons actually conducting such determinations and the extent to which the fees exceed such amounts.

(d) NONCOMPENSATION.—Members of the Task Force shall receive no additional pay by reason of their service on the Task Force.

(e) CHAIRPERSON.—The members of the Task Force shall elect one member as chairperson of the Task Force.

(f) MEETINGS AND ACTION.—The Task Force shall meet at the call of the chairman or a majority of the members of the Task Force and may take action by a vote of the majority of the members. The Federal Insurance Administrator shall coordinate and call the initial meeting of the Task Force.

(g) OFFICERS.—The chairperson of the Task Force may appoint any officers to carry out the duties of the Task Force under subsection (c).

(h) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Task Force, the head of any of the Federal agencies and entities referred to under subsection (b)(1) may detail, on a nonreimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this section.

(i) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

(j) TERMINATION.—The Task Force shall terminate upon the expiration of the 24-month period beginning upon the designation of the last member to be designated under subsection (b)(1).

SEC. 562. TASK FORCE ON NATURAL AND BENEFICIAL FUNCTIONS OF THE FLOODPLAIN.

(a) ESTABLISHMENT.—There is hereby established an interagency task force to be known as the Task Force on Natural and Beneficial Functions of the Floodplain (in this section referred to as the "Task Force").

(b) MEMBERSHIP.—The Task Force shall be composed of 5 members, who shall be the designees of—

(1) the Under Secretary of Commerce for Oceans and Atmosphere;

(2) the Director of the United States Fish and Wildlife Service;

(3) the Administrator of the Environmental Protection Agency;

(4) the Secretary of the Army, acting through the Chief of Engineers; and

(5) the Director of the Federal Emergency Management Agency.

(c) DUTIES.—The Task Force shall—

(1) conduct a study to—

(A) identify the natural and beneficial functions of the floodplain that reduce flood-related losses; and

(B) develop recommendations on how to reduce flood losses by protecting the natural and beneficial functions of the floodplain; and

(2) make the information and recommendations under subparagraphs (A) and (B) publicly available.

(d) NONCOMPENSATION.—Members of the Task Force shall receive no additional pay by reason of their service on the Task Force.

(e) CHAIRPERSON.—The members of the Task Force shall elect one member as chairperson of the Task Force.

(f) MEETINGS AND ACTION.—The Task Force shall meet at the call of the chairperson or a majority of the members of the Task Force and may take action by a vote of the majority of the members. The Federal Insurance Administrator shall coordinate and call the initial meeting of the Task Force.

(g) OFFICERS.—The chairperson of the Task Force may appoint any officers to carry out the duties of the Task Force under subsection (c).

(h) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Task Force, the head of any of the Federal agencies and entities referred to under subsection (b) may detail, on a nonreimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this section.

(i) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

(j) TERMINATION.—The Task Force shall terminate upon the expiration of the 24-month period beginning upon the designation of the last member to be designated under subsection (b).

Subtitle F—Miscellaneous Provisions

SEC. 571. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) IN GENERAL.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1995" and inserting "September 30, 1996".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1995" and inserting "September 30, 1996".

SEC. 572. LIMITATION ON PREMIUM INCREASES.

(a) PROPERTY-SPECIFIC LIMITATION.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in subsection (c), by striking "Notwithstanding any other provision of this title" and inserting "Subject only to the limitation under subsection (e)"; and

(2) by inserting after subsection (d) the following new subsection:

"(e) ANNUAL LIMITATION ON PREMIUM INCREASES.—Notwithstanding any other provision of this title, the chargeable risk premium rates for flood insurance under this title for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding 10 percent of the average of the risk premium rates for properties within the risk classification upon the commencement of such 12-month period.".

(b) REPEAL OF PROGRAM-WIDE LIMITATION.—Subsection (d) of section 541 of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is hereby repealed.

SEC. 573. MAXIMUM FLOOD INSURANCE COVERAGE AMOUNTS.

(a) IN GENERAL.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended as follows:

(1) RESIDENTIAL PROPERTY.—In paragraph (2), by striking "an amount of $150,000 under the provisions of this clause" and inserting the following: "a total amount (including such limits specified in paragraph (1)(A)(i)) of $250,000".

(2) RESIDENTIAL PROPERTY CONTENTS.—In paragraph (3), by striking "an amount of $50,000 under the provisions of this clause" and inserting the following: "a total amount (including such limits specified in paragraph (1)(A)(ii)) of $100,000".

(3) NONRESIDENTIAL PROPERTY AND CONTENTS.—By striking paragraph (4) and inserting the following new paragraph:

"(4) in the case of any nonresidential property, including churches, for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of $500,000 for each structure and $500,000 for any contents related to each structure; and".

(b) REMOVAL OF CEILING ON COVERAGE REQUIRED.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (5), by striking "; and" at the end and inserting a period; and

(2) by striking paragraph (6).

SEC. 574. FLOOD INSURANCE PROGRAM ARRANGEMENTS WITH PRIVATE INSURANCE ENTITIES.

Section 1345(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4081(b)) is amended by striking the period at the end and inserting the following: "and without regard to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 575. UPDATING OF FLOOD MAPS.

Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended by adding at the end the following new subsections:

"(e) REVIEW OF FLOOD MAPS.—Once during each 5-year period (the 1st such period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994) or more often as the Director determines necessary, the Director shall assess the need to revise and update all floodplain areas and flood risk zones identified, delineated, or established under this section, based on an analysis of all natural hazards affecting flood risks.

"(f) UPDATING FLOOD MAPS.—The Director shall revise and update any floodplain areas and flood-risk zones—

"(1) upon the determination of the Director, according to the assessment under subsection (e), that revision and updating are necessary for the areas and zones; or

"(2) upon the request from any State or local government stating that specific floodplain areas or flood-risk zones in the State or locality need revision or updating, if sufficient technical data justifying the request is submitted and the unit of government making the request agrees to provide funds in an amount determined by the Director, but which may not exceed 50 percent of the cost of carrying out the requested revision or update.

"(g) AVAILABILITY OF FLOOD MAPS.—To promote compliance with the requirements of this title, the Director shall make flood insurance rate maps and related information available free of charge to the Federal entities for lending regulation, Federal agency lenders, State agencies directly responsible for coordinating the national flood insurance program, and appropriate representatives of communities participating in the national flood insurance program, and at a reasonable cost to all other persons. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 1310(b)(6).

"(h) NOTIFICATION OF FLOOD MAP CHANGES.—The Director shall cause notice to be published in the Federal Register (or shall provide notice by another comparable method) of any change to flood insurance map panels and any change to flood insurance map panels issued in the form of a letter of map amendment or a letter of map revision. Such notice shall be published or otherwise provided not later than 30 days after the map change or revision becomes effective. Notice by any method other than publication in the Federal Register shall include all pertinent information, provide for regular and frequent distribution, and be at least as accessible to map users as notice in the Federal Register. All notices under this subsection shall include information on how to obtain copies of the changes or revisions.

"(i) COMPENDIA OF FLOOD MAP CHANGES.—Every 6 months, the Director shall publish separately in their entirety within a compendium, all changes and revisions to flood insurance map panels and all letters of map amendment and letters of map revision for which notice was published in the Federal Register or otherwise provided during the preceding 6 months. The Director shall make such compendia available, free of charge, to Federal entities for lending regulation, Federal agency lenders, and States and communities participating in the national flood insurance program pursuant to section 1310 and at cost to all other parties. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 1310(b)(6).

"(j) PROVISION OF INFORMATION.—In the implementation of revisions to and updates of flood insurance rate maps, the Director shall share information, to the extent appropriate, with the Under Secretary of Commerce for Oceans and Atmosphere and representatives from State coastal zone management programs.".

SEC. 576. TECHNICAL MAPPING ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the Technical Mapping Advisory Council (in this section referred to as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of the Director of the Federal Emergency Management Agency (in this section referred to as the "Director"), or the Director's designee, and 10 additional members to be appointed by the Director or the designee of the Director, who shall be—

(A) the Under Secretary of Commerce for Oceans and Atmosphere (or his or her designee);

(B) a member of recognized surveying and mapping professional associations and organizations;

(C) a member of recognized professional engineering associations and organizations;

(D) a member of recognized professional associations or organizations representing flood hazard determination firms;

(E) a representative of the United States Geologic Survey;

(F) a representative of State geologic survey programs;

(G) a representative of State national flood insurance coordination offices;

(H) a representative of a regulated lending institution;

(I) a representative of the Federal Home Loan Mortgage Corporation; and

(J) a representative of the Federal National Mortgage Association.

(2) QUALIFICATIONS.—Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps.

(c) DUTIES.—The Council shall—

(1) make recommendations to the Director on how to improve in a cost-effective manner the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps;

(2) recommend to the Director mapping standards and guidelines for flood insurance rate maps; and

(3) submit an annual report to the Director that contains—

(A) a description of the activities of the Council;

(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as established pursuant to the amendment made by section 675; and

(C) a summary of recommendations made by the Council to the Director.

(d) CHAIRPERSON.—The members of the Council shall elect 1 member to serve as the chairperson of the Council (in this section referred to as the "Chairperson").

(e) COORDINATION.—To ensure that the Council's recommendations are consistent to the maximum extent practicable with national digital spatial data collection and management standards, the Chairperson shall consult with the Chairperson of the Federal Geographic Data Committee (established pursuant to OMB Circular A-16).

(f) COMPENSATION.—Members of the Council shall receive no additional compensation by reason of their service on the Council.

(g) MEETINGS AND ACTIONS.—

(1) IN GENERAL.—The Council shall meet not less than twice each year at the request of the Chairperson or a majority of its members and may take action by a vote of the majority of the members.

(2) INITIAL MEETING.—The Director, or a person designated by the Director, shall request and coordinate the initial meeting of the Council.

(h) OFFICERS.—The Chairperson may appoint officers to assist in carrying out the duties of the Council under subsection (c).

(i) STAFF OF FEMA.—Upon the request of the Chairperson, the Director may detail, on a nonreimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(j) POWERS.—In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research as it considers appropriate.

(k) TERMINATION.—The Council shall terminate 5 years after the date on which all members of the Council have been appointed under subsection (b)(1).

SEC. 577. EVALUATION OF EROSION HAZARDS.

(a) REPORT REQUIREMENT.—The Director of the Federal Emergency Management Agency (in this section referred to as the "Director") shall submit a report under this section to the Congress that—

(1) lists all communities that are likely to be identified as having erosion hazard areas;

(2) estimates the amount of flood insurance claims under the national flood insurance program that are attributable to erosion;

(3) states the amount of flood insurance claims under such program that are attributable to claims under section 1306(c) of the National Flood Insurance Act of 1968;

(4) assesses the full economic impact of erosion on the National Flood Insurance Fund; and

(5) determines the costs and benefits of expenditures necessary from the National Flood Insurance Fund to complete mapping of erosion hazard areas.

(b) ESTIMATE OF FLOOD CLAIMS.—In developing the estimate under subsection (a)(2)—

(1) the Director may map a statistically valid and representative number of communities with erosion hazard areas throughout the United States, including coastal, Great Lakes, and, if technologically feasible, riverine areas; and

(2) the Director shall take into consideration the efforts of State and local governments to assess, measure, and reduce erosion hazards.

(c) ECONOMIC IMPACT.—

(1) IN GENERAL.—The assessment under subsection (a)(4) shall assess the economic impact of—

(A) erosion on communities listed pursuant to subsection (a)(1);

(B) the denial of flood insurance for all structures in communities listed pursuant to subsection (a)(1);

(C) the denial of flood insurance for structures that are newly constructed in whole in communities listed pursuant to subsection (a)(1);

(D) the establishment of (i) actuarial rates for existing structures in communities listed pursuant to subsection (a)(1), and (ii) actuarial rates for such structures in connection with the denial of flood insurance as described in subparagraph (C);

(E) the establishment of actuarial rates for structures newly constructed in whole in erosion hazard areas in communities listed pursuant to subsection (a)(1);

(F) the denial of flood insurance pursuant to existing requirements for coverage under the national flood insurance program;

(G) erosion hazard assessment, measurement, and management activities undertaken by State and local governments, including building restrictions, beach nourishment, construction of sea walls and levees, and other activities that reduce the risk of damage due to erosion; and

(H) the mapping and identifying of communities (or subdivisions thereof) having erosion hazard areas.

(2) SCOPE.—In assessing the economic impact of the activities under subparagraphs (A) through (H) of paragraph (1), the assessment under subsection (a)(4) shall address such impact on all significant economic factors, including the impact on—

(A) the value of residential and commercial properties in communities with erosion hazards;

(B) community tax revenues due to potential changes in property values or commercial activity;

(C) employment, including the potential loss or gain of existing and new jobs in the community;

(D) existing businesses and future economic development;

(E) the estimated cost of Federal and State disaster assistance to flood victims; and

(F) the mapping and identifying of communities (or subdivisions thereof) having erosion hazard areas.

(3) PREPARATION.—The assessment required under subsection (a)(4) shall be conducted by a private independent entity selected by the Director. The private entity shall consult with a statistically valid and representative number of communities listed pursuant to subsection (a)(1) in conducting the assessment.

(d) COSTS AND BENEFITS OF MAPPING.—The determination under subsection (a)(5) shall—

(1) determine the costs and benefits of mapping erosion hazard areas, based upon the Director's estimate of the actual and prospective amount of flood insurance claims attributable to erosion;

(2) if the Director determines that the savings to the National Flood Insurance Fund will exceed the cost of mapping erosion hazard areas, further assess whether using flood insurance premiums for costs of mapping erosion hazard areas is cost-beneficial compared to alternative uses of such amounts, including—

(A) funding the mitigation assistance program under section 1366 of the National Flood Insurance Act of 1968 (as added by section 553 of this Act);

(B) funding the program under section 1304(b) of the National Flood Insurance Act of 1968 (as added by section 555(a) of this Act) that provides additional coverage under the national flood insurance program for compliance with land use and control measures; and

(C) reviewing, revising, and updating flood insurance rate maps under subsections (e) and (f) of section 1360 of the National Flood Insurance Act of 1968 (as added by the amendment made by section 575 of this Act);

(3) if the Director determines under subsection (b)(1) that mapping of riverine areas for erosion hazard areas is technologically feasible, determine the costs and benefits of conducting the mapping of erosion hazards in riverine areas (A) separately from the mapping of other erosion hazard areas, and (B) together with the mapping of other such areas;

(4) if the Director determines that the savings to the National Flood Insurance Fund will exceed the cost of mapping erosion hazard areas in riverine areas, assess whether using flood insurance premiums for costs of mapping erosion hazard areas in riverine areas is cost-beneficial compared to alternative uses of such amounts, including the uses under subparagraphs (A) through (C) of paragraph (2); and

(5) determine the costs and benefits of mapping erosion, other than those directly related to the financial condition of the National Flood Insurance Program, and the costs of not mapping erosion.

(e) DEFINITION.—For purposes of this section, the term "erosion hazard area" means, based on erosion rate information and other historical data available, an area where erosion or avulsion is likely to result in damage to or loss of buildings and infrastructure within a 60-year period.

(f) CONSULTATION.—In preparing the report under this section, the Director shall consult with—

(1) representatives from State coastal zone management programs approved under section 306 of the Coastal Zone Management Act of 1972;

(2) the Administrator of the National Oceanic and Atmospheric Administration; and

(3) any other persons, officials, or entities that the Director considers appropriate.

(g) SUBMISSION.—The Director shall submit the report to the Congress as soon as practicable, but not later than 2 years after the date of enactment of this Act.

(h) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting "(except as otherwise provided in this section)" after "without fiscal year limitation"; and

(2) by inserting after paragraph (7) (as added by the preceding provisions of this title) the following new paragraph:

"(8) for costs of preparing the report under section 577 of the Riegle Community Development and Regulatory Improvement Act of 1994, except that the fund shall be available for the purpose under this paragraph in an amount not to exceed an aggregate of $5,000,000 over the 2-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 578. STUDY OF ECONOMIC EFFECTS OF CHARGING ACTUARIALLY BASED PREMIUM RATES FOR PRE-FIRM STRUCTURES.

(a) STUDY.—The Director of the Federal Emergency Management Agency (in this section referred to as the "Director") shall conduct a study of the economic effects that would result from increasing premium rates for flood insurance coverage made available under the national flood insurance program for pre-FIRM structures to the full actuarial risk based premium rate determined under section 1307(a)(1) of the National Flood Insurance Act of 1968 for the area in which the property is located. In conducting the study, the Director shall—

(1) determine each area that would be subject to such increased premium rates; and

(2) for each such area, determine—

(A) the amount by which premium rates would be increased;

(B) the number and types of properties affected and the number and types of properties covered by flood insurance under this title likely to cancel such insurance if the rate increases were made;

(C) the effects that the increased premium rates would have on land values and property taxes; and

(D) any other effects that the increased premium rates would have on the economy and homeowners.

(b) DEFINITION OF PRE-FIRM STRUCTURE.—For purposes of subsection (a), the term "pre-FIRM structure" means a structure that was not constructed or substantially improved after the later of—

(1) December 31, 1974; or

(2) the effective date of the initial rate map published by the Director under section 1360(a)(2) of the National Flood Insurance Act of 1968 for the area in which such structure is located.

(c) REPORT.—The Director shall submit a report to the Congress describing and explaining the findings of the study conducted under this section. The report shall be submitted not later than 12 months after the date of enactment of this Act.

SEC. 579. EFFECTIVE DATES OF POLICIES.

(a) 30-DAY DELAY.—Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

"(c) EFFECTIVE DATE OF POLICIES.—

"(1) WAITING PERIOD.—Except as provided in paragraph (2), coverage under a new contract for flood insurance coverage under this title entered into after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, and any modification to coverage under an existing flood insurance contract made after such date, shall become effective upon the expiration of the 30-day period beginning on the date that all obligations for such coverage (including completion of the application and payment of any initial premiums owed) are satisfactorily completed.

"(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to—

"(A) the initial purchase of flood insurance coverage under this title when the purchase of insurance is in connection with the making, increasing, extension, or renewal of a loan; or

"(B) the initial purchase of flood insurance coverage pursuant to a revision or updating of floodplain areas or flood-risk zones under section 1360(f), if such purchase occurs during the 1-year period beginning upon publication of notice of the revision or updating under section 1360(h).".

(b) STUDY.—The Director of the Federal Emergency Management Agency shall conduct a study to determine the appropriateness of existing requirements regarding the effective date and time of coverage under flood insurance contracts obtained through the national flood insurance program. In conducting the study, the Director shall determine whether any delay between the time of purchase of flood insurance coverage and the time of initial effectiveness of the coverage should differ for various classes of properties (based upon the type of property, location of the property, or any other factors related to the property) or for various circumstances under which such insurance was purchased. Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Director shall submit to the Congress a report on the results of the study.

SEC. 580. AGRICULTURAL STRUCTURES.

Section 1315(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4022(a)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

"(2) AGRICULTURAL STRUCTURES.—

"(A) ACTIVITY RESTRICTIONS.—Notwithstanding any other provision of law, the adequate land use and control measures required to be adopted in an area (or subdivision thereof) pursuant to paragraph (1) may provide, at the discretion of the appropriate State or local authority, for the repair and restoration to predamaged conditions of an agricultural structure that—

"(i) is a repetitive loss structure; or

"(ii) has incurred flood-related damage to the extent that the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"(B) PREMIUM RATES AND COVERAGE.—To the extent applicable, an agricultural structure repaired or restored pursuant to subparagraph (A) shall pay chargeable premium rates established under section 1308 at the estimated risk premium rates under section 1307(a)(1). If resources are available, the Director shall provide technical assistance and counseling, upon request of the owner of the structure, regarding wet floodproofing and other flood damage reduction measures for agricultural structures. The Director shall not be required to make flood insurance coverage available for such an agricultural structure unless the structure is wet floodproofed through permanent or contingent measures applied to the structure or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to pass through the structure, as determined by the Director.

"(C) PROHIBITION ON DISASTER RELIEF.—Notwithstanding any other provision of law, any agricultural structure repaired or restored pursuant to subparagraph (A) shall not be eligible for disaster relief assistance under any program administered by the Director or any other Federal agency.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'agricultural structure' means any structure used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities; and

"(ii) the term 'agricultural commodities' means agricultural commodities and livestock.".

SEC. 581. IMPLEMENTATION REVIEW BY DIRECTOR.

Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027) is amended—

(1) by striking "The Director" and inserting "(a) IN GENERAL.—The Director"; and

(2) by adding at the end the following new subsection:

"(b) EFFECTS OF FLOOD INSURANCE PROGRAM.—The Director shall include, as part of the biennial report submitted under subsection (a), a chapter reporting on the effects on the flood insurance program observed through implementation of requirements under the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 582. PROHIBITED FLOOD DISASTER ASSISTANCE.

(a) GENERAL PROHIBITION.—Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) TRANSFER OF PROPERTY.—

(1) DUTY TO NOTIFY.—In the event of the transfer of any property described in paragraph (3), the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to—

(A) obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and

(B) maintain flood insurance in accordance with applicable Federal law with respect to such property.

Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(2) FAILURE TO NOTIFY.—If a transferor described in paragraph (1) fails to make a notification in accordance with such paragraph and, subsequent to the transfer of the property—

(A) the transferee fails to obtain or maintain flood insurance in accordance with applicable Federal law with respect to the property,

(B) the property is damaged by a flood disaster, and

(C) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage,

the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the Federal disaster relief assistance provided with respect to the property.

(3) PROPERTY DESCRIBED.—For purposes of paragraph (1), a property is described in this

paragraph if it is personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.

(c) AMENDMENT TO THE FLOOD DISASTER PROTECTION ACT OF 1973.—Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(a)) is amended—

(1) by striking ", during the anticipated economic or useful life of the project,"; and

(2) by adding at the end the following: "The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.".

(d) DEFINITION.—For purposes of this section, the term "flood disaster area" means an area with respect to which—

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as a result of flood conditions existing in or affecting that area.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to disasters declared after the date of enactment of this Act.

SEC. 583. REGULATIONS.

The Director of the Federal Emergency Management Agency and any appropriate Federal agency may each issue any regulations necessary to carry out the applicable provisions of this title and the applicable amendments made by this title.

SEC. 584. RELATION TO STATE AND LOCAL LAWS.

This title and the amendments made by this title may not be construed to preempt, annul, alter, amend, or exempt any person from compliance with any law, ordinance, or regulation of any State or local government with respect to land use, management, or control.

TITLE VI—GENERAL PROVISIONS

SEC. 601. OVERSIGHT HEARINGS.

It is the sense of the Senate that—

(a) Congress has a constitutional obligation to conduct oversight of matters relating to the operations of the Government, including matters related to any governmental investigations which may, from time to time, be undertaken.

(b) the Majority Leader and the Republican Leader should meet and determine the appropriate timetable, procedures, and forum for appropriate Congressional oversight, including hearings on all matters related to "Madison Guaranty Savings and Loan Association ('MGS&L'), Whitewater Development Corporation and Capital Management Services Inc. ('CMS').".

(c) no witness called to testify at these hearings shall be granted immunity under sections 6002 and 6005 of title 18, United States Code, over the objection of Special Counsel Robert B. Fiske, Jr.

(d) the hearings should be structured and sequenced in such a manner that in the judgment of the Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

SEC. 602. TECHNICAL AMENDMENTS TO THE FEDERAL BANKING LAWS.

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3—

(A) in subsection (i)(1), by striking "(11)(h)" and inserting "(11)(m)";

(B) in subsection (l)(4), by striking "bank's or" and inserting "a bank's or a"; and

(C) in subsection (q)(2)(E), by striking "Depository Institutions Supervisory Act" and inserting "Financial Institutions Supervisory Act of 1966".

(2) in section 5(b)(5), by striking the semicolon at the end and inserting a comma;

(3) in section 5(e)(4), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B) respectively, and indenting appropriately;

(4) in section 7(a)(3), by striking "Chairman of the" before "Director of the Office of Thrift Supervision";

(5) in section 7(b)(3)(C), by striking the first period at the end;

(6) in section 7(j)(2)(A), in the third sentence—

(A) by striking "this section (j)(2)" and inserting "this paragraph"; and

(B) by striking "this subsection (j)(2)" and inserting "this paragraph";

(7) in section 7(j)(7)(A), by striking "monoplize" and inserting "monopolize";

(8) in section 7(l)(7), by striking "the ratio of the value of" and inserting "the ratio of";

(9) in section 7(m)(5)(A) by striking "savings association institution" and inserting "such institution";

(10) in section 7(m)(7), by inserting "the" before "Federal";

(11) in section 8(a)(3), by striking "subparagraph (B) of this subsection" and inserting "paragraph (2)(B)";

(12) in section 8(a)(7)—

(A) by inserting a comma after "Board of Directors"; and

(B) by striking "the period the period" and inserting "the period";

(13) in section 8(b)(4), by striking "subparagraph (3)" and inserting "paragraph (3)";

(14) in section 8(c)(2), by striking "injuction" and inserting "injunction";

(15) in section 8(g)(2), by striking "depository institution" each place such term appears and inserting "bank";

(16) in section 8(o)—

(A) in the second sentence, by striking "subsection (b)" and inserting "subsection (d)"; and

(B) by striking "board of directors" each place such term appears and inserting "Board of Directors";

(17) in section 8(p), by striking "banking" each place such term appears and inserting "depository";

(18) in section 8(r)(2), by striking "therof" and inserting "thereof";

(19) in section 10(b)(1), by striking "claim" and inserting "claims";

(20) in section 10(b)(2)(B), by adding "and" at the end;

(21) in the section heading for paragraph (4) of section 11(a), by striking "PROVISIONS" and inserting "PROVISIONS";

(22) in section 11(d)(2)(B)(iii), by striking "is" and inserting "are";

(23) in section 11(d)(8)(B)(ii), by inserting "provide" before "a statement";

(24) in section 11(d)(14)(B), by striking "statute of limitation" and inserting "statute of limitations";

(25) in section 11(d)(16)(B)(iv), by striking "dispositions" and inserting "disposition";

(26) in section 11(e)(8)(D)(v)(I), by inserting a closing parenthesis after "1934";

(27) in section 11(e)(12)(B), by striking "directors or officers" and inserting "directors' or officers'";

(28) in section 11(f)(3)(A), by striking "TO" in the heading and inserting "WITH";

(29) in the second sentence of section 11(i)(3)(A), by striking "other claimant or category or claimants" and inserting "other claimant or category of claimants";

(30) in section 11(n)(4)(E)(i), by adding "and" at the end;

(31) in section 11(n)(12)(A), by striking "subparagraphs" and inserting "subparagraph";

(32) in the second sentence of section 11(q)(1), by striking "decided" and inserting "held";

(33) in section 11(u)(3)(B), by striking "subsection (c)(9)" and inserting "section 40(p)";

(34) in section 13(c)(1)(B)—

(A) by striking "a in default insured bank" and inserting "an insured bank in default"; and

(B) by striking "such in default insured bank" and inserting "such insured bank";

(35) in section 13(c)(2)(A)—

(A) by striking "with an insured institution" and inserting "with another insured depository institution"; and

(B) by striking "by an insured institution" and inserting "by another insured depository institution";

(36) in section 13(f)(2)(B)(i), by striking "the in default insured bank" and inserting "the insured bank in default";

(37) in section 13(f)(2)(B)(iii), by striking "of of" and inserting "of";

(38) in section 13(f)(3), by striking "CLOSING" in the heading and inserting "DEFAULT";

(39) in section 13(f)(6)(A), by striking "bank that has in default" and inserting "bank that is in default";

(40) in section 13(f)(6)(B)(i), by striking the semicolon at the end and inserting a period;

(41) in section 13(f)(7)—

(A) in subparagraph (A), by striking "or" at the end; and

(B) in subparagraph (B), by striking the period at the end and inserting "; or";

(42) in section 13(f)(12)(A), by striking "is less than" and inserting "are less than";

(43) in section 15(c)(1), by striking "OBLIGATIONS LIABILITIES" in the heading and inserting "OBLIGATIONS, GUARANTEES, AND LIABILITIES";

(44) in section 18(b), by striking ", if such bank shall deposit" and inserting "if the insured depository institution deposits";

(45) in section 18(c)(1)(B), by inserting "or" at the end;

(46) in section 18(c)(4), by striking "other two banking agencies" each place such term appears and inserting "other Federal banking agencies";

(47) in section 18(c)(6), by striking "other two banking agencies" and inserting "other Federal banking agencies";

(48) in section 18(c)(9), by striking "with the following information:" and inserting "with—";

(49) in section 18(f)—

(A) by striking "such bank" and inserting "such insured depository institution"; and

(B) by striking "the bank" and inserting "the insured depository institution";

(50) in section 18(k)(4)(A)(ii)(II), by striking "or" at the end;

(51) in section 20(a)(3), by inserting "or" at the end;

(52) in section 21(c), by striking "the bank" and inserting "the insured depository institution";

(53) in section 21(d)(2), by striking "the bank" and inserting "the insured depository institution";

(54) in section 21(e), by striking "the bank" and inserting "the insured depository institution";

(55) in section 25(a), by striking "the bank" each place it appears and inserting "the insured depository institution, insured branch, or bank";

(56) in section 28(c)(2)(A)(i) by striking ", or" and inserting "; or";

(57) in section 28(d)(4)(C), by striking "subparagraphs" and inserting "subparagraph";

(58) in section 28(e)(4), "any other" and inserting "and any other";

(59) in section 30(e)(1)(A), by striking "venders" and inserting "the vendors";

(60) in section 31(b)(1), by striking "Board of Directors" and inserting "board of directors";

(61) in section 33(c)(1), by striking the comma at the end and inserting a semicolon;

(62) in section 34(a)(1)(A)(iii)—

(A) by striking "sections" and inserting "section"; and

(B) by striking "and" and inserting "or";

(63) in section 34(a)(2), by adding a period at the end;

(64) in section 38(f)(6), by striking "Commission" and inserting "Commission";

(65) in section 40(c)(4)(A), by striking "subsections (p)(12)(B) and (C)" and inserting "subparagraphs (B) and (C) of subsection (p)(12)"; and

(66) in section 40(d)(8)(A), by striking "meeting" and inserting "meeting the".

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)(11), by striking "a United States District Court" and inserting "a United States district court";

(2) in subsection (b)(11)(B)(iii), by striking the comma after "chapter 5";

(3) in subsection (b)(11)(E)(iv)(II), by striking "knowledgable" and inserting "knowledgeable";

(4) in subsection (b)(11)(G), by inserting "ADVISORY PERSONNEL.—" before "The Corporation shall";

(5) in subsection (r)(4), by striking "subsection.—" and inserting "subsection, the following definitions shall apply:";

(6) in subsection (s)(2), by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(7) in subsection (u)(5), by striking "subsection—" and inserting "subsection, the following definitions shall apply:".

(c) RESOLUTION TRUST CORPORATION COMPLETION ACT.—Section 21(a) of the Resolution Trust Corporation Completion Act (107 Stat. 2406) is amended—

(1) by striking "33(a)" and inserting "33";

(2) by striking "1831j(a)" and inserting "1831j";

(3) in paragraph (1), by striking "paragraph (1)" and inserting "subsection (a)(1)"; and

(4) in paragraph (2), by striking "paragraph (2)" and inserting "subsection (a)(2)".

(d) FEDERAL RESERVE ACT.—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289) is amended—

(1) in paragraph (1)(B), by inserting "(A)" after "subparagraph"; and

(2) in paragraph (2), by striking "subparagraph (A)" and inserting "paragraph (1)(A)".

(e) REPEAL OF PROVISIONS IN THE REVISED STATUTES.—The following sections of the Revised Statutes are hereby repealed:

(1) Section 5170 (12 U.S.C. 28).
(2) Section 5203 (12 U.S.C. 87).
(3) Section 5206 (12 U.S.C. 88).
(4) Section 5196 (12 U.S.C. 89).
(5) Section 5158 (12 U.S.C. 102).
(6) Section 5159 (12 U.S.C. 101a).
(7) Section 5172 (12 U.S.C. 104).
(8) Section 5173 (12 U.S.C. 107).
(9) Section 5174 (12 U.S.C. 108).
(10) Section 5182 (12 U.S.C. 109).
(11) Section 5183 (12 U.S.C. 110).
(12) Section 5195 (12 U.S.C. 123).
(13) Section 5184 (12 U.S.C. 124).
(14) Section 5226 (12 U.S.C. 131).
(15) Section 5227 (12 U.S.C. 132).
(16) Section 5228 (12 U.S.C. 133).
(17) Section 5229 (12 U.S.C. 134).
(18) Section 5230 (12 U.S.C. 137).
(19) Section 5231 (12 U.S.C. 138).
(20) Section 5232 (12 U.S.C. 135).
(21) Section 5233 (12 U.S.C. 136).
(22) Section 5185 (12 U.S.C. 151).
(23) Section 5186 (12 U.S.C. 152).
(24) Section 5160 (12 U.S.C. 168).
(25) Section 5161 (12 U.S.C. 169).
(26) Section 5162 (12 U.S.C. 170).
(27) Section 5163 (12 U.S.C. 171).
(28) Section 5164 (12 U.S.C. 172).
(29) Section 5165 (12 U.S.C. 173).
(30) Section 5166 (12 U.S.C. 174).
(31) Section 5167 (12 U.S.C. 175).
(32) Section 5222 (12 U.S.C. 183).
(33) Section 5223 (12 U.S.C. 184).
(34) Section 5224 (12 U.S.C. 185).
(35) Section 5225 (12 U.S.C. 186).
(36) Section 5237 (12 U.S.C. 195).

(f) REPEAL OF OTHER OBSOLETE PROVISIONS IN BANKING LAWS.—The following provisions of law are hereby repealed:

(1) Section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831c).

(2) Section 12 of the Act entitled "An Act To define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes." and approved March 14, 1900 (12 U.S.C. 101).

(3) Section 3 of the Act entitled "An Act To amend the laws relating to the denominations of circulating notes by national banks and to permit the issuance of notes of small denominations, and for other purposes." and approved October 5, 1917 (12 U.S.C. 103).

(4) The following sections of the Act entitled "An Act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes." and approved June 20, 1874:

(A) Section 5 (12 U.S.C. 105).
(B) Section 3 (12 U.S.C. 121).
(C) Section 8 (12 U.S.C. 126).
(D) Section 4 (12 U.S.C. 176).

(5) The following sections of the Act entitled "An Act to enable national-banking associations to extend their corporate existence, and for other purposes." and approved July 12, 1882:

(A) Section 8 (12 U.S.C. 177).
(B) Section 9 (12 U.S.C. 178).

(6) The Act entitled "An Act to amend the national bank act in providing for the redemption of national bank notes stolen from or lost by banks of issue." and approved July 28, 1892 (12 U.S.C. 125).

(7) The Act entitled "An Act authorizing the conversion of national gold banks." and approved February 14, 1880 (12 U.S.C. 153).

(g) AMENDMENTS TO OTHER LAWS.—

(1) The 8th paragraph of the 4th undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 341) is amended by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury".

(2) Section 11(d) of the Federal Reserve Act (12 U.S.C. 248(d)) is amended—

(A) by striking "bureau under the charge of the Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(B) by striking "Comptroller" and inserting "Secretary of the Treasury".

(3) The 1st sentence of the 8th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 418) is amended by striking "the Comptroller of the Currency shall under the direction of the Secretary of the Treasury," and inserting "the Secretary of the Treasury shall".

(4) The 9th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 419) is amended to read as follows:

"When such notes have been prepared, the notes shall be delivered to the Board of Governors of the Federal Reserve System subject to the order of the Secretary of the Treasury for the delivery of such notes in accordance with this Act.".

(5) The 10th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 420) is amended—

(A) by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(B) by striking "Federal Reserve Board" and inserting "Board of Governors of the Federal Reserve System".

(6) The 11th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 421) is amended to read as follows:

"The Secretary of the Treasury may examine the plates, dies, bed pieces, and other material used in the printing of Federal Reserve notes and issue regulations relating to such examinations.".

(7) The 6th undesignated paragraph of section 18 of the Federal Reserve Act (38 Stat. 269) is amended—

(A) by striking "Comptroller of the Currency" each place it appears and inserting "Secretary of the Treasury"; and

(B) in the 7th sentence, by striking "Comptroller" and inserting "Secretary of the Treasury".

(8) The Act entitled "An Act to provide for the redemption of national-bank notes, Federal Reserve bank notes, and Federal Reserve notes which cannot be identified as to the bank of issue." and approved June 13, 1933, is amended—

(A) in the 1st section (12 U.S.C. 121a)—

(i) by striking "whenever any national-bank notes, Federal Reserve bank notes," and inserting "whenever any Federal Reserve bank notes"; and

(ii) by striking ", and the notes, other than Federal Reserve notes, so redeemed shall be forwarded to the Comptroller of the Currency for cancellation and destruction"; and

(B) in section 2 (12 U.S.C. 122a)—

(i) by striking "National-bank notes and"; and

(ii) by striking "national-bank notes and".

(9) The 1st section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes." and approved March 3, 1875, is amended in the 1st paragraph which appears under the heading "NATIONAL CURRENCY" by striking "Secretary of the Treasury: Provided, That" and all that follows through the period and inserting "Secretary of the Treasury.".

(10) The Act entitled "An Act to simplify the accounts of the Treasurer of the United States, and for other purposes." and approved October 10, 1940 (12 U.S.C. 177a) is amended by striking all after the enacting clause and inserting the following: "That the cost of transporting and redeeming outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriation for the Department of the Treasury.".

(11) Section 5234 of the Revised Statutes (12 U.S.C. 192) is amended by striking "has refused to pay its circulating notes as therein mentioned, and".

(12) Section 5236 of the Revised Statutes (12 U.S.C. 194) is amended by striking ", after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association".

(13) Section 5238 of the Revised Statutes (12 U.S.C. 196) is amended by striking the 1st sentence.

(14) Section 5119(b)(2) of title 31, United States Code, is amended by adding at the end the following: "The Secretary shall not be required to

reissue United States currency notes upon redemption.".

(h) AMENDMENTS TO OUTDATED DIVIDEND PROVISIONS.—

(1) WITHDRAWAL OF CAPITAL.—Section 5204 of the Revised Statutes (12 U.S.C. 56) is amended—

(A) in the 2d sentence, by striking "net profits then on hand, deducting therefrom its losses and bad debts" and inserting "undivided profits, subject to other applicable provisions of law"; and

(B) by striking the 3d sentence.

(2) DECLARATION OF DIVIDENDS.—Section 5199 of the Revised Statutes (12 U.S.C. 60) is amended—

(A) in the 1st sentence, by striking "net profits of the association" and inserting "undivided profits of the association, subject to the limitations in subsection (b).";

(B) by striking "net profits" each subsequent place such term appears and inserting "net income"; and

(C) by striking subsection (c).

(i) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 1 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5156 the following new item:

"5156A. Mergers, consolidations, and other acquisitions authorized.";

and

(B) by striking the items relating to sections 5141 and 5151.

(2) The table of sections for chapter 2 of title LXII of the Revised Statutes of the United States is amended by striking the item relating to each of the following sections:

(A) Section 5158.
(B) Section 5159.
(C) Section 5160.
(D) Section 5161.
(E) Section 5162.
(F) Section 5163.
(G) Section 5164.
(H) Section 5165.
(I) Section 5166.
(J) Section 5167.
(K) Section 5170.
(L) Section 5171.
(M) Section 5172.
(N) Section 5173.
(O) Section 5174.
(P) Section 5175.
(Q) Section 5176.
(R) Section 5177.
(S) Section 5178.
(T) Section 5179.
(U) Section 5180.
(V) Section 5181.
(W) Section 5182.
(X) Section 5183.
(Y) Section 5184.
(Z) Section 5185.
(AA) Section 5186.
(BB) Section 5187.
(CC) Section 5188.
(DD) Section 5189.

(3) The table of sections for chapter 3 of title LXII of the Revised Statutes of the United States is amended by striking the item relating to each of the following sections:

(A) Section 5193.
(B) Section 5194.
(C) Section 5195.
(D) Section 5196.
(E) Section 5202.
(F) Section 5203.
(G) Section 5206.
(H) Section 5209.
(I) Section 5212.

(4) The table of sections for chapter 4 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5239 the following new item:

"5239A. Regulatory authority.";

and

(B) by striking the items relating to the following sections:

(i) Section 5222.
(ii) Section 5223.
(iii) Section 5224.
(iv) Section 5225.
(v) Section 5226.
(vi) Section 5227.
(vii) Section 5228.
(viii) Section 5229.
(ix) Section 5230.
(x) Section 5231.
(xi) Section 5232.
(xii) Section 5233.
(xiii) Section 5237.
(xiv) Section 5243.

And the Senate agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment (except titles II and V), and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOE KENNEDY,
FLOYD H. FLAKE,
KWEISI MFUME,
LARRY LAROCCO,
WILLIAM ORTON,
JIM BACCHUS,
JAMES LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
R.H. BAKER,
JIM NUSSLE,

Provided, that for consideration of section 348(b) of the Senate amendment, Mr. Klein is appointed in lieu of Mr. LaFalce.

HERB KLEIN,

Provided, that for consideration of title VI of the Senate amendment, Mr. Lazio is appointed in lieu of Mr. Ridge.

RICK LAZIO,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the Senate amendment and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOE KENNEDY,
FLOYD H. FLAKE,
KWEISI MFUME,
WILLIAM ORTON,
HERB KLEIN,
NYDIA M. VELÁZQUEZ,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
R.H. BAKER,
JIM NUSSLE,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title V of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
CHARLES SCHUMER,
BARNEY FRANK,
JIM LEACH,
DOUG BEREUTER,
BILL MCCOLLUM,

As additional conferees from the Committee on Education and Labor, for consideration of section 209 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
PAT WILLIAMS,
WILLIAM L. CLAY,
DALE E. KILDEE,
GEORGE MILLER,
BILL GOODLING,
MARGE ROUKEMA,
HARRIS W. FAWELL,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 201–05, 207, 320 and 347 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD MARKEY,
PHIL SHARP,
AL SWIFT,
CARDISS COLLINS,
RICK BOUCHER,
THOMAS J. MANTON,
RICHARD H. LEHMAN,
LYNN SCHENK,
MARJORIE MARGOLIES-MEZVINSKY,
MIKE SYNAR,
RON WYDEN
BILL RICHARDSON,
JOHN BRYANT,
CARLOS J. MOORHEAD,
JACK FIELDS,
TOM BLILEY,

As additional conferees from the Committee on Energy and Commerce for consideration of sections 503–05, 507 and 706 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD MARKEY,
CARDISS COLLINS,
E. TOWNS,
RICHARD H. LEHMAN,
CARLOS J. MOORHEAD,

As additional conferees from the Committee on Foreign Affairs, for consideration of section 703 of the Senate amendment, and modifications committed to conference:

LEE H. HAMILTON,
SAM GEJDENSON,

As additional conferees from the Committee on the Judiciary, for consideration of section 139 of the House bill, and sections 325, 408 and 409 of the Senate amendment, and modifications committed to conference:

CHARLES E. SCHUMER,
DON EDWARDS,
JOHN CONYERS, Jr.
BILL HUGHES,

As additional conferees from the Committee on Small Business, for consideration of section 348(b) of the Senate amendment, and modifications committed to conference:

JOHN J. LAFALCE,
NEAL SMITH,
JAN MEYERS,

As additional conferees from the Committee on Ways and Means, for consideration of sections 210 and 502–04 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,

SAM GIBBONS,
J.J. PICKLE,
C.B. RANGEL,
PETE STARK,
BILL ARCHER,
PHIL CRANE,
BILL THOMAS,
Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER DODD,

From the Committee on Finance, for matters solely within the Finance Committee's jurisdiction, including sections 209, 210, and 408 of the Senate amendment:

DANIEL MOYNIHAN,
MAX BAUCUS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

SUBTITLE A—COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

SECTION BY SECTION

Section 101. Short title

The subtitle is called the Community Development Banking and Financial Institutions Act of 1994.

Section 102. Findings and purposes

Section 102 articulates the findings of Congress regarding the need to assist community development financial institutions. The section also states the purposes of the legislation.

Section 103. Definitions

The House and Senate bills contain many identical or similar definitions. The Senate language was retained but modifications were made to the terms "community development financial institution," "Indian reservation", "investment area", and "targeted population". The House terms for "Indian tribe" and "state" were retained. The new term "training program" was added.

Section 103(5) requires a community development financial institution to have a primary mission of community development, serve an "investment area" or "targeted population", provide development services in conjunction with loans or equity investments (directly or through a subsidiary or affiliate), maintain community accountability, and not be an agency or instrumentality of government. It is the Conferees' intent that a depository institution holding company may only qualify as a community development financial institution if the holding company and its subsidiaries and affiliates collectively satisfy the definition of community development financial institution. Furthermore, no subsidiary or affiliate of a depository institution holding company may qualify as a community development financial institution unless the holding company and its subsidiaries and affiliates also collectively meet such requirements. The Conferees also intend that no subsidiary of an insured depository institution may qualify as a community development financial institution unless the insured depository institution and its subsidiaries collectively meet the requirements of section 103(5).

A community development financial institution is required to serve an "investment area" or "targeted population." The Fund will be responsible for developing "objective criteria" to be used to identify areas experiencing "economic distress" as well as criteria for determining "unmet needs for loans and equity investments." In assessing the extent of distress in an investment area, the Fund shall take into account the unique characteristics of rural, urban and Native American communities. It is the Conferees' intent that the Fund develop separate criteria for different types of communities which best capture the nature of distress in those communities. For example, in many rural communities, population out-migration is a good indicator of economic distress. Areas receiving the Federal designation as empowerment zones and enterprise communities will meet the definition of investment area.

The Conferees recognize that an overwhelming majority of Indian reservations continue to be among the most disinvested and poverty-stricken areas in the United States, and that, many of these conditions are attributable to weak private sector economies and lack of banking and financial services. The Conferees assume that, in most cases, Indian reservations will meet the criteria for designation as an "investment area" by virtue of decades long neglect by the banking and financial services industry.

The Conferees find that certain groups or individuals lack access to sources of debt and equity capital due to factors that are unrelated to their credit worthiness. In determining which groups or individuals qualify as a "targeted population", the Conferees believe that the fund should focus on low income persons and those who are otherwise underserved by financial institutions (including those historically denied access to financial services based on their race, gender, ethnicity, or national origin), as stated in the legislative language. The Conferees also intend that, in accordance with Section 115, the Fund will require assisted institutions to compile and maintain disaggregated data to ensure that targeted populations are adequately served and to demonstrate success in meeting their performance goals.

Section 104. Establishment of Fund

Section 104 establishes the Community Development Financial Institutions Fund to administer the programs authorized under this Subtitle and Subtitle B of Title II. The Fund is a wholly-owned government corporation managed by an Administrator. The Administrator is appointed by the President and confirmed by the Senate. A fifteen-member advisory board is established to advise the Administrator on the policies of the fund with respect to its activities under this Subtitle. The board will operate in accordance with the Federal Advisory Commission Act (excluding Section 14 of such Act). The advisory board is composed of the Secretaries (or their designees) of the Departments of Agriculture, Commerce, Housing and Urban Development, Interior, and Treasury, the Administrator (or his designee) of the Small Business Administration, and nine private citizens (to be appointed by the President) with community development finance or lending experience.

Section 104(k) provides for a transition period prior to appointment of the Administrator. During the transition period, the Secretary of Treasury is authorized to assist in the establishment of the Fund's administrative functions and to hire up to six individuals to serve as employs of the Fund. During the transition period and for up to two years following the date of enactment, Fund employs may be hired without regard to civil service laws and regulations. This is intended to permit the expedited hiring of employs for the Fund, so that the Fund may be operational as soon as possible.

Section 105. Applications for assistance

Section 105 describes the minimum elements that must be part of an application for assistance. At a minimum, each application submitted to the Fund must (1) establish that the applicant is, or will be, a community development financial institution; (2) include a comprehensive strategic plan; and (3) include a detailed description of plans to secure matching funds.

The central component of the application is the institution's comprehensive strategic plan. The plan is intended to demonstrate an applicant's capacity to function as a community development financial institution and be financially viable (not be dependent on future assistance). Furthermore, the plan should demonstrate an institution's capacity to catalyze redevelopment. Such a demonstration should include an assessment of the nature and extent of need within the communities that will be served and an indication of how the applicant will meet those needs.

Section 105 directs the Fund to operate a pre-application outreach program. The outreach activities may be used to provide information and technical assistance to potential applicants. However, the Fund may not assist in the preparation of any application.

Section 106. Community partnerships

Section 106 permits community development financial institutions to form "community partnerships" with other organizations to carry out activities authorized under this Subtitle. A "community partner" is an entity that provides loans, equity investments, or development services and may include (among others) depository institution holding companies, insured depository institutions, insured credit unions, non-profit organizations, state or local government agencies, and investment companies authorized pursuant to Small Business Investment Act of 1958.

The Conferees' intent in creating community partnerships is to leverage Federal resources and to encourage collaboration between community development financial institutions and other organizations. The Conferees believe it is critical for the Fund to closely scrutinize the relationship between community partners and community development financial institutions. The Fund should ensure that the community development financial institution is an active participant, that it has a strong track record of promoting lending or equity investments for community development purposes (if it is an existing institution), and that the community partner will enhance the service to investment areas or targeted populations. Such scrutiny is necessary to ensure that community development financial institutions that participate in partnerships are (or will be) independent, self-sufficient, and not dependent on the resources of the community partner for continued viability.

Community partnerships are selected based on the extend (1) that the community

development financial institution co-applicant compares favorably with the criteria set forth under Section 107; (2) that the community partner co-applicant participates in the partnership; (3) to which the partnership will enhance the likelihood of success of the community development financial institution in meeting its performance goals; and (4) to which service to the investment area or targeted population will be better performed or enhanced by a partnership as opposed to the individual community development financial institution co-applicant.

The bill provides that a community partnership consist of an agreement between a community development financial institution and a community partner to provide development services, loans or equity investments to an investment area or targeted population. An application will specify the functions that the community development financial institution and the community partner will each perform to achieve the partnerhip's goals. All federal assistance must be distributed to the community development financial institution and cannot be used for activities carried out directly by the community partner. The Fund is required to negotiate performance goals as part of its assistance agreement which shall specify the duties required of each co-applicant. All other requirements and limitations imposed on community development financial institutions shall be applicable, in a manner that the Fund deems to be appropriate, to community partnerships.

Section 107. Selection of institutions

The Conference Agreement describes criteria to be used by the Fund to evaluate and select institutions for assistance. The criteria enumerated accord favorable weight to applicants with the specified attributes and are intended to provide guidance to the Fund in considering competing applications. The Fund is given discretion to consider additional criteria and evaluate the relative importance of each criterion. In granting assistance, the Fund must seek to select a geographically diverse group of applicants serving metropolitan, and rural areas from different regions of the United States.

Section 108. Assistance provided by the Fund

Section 108(a) authorizes the Fund to provide financial assistance through a variety of mechanisms including equity investments, grants, loans, credit union shares, and deposits. Although the Fund may provide assistance in the form of equity investments, it is prohibited from holding more than a 50-percent nonvoting interest in any community development financial institution or controlling the operation of any assisted institution. Section 108(b) specifies the types of activities for which assisted institutions may use Federal financial assistance. The Fund is also authorized to provide technical assistance.

The Conference Agreement prohibits any provision in the subtitle from limiting the authority of the bank regulatory agencies to supervise or regulate an insured institution or holding company. This provision is intended to prevent any interpretations of provisions in this Subtitle that would alter or otherwise interfere with regulation of assisted insured depository institutions and holding companies.

Assisted institutions are prohibited from using Federal assistance made available under this Subtitle for political activities.

The Conference Agreement limits to $5 million (in any three-year period) the amount of assistance any community development financial institution and its subsidiaries and affiliates can receive. However, the Conference Agreement creates an exception to the assistance limits for an institution that proposes to establish a subsidiary or affiliate for the purpose of serving an investment area or targeted population in another state. An institution or its affiliates or subsidiaries may be eligible to receive up to $8.75 million (in any three year period) provided that not less than $3.75 million of that assistance is used to establish such a subsidiary or affiliate. The bill permits institutions to receive up to such amounts only if they propose to establish a subsidiary or affiliate in a new state and such subsidiary or affiliate will not be located in a metropolitan area currently served by the institution.

The House bill, as introduced, would have provided greater amounts of assistance for insured community development financial institutions. The Conference Agreement does not contain any such distinction. It is the intent of the Conferees that insured and noninsured community development financial institutions will be treated the same with respect to the levels of assistance they are eligible to receive.

The funding limitations discussed above are essential to furthering the goal of this Subtitle to create a national network of community development financial institutions. The Conferees intend that the Fund will assist a variety of different types of institutions that fall within the definition of community development financial institution.

Assisted institutions are required to provide matching funds from sources other than the Federal government for all assistance received. The Fund is given the discretion to waive the matching requirements for not more than 25% of funds dispersed by the Fund in any fiscal year for applicants with "severe constraints" on matching sources.

The Conferees recognize that retained earnings enable community development financial institutions, like conventional financial institutions, to increase their ability to leverage new funds for the communities they serve by building equity or net worth. For the purpose of meeting the matching requirements of Section 108(e), it is the intent of the Conferees that retained earnings of existing community development financial institutions shall qualify as matching resources. However, it is not the intent of the Conferees to permit applicants to pledge future earnings to meet their matching requirements. Furthermore, it is not the intent of Congress to limit the amount of such retained earnings that may used toward meeting the matching requirements. Start-up or net worth financing shall not be treated as retained earnings under this Subtitle.

The Conferees believe that it is critical that all assisted community development financial institutions be financially and managerially sound. The Fund will be responsible for developing standards of financial accountability for assisted institutions that are not insured depository institutions or depository institution holding companies. Prior to awarding assistance or imposing sanctions on insured depository institutions and depository institution holding companies, the Fund will consult with the appropriate bank regulatory agencies to ensure that any actions by the Fund will not threaten the safety and soundness of such institutions.

An institution selected for assistance will enter into an agreement with the Fund specifying the terms and conditions of assistance, including performance goals. Performance goals will be negotiated between the Fund and an assisted institution and will be based on the assessment of community needs and plans for addressing the needs described in the institution's strategic plan. The Fund should measure the success of a community development financial institution in achieving specific lending, investment and development objectives against its performance goals.

To facilitate the enforcement of conditions placed on assistance, the Fund should structure the initial assistance agreement so that the performance goals and other obligations of the applicant will continue in effect even if the Fund transfers its ownership or repayments rights to a third party.

The Fund may impose sanctions on a community development financial institution for noncompliance with its assistance agreement for fraud, mismanagement, and noncompliance with this Subtitle.

Section 109. Training

Section 109 authorizes the Fund to operate a training program to increase the capacity and expertise of community development financial institutions and other members of the financial services industry to undertake community development finance activities. The Fund may impose fees for persons participating in the activities of the training program. Such fees will be limited to the cost of providing the service.

Section 110. Encouragement of private entities

Section 110 of the Conference Agreement permits the Fund to assist in the establishment of private entities that complement the activities of the Fund.

Section 111. Collection and compilation of information

Section 111 directs the Fund to collect, compile and make information available that is pertinent to create, develop, expand, and preserve community development financial institutions.

Section 112. Investment of receipts and proceeds

Section 112 provides that any dividends from equity investments and proceeds from disposition of loans, investments, deposits, or credit union shares that are received as a result of assistance provided pursuant to Sections 108 and 113, and fees received pursuant to Section 109(f) shall be used to carry out the purposes of this Subtitle.

Section 113. Capitalization to enhance liquidity

Section 113 permits the Fund to provide assistance for the purpose of capitalizing organizations that purchase loans or otherwise enhance the liquidity of community development financial institutions. The Conference Agreement prescribes requirements, limitations, and criteria for assistance.

Section 114. Bank Enterprise Act

The Section 114 program, which is based on the Bank Enterprise Act, provides voluntary bank and thrift applicants with incentives for private investment in targeted activities within qualified distressed communities.

Through the section 114 program, the Conferees hope to immediately affect economically distressed communities through infusion of private dollars into loans, services, technical assistance and equity investments in community development financial institutions. The Section 114 program is geared to support the objectives of the community development financial institution program both by increasing the incentive rebates threefold for community development financial institution related activities in qualified

activities and by creating a priority for equity investments in community development financial institutions in the application selection criteria. Bank and thrift applicants will earn triple credit under the Section 114 program for equity investments in community development financial institutions and insured community development financial institutions will earn triple credit for their activities in qualified distressed communities. The Administrator of the Fund is given broad discretion to administer both programs. However, the Fund monies must be disbursed in the following proportion—2/3 for the CDFI program and 1/3 for the Section 114 program.

Section 114 is a "results-driven" program. It rewards participating financial institutions for results—new lending and investment of private dollars in economically underserved urban and rural communities. The federal assistance is not an entitlement. Nothing in Section 114 is intended to affect the amount of deposit insurance assessment paid by an insured depository institution. Applicants will be selected through competition for limited federal dollars. The amount of assistance is computed based on the weighted periodic increases in loans, services, technical assistance, and investment by the applicant bank or thrift.

The Conferees believe that the qualified activities of subsidiaries of insured depository institutions should be eligible for assistance under Section 114. The Conferees do not intend, however, that an insured depository can apply for assistance for the purpose of capitalizing its subsidiaries under Section 114. But, the Conferees recognize that the weight of the capital and experience of the parent combined with the innovative underwriting and investments of the subsidiary are a potent combination for urban and rural community revitalization. This, the Conferees believe, is appropriate to permit activities carried out by such a subsidiary to be used in determining the amount of assistance an applicant is eligible to receive. The Conferees note that such non-insured subsidiaries may not apply directly for assistance under Section 114.

The Section 114 program will strengthen federal support to community development financial institution by attracting private investment by traditional financial service providers. The Conferees hope that Section 114 supported investments in community development financial institutions will be a catalyst for establishment of permanent private banking relationships to ensure that CDFIs thrive for the benefit of the people in the neighborhoods they serve.

The Conferees believe that the community development financial institution and Section 114 programs comport with the President's goal to promote revitalization and build long-term private market capacity for the delivery of financial services and technical assistance—which is crucial to sustaining revitalization—and empower residents of underserved communities to realize homeownership and business development opportunities.

Support for community development financial institutions:

Section 121(a)(5) states that the Administrator should allocate appropriated funds, to the maximum extent practicable, to support equity investment in community development financial institutions. This Section acknowledges the addition of equity investment in community development financial institutions as a new qualifying activity for purposes of receiving assistance under the Section 114 program.

Awards:

The application process, the targeting of bank and thrift investment into certain qualifying activities in qualified distressed communities and the selection criteria for ranking applications provides sufficient parameters for the Administrator to make awards on a competitive basis. Section 114 prohibits an institution from receiving assistance under both the community development financial institution program and Section 114. Award caps are included to ensure that Section 114 assistance is distributed to maximize the benefit to a greater number of underserved communities. However, the Administrator is given the sole discretion for establishing additional restrictions on the allocation of assistance and for setting the amount of awards within the statutory formula.

Performance report:

Section 117(d) requires the Comptroller General to report to the President and the Congress, 30 months after the appointment of the Administrator, on the structure, governance and the performance of the Fund, which includes review of the implementation of the Section 114 program for certain investments in qualified distressed communities.

Section 115. Recordkeeping

The Conference Agreement prescribes recordkeeping requirements for community development financial institutions and others receiving assistance pursuant to this Subtitle. Assisted institutions are required to compile pertinent data on individuals that utilize their services. The Fund will annually review the performance of each assisted community development financial institution in achieving its performance goals. Community development financial institutions are required to submit an annual report on their activities to the Fund, including an audited financial statement.

Section 116. Special provisions with respect to institutions that are supervised by Federal banking agencies

Section 116 addresses notice by the Fund to the appropriate Federal banking agency ("AFBA") regarding provision of assistance, information requests, and the imposition of sanctions on insured community development financial institutions and other institutions that are examined by or subject to the reporting requirements of an AFBA. This section is intended to ease the regulatory burden on insured community development financial institutions and other institutions that are examined by or subject to the reporting requirements of an AFBA by preventing overlapping and duplicative requests for information, reports, and records.

Subsection (a) requires the Fund to consult the AFBA before providing assistance to an insured community development financial institution. This consultation requirement also covers an institution that is examined by or subject to the reporting requirements of an AFBA and a community development financial institution that has as a community partner an institution that is examined by or subject to the reporting requirements of an AFBA.

Subsection (b) provides that, other than the information that the Fund may require with respect to an institution's implementation of its strategic plan or compliance with its assistance agreement, the Fund and the AFBA must consult to determine if the additional information needed by the Fund is already available from or may be obtained by the AFBA in the form, format, or detail required by the Fund. If the AFBA does not provide the information within 15 days, the Fund may access the information directly with notice to the AFBA.

Subsection (c) clarifies that this Subtitle does not permit the Fund to require an insured community development financial institution or other institution that is examined by or subject to the reporting requirement of the AFBA to disclose the AFBA's report or examination or records contained in or related to such report. Reports of examination generally are deemed to be the property of the AFBA that conducted the examination. However, as provided by subsection (d), the AFBA is required to provide the Fund with the appropriate information from examination reports relating to any material concerns about an insured community development financial institution or other institution examined by or subject to the reporting requirements of the AFBA.

Subsection (e) prohibits the unauthorized disclosure of any confidential information provided by the Fund to the AFBA or by the AFBA to the Fund. Section (f) provides that neither the Fund, the AFBA, nor any other party providing information under this section will be deemed to have waived any privilege that is applicable to the information that is provided to or used by any party. Subsection (g) clarifies that neither the Fund nor the AFBA is authorized to withhold any information from Congress or another Federal department or agency upon an appropriate request.

Under the Senate-passed version of H.R. 3474, the Fund is required to notify the AFBA before imposing any sanctions on an insured community development financial institution. The Fund may not impose the sanctions if the AFBA disapproves within 15 days. The House passed version only required that the Fund consult with the AFBA before imposing any sanction on an insured community development financial institution.

Subsection (h) of the Conference Agreement takes a generally similar approach to the Senate version and extends the time period within which the AFBA must disapprove a sanction to 30 days. This extended period is intended to give the AFBA and the Fund adequate time to consider appropriate sanctions. If the AFBA objects to a proposed sanction with the 30-day time period, it is required, among other things, to propose comparable alternative action. Both parties are expected to cooperate and take expeditious action to respond to each other's requests in a manner that ensures the safety and soundness of financial institutions.

Section 117. Studies and reports; examination and audit

Section 117 requires the Fund to annually evaluate and report on the activities carried out by the Fund and community development financial institutions and institutions assisted pursuant to Sections 113 and 114. The performance report will, among other things, analyze and compare the overall leverage of Federal assistance provided pursuant to Sections 108, 113 and 114 with private resources, and the impact of the expenditure of such resources on "investment areas", "targeted populations", and "qualified distressed communities". The performance report should also describe the Administrator's efforts to allocate, to the maximum extent practicable, the funds authorized under section 121(a) to support the activities of community development financial institutions.

The report will be submitted to the President and Congress 120 days after the end of each fiscal year. The Fund may conduct other studies, as necessary, to facilitate investment in distressed communities. The

Fund is directed to conduct a study on the impediments to lending and investment on Indian reservations and other land held in trust by the United States. The Comptroller General is directed to conduct a study evaluating the structure, governance and performance of the Fund.

Section 118. Inspector General

Section 118 creates an Inspector General of the Fund and authorizes appropriation of such sums as necessary for the operation of the Office of Inspector General.

Section 119. Enforcement

Section 119 directs the Fund to issue regulations within 180 days after appointment of the Administrator. Such regulations should prevent conflicts of interest on the part of directors, officers, and employees of community development financial institutions that are not insured and should establish standards with respect to loans by such institution to their directors, officers, or employees. Insured community development financial institutions must adhere to conflict of interest and insider lending laws and regulations that apply to insured depository institutions. Section 119 states that the provisions of this Subtitle, and regulations promulgated and agreements entered into under this Subtitle will be enforced by the Fund in accordance with Section 8 of the Federal Deposit Insurance Act (insured community development financial institutions only) and that Section 657 of title 18 of the United States Code will apply to institutions receiving assistance pursuant to this Subtitle.

Section 120. Community Development Revolving Loan Fund for credit unions

Section 120 permits the Board of the National Credit Union Administration to invest any idle funds of the Community Development Credit Union Revolving Loan Fund in United States Treasury securities and permits earned interest to become part of the Fund. Section 120 permits the Board to require any loans made by the Fund to be matched by increased shares in the borrower credit union. Interest earned by the Fund may be allocated by the Board for technical assistance to community development credit unions, subject to appropriations acts.

Section 121. Authorizations

Section 121 authorizes $382 million over four years or such greater sums as may be provided by appropriations acts. Of amounts authorized, $5,550,000 may be used for administrative expenses. The Conference Agreement provides that costs associated with the training and technical assistance are not to be considered administrative expenses. After administrative expenses are deducted, one-third of the funds appropriated shall be used to carry out section 114. The Community Development Credit Union Loan Fund is authorized at $10 million over four years.

Section 121(a) requires the Administrator to allocate, to the maximum extent practicable, assistance appropriated pursuant to this Section to benefit community development financial institutions. Accordingly, in implementing this Act, the Administrator should favor institutions that invest in, or are, community development financial institutions. The Conferees believe this requirement imposes an affirmative responsibility on the Administrator to promote and provide information on the availability of assistance pursuant to Sections 108, 109, 113, and 114 to capitalize, enhance the capacity and liquidity of, and promote investment in, community development financial institutions.

TITLE I

SUBTITLE B—HOME OWNERSHIP EQUITY PROTECTION

Summary

Subtitle B of Title I, entitled "The Homeownership and Equity Protection Act of 1994," addresses the problem of "Reserve Redlining." Redlining is the practice of denying credit within certain geographic boundaries, often based on race or ethnicity. The term "reverse-redlining" describes the targeting of residents of the same communities for credit on unfair terms. Considerable testimony before the Senate and House Banking Committees has indicated that communities lacking access to traditional lending institutions are being victimized in this fashion by second mortgage lenders, home improvement contractors, finance companies, and banks who peddle high-rate, high-fee home equity loans to cash-poor homeowners.

Subtitle B is needed to address reverse redlining and to protect borrowers who might enter into these transactions. The legislation does not create a usury limit or prohibit loans with high rates or high fees. At the same time, the Conferees believe that these loan structures are potentially dangerous when misused and warrant a heightened degree of consumer protection in order to ensure that borrowers are not victimized by abusive lending practices.

The bill amends the Truth in Lending Act (TILA) to define a class of non-purchase or non-construction loans with high interest rates or up-front fees. To ensure that consumers understand the terms of such loans and are protected from high pressure sales tactics, the legislation requires creditors making such loans to provide a special, streamlined disclosure three days before consummation of the transaction, in addition to the other disclosures required by the TILA. The bill also restricts the use of certain loan terms such as negative amortization and balloon payments that have proven particularly problematic. Finally, the bill provides increased civil liability for failure to comply with the requirements for such loans and enables a borrower to assert all claims and defenses against an assignee of the mortgage that could be asserted against the originator.

SECTION-BY-SECTION

Section 151. Short title

This subtitle is titled "The Homeownership and Equity Protection Act of 1994."

Section 152. Consumer protections for certain mortgages

a. Definition

Subsection (a) creates a special category of loans to be covered by this legislation (§103(aa) loans). This category is made up of closed-end loans secured by a consumer's principal dwelling, but not obtained for purchase or construction of the dwelling, in which:

(1) the annual percentage rate is more than 10 percentage points greater than the yield on a Treasury security of comparable maturity; or

(2) points and fees exceed the greater of 8% of the loan amount or $400. This amount includes compensation paid to brokers.

The definition specifically excludes open end credit transactions and reverse mortgage transactions.

The points and fees trigger includes certain fees listed in Section 106(e) of the TILA such as fees paid to a third party for title examination, document preparation, credit reports, notary services, and appraisal, unless the charges meet three criteria. First, the charge must be reasonable. The Conferees intend that this provision shall be interpreted consistently with interpretations of the existing reasonableness standard necessary to exclude such charges from the finance charge under Regulation Z (§226.4(c)(7)). Second, the creditor must not receive direct or indirect compensation for such charges. Third, the fee must be paid to a third party unaffiliated with the creditor. As such information is readily available to the creditor, it is the creditor's burden to establish that any such charge meets these three criteria for exclusion. The Federal Reserve Board has authority to include additional charges in calculating the triggers, such as credit insurance premiums, if evidence establishes that such charges are being used to circumvent or evade the provisions of this legislation.

The Federal Reserve Board is also provided authority to adjust the 10% trigger between 8% and 12%. The Conferees are concerned that the 10% level may not be appropriate, particularly given changes in the credit markets. The legislation states that the Board may adjust the 10% level no sooner than two years after final regulations are promulgated pursuant to Section 1555 and no more frequently than every two years thereafter. To move the trigger, the Board must make an express determination that the increase or decrease is consistent with the consumer protections against abusive lending contained in this legislation and that the change is warranted by the need for credit. The conferees intend that before making such a change, the Board will consult with representatives of consumers, particularly low income consumers, and lenders.

The Conferees intend that nothing in this subsection be construed to limit the finance charges or rates that may be imposed on §103(aa) loans. The triggers in the legislation are not intended as caps, but rather to ensure that enhanced protections are provided to consumers who are most vulnerable to abuse without impeding the flow of credit.

At the same time, the fact that a loan does not meet the trigger provisions of the legislation does not mean that it is necessarily free of abusive terms or provisions. Loans that do not meet the triggers will continue to be regulated by other provisions of the TILA, as well as by other applicable laws.

b. Material disclosures

Subsection (b) defines the specific disclosures required for §103(aa) loans as "material disclosures", thereby providing the consumer with a right of rescission (as with other TILA disclosures) for up to three years in the event that the required disclosures are not provided.

c. Definition of "creditor"

Subsection (c) provides that a person who originates two or more §103(aa) mortgages in a given year or originates such a mortgage through a broker is a "creditor" and must comply with the requirements of the TILA and this legislation.

d. Disclosure required and terms prohibited

Subsection (d) amends the TILA by creating a new section, Section 129, which delineates certain requirements for §103(aa) mortgages.

Disclosures

Prior to originating such a mortgage, a creditor must conspicuously disclose that the consumer could lose his/her home for failure to meet the loan obligations and is not obligated to complete the agreement.

The creditor must disclose the annual percentage rate and the regular monthly payment or, for a variable rate loan, the annual percentage rate, monthly payment, and a statement that the interest rate and monthly payment can increase. Variable rate transactions must also indicate the maximum possible monthly payment possible under the loan. The Competitive Equality Banking Act of 1987 requires all variable rate transactions to include interest rate caps (12 U.S.C. §3806). The Conferees expect the maximum payment to be calculated based on the cap in the transaction by assuming the maximum possible increases in rates in the shortest possible time periods.

The creditor must provide the required disclosures in writing at least three days before consummation of the transaction. Section 152 prohibits subsequent changes in the loan terms that affect the APR or monthly payment unless revised disclosures are provided in writing three days prior to consummation. The Federal Reserve Board may modify or waive the disclosures for bona fide emergencies.

The legislation provides that revised disclosures may be provided by telephone if the changes in loan terms are initiated by the consumer and the parties certify in writing at consummation that the telephone disclosures were provided three days prior to closing.

Prohibited terms

This subsection further mandates that §103(aa) loans may not include the following terms: default interest rates higher than the rate prior to default; balloon payments if the loan term is shorter than 5 years; negative amortization; prepaid payments of more than 2 periodic payments consolidated and paid in advance from the loan proceeds; or payment to a home improvement contractor other than in a form payable to the consumer or jointly to the consumer and contractor, or, at the election of the consumer, to an escrow agent. The subsection also prohibits creditors from engaging in a pattern or practice of extending mortgage credit to consumers through §103(aa) loans unless they have given consideration to a consumer's current or expected income, current obligations, repayment capacity, or employment. These underwriting factors are intended to be illustrative, and not prescriptive or restrictive. Assessing the expected income of an employed borrower, for example, would not be necessary. Such an assessment, however, would be necessary for an unemployed borrower.

Finally, §103(aa) loans are prohibited from containing prepayment penalties. Testimony before the Senate and House Banking Committees indicated that consumers were often trapped in abusive mortgages by outrageous terms that made it prohibitively expensive to prepay their loans. The legislation specifies that the term "prepayment penalty" includes any refund of unearned scheduled interest that is computed by a method that is less favorable than the actuarial method, as defined in section 933(d) of the Housing and Community Development Act of 1992. (The Conferees recognize that some states have defined "actuarial method" and intend that a creditor use a state definition where applicable for purposes of computing a refund of unearned scheduled interest provided that the refund would be equal to, or greater than, one computed pursuant to section 933(d) of the Housing and Community Development Act of 1992.) This reference is not intended to be limiting, however, and common forms of prepayment penalties such as percentages of outstanding balance or number of months of interest are also prohibited under the legislation.

The subsection provides an exception from the prepayment restrictions provided (1) that the consumer's total monthly debt service under all obligations including the mortgage in question does not exceed 50% of the consumer's monthly gross income as verified through financial statements, a credit report, payment records, or verification from an employer; (2) that the penalty applies only to a prepayment made from amounts obtained by a means other than a refinancing with the same creditor; (3) that the penalty does not apply after 5 years following consummation of the loan; and (4) the penalty is not otherwise prohibited under state law.

Where the exception to the prepayment prohibition applies, the bill does not limit the amount of a prepayment penalty. The Conferees recognize, however, that some prepayment penalties that are permissible under subtitle B may nevertheless be prohibited by some other applicable law. The bill is not intended to override these more restrictive laws.

Inclusion of any of these prohibited terms is deemed a failure to deliver "material disclosures" as required by the TILA, thereby providing the borrower with rescission rights under §125 of that Act.

The subsection authorizes the Federal Reserve Board to exempt specific mortgage products or categories of mortgage products from these prohibitions if it makes an express finding that the exemption is in the interest of the borrowing public and will apply only to products that maintain and strengthen home ownership and equity protection. The Conferees are concerned, for instance, that some loans under government programs and certain short-term "bridge" construction loans may be inappropriately captured by this legislation. In general, the Conferees intend that the Board will not grant board exemptions, but rather weigh carefully the potential for each such product to be used in the abusive fashion which this legislation seeks to address and to assure that the product is used to facilitate homeownership and strengthen the homeowner's equity interest.

At the same time, the Board is required to prohibit acts and practices that it finds to be unfair, deceptive, or designed to evade the section and with regard to refinancings that it finds to be associated with abusive lending practices or otherwise not in the interest of the borrower. The Conferees recognize that new products and practices may be developed to facilitate reverse redlining or to evade the restrictions of this legislation. Since consumers are unlikely to complain directly to the Board, the Board should consult with its Consumer Advisory Council, consumer representatives, lenders, state attorneys general, and the Federal Trade Commission, which has jurisdiction over many of the entities making the mortgages covered by this legislation. In making any determination, the Board should look to the standards employed for interpreting state unfair and deceptive trade practices acts and the Federal Unfair and Deceptive Practices Act (15 U.S.C. §45(a)(1)).

This subsection also authorizes the Board to prohibit abusive acts or practices in connection with refinancings. Both the Senate and House Banking Committees heard testimony concerning the use of refinancing as a tool to take advantage of unsophisticated borrowers. Loans were "flipped" repeatedly, spiraling up the loan balance and generating fee income through the prepayment penalties on the original loan and fees on the new loan. Such practices may be appropriate matters for regulation under this subsection.

e. Conforming amendments

Subsection (e) clarifies that the provisions of this subtitle preempt state law only where federal and state law are inconsistent and only to the extent of an inconsistency. The Conferees intend to allow states to enact more protective provisions than those in this legislation. Many states, for example, ban all prepayment penalties on mortgage loans. Such a ban would remain in effect following enactment of this legislation.

Subsection (e) also specifies that states which are exempt from portions of the TILA disclosure requirements are not exempt from the requirements of this legislation.

Section 153. Civil liability

a. Damages

Subsection (a) provides that, in addition to other penalties available under the Act, a material failure to comply with requirements imposed by the subtitle carries potential civil liability in an amount equal to all finance charges and fees paid by the consumer. The Conferees intend the word "material" to reference a common legal standard, not to reference "material disclosures" under TILA. Case law under §130(c) may be used to evaluate materiality and the reasonableness of the procedures for preventing errors under this section. The Conferees intend that miscalculations, computer malfunctions, and printing mistakes shall not be deemed material if the creditor maintained reasonable procedures to prevent such mistakes.

b. State attorney general enforcement

Subsection (b) allows a State attorney general to bring actions in federal district court to enforce the provisions of this subtitle for up to three years following violations. The state must notify the appropriate Federal agency responsible for enforcement and the agency will have the right to intervene.

c. Assignee liability

Subsection (c) eliminates holder-in-due-course protections for purchasers and assignees of §103(aa) mortgages. Consumers maintain all claims and defenses in connection with such mortgages against assignees that can be asserted against creditors. With this provision, the Conferees intend to ensure that the market polices itself in order to eliminate abuses. Similar liability has been previously extended by the FTC to consumer installment paper, including automobile loans, without a significant impact on credit availability.

To ensure that the assignee liability provision of this bill does not reach beyond §103(aa) loans, the legislation insulates an assignee from liability if the assignee can demonstrate, by a preponderance of the evidence, that a reasonable person, exercising ordinary due diligence, could not determine from the loan documentation that the loan was covered by this legislation. Such a determination would require review of the documentation required by the TILA, including, but not limited to, the disclosures required by this legislation, as well as a disclosure of disbursements or itemization of amounts financed. While this exception limits the liability of an assignee under this subsection, it is not intended to limit liability under other portions of the TILA (including other subsections of Section 131) or other causes of action.

This section also limits the damages available under the assignee liability language in

the legislation. For TILA violations, damages are limited to relief available under Section 130. For all other causes of action, damages are limited to the sum of all remaining indebtedness and the total amount previously paid by the consumer in connection with the transaction. The amount of damages awarded in the latter instance must be reduced by any damages awarded under the TILA. The Conferees intend to limit an assignee's potential liability to all amounts previously paid and currently owed by a consumer.

To ensure that assignees are aware of their potential liability, the legislation requires any party assigning a §103(aa) mortgage to include a prominent notice of potential liability.

Section 154. Reverse mortgage disclosure

a. Definition

The Conferees are aware that many reverse mortgage transactions could be covered by the definition created in Section 152. Such transactions include significant up-front costs, yet provide for only limited initial payments to the consumer. However, the unique nature of reverse mortgages makes them ill-suited for the triggers and associated consumer protections established in this legislation. For this reason, the legislation creates a statutory definition of "reverse mortgage transactions" and exempts such transactions from the legislation (see Section 152). Reverse mortgage transactions are defined as non-recourse transactions in which a security interest is taken against the consumer's principal dwelling for the purpose of securing one or more advances to the consumer, but requiring repayment (other than in default) only after one of the following occurrences: transfer of the dwelling; the consumer ceases to occupy the dwelling as a principal dwelling; death of the consumer.

b. Disclosure

While the Conferees believe that the protections provided through Sections 152 and 153 are not appropriate for reverse mortgages, they are concerned that consumers are not currently receiving adequate information for such transactions. Reverse mortgages are complex transactions that have high up-front costs and are primarily designed for elderly consumers who have substantial equity in their homes.

To ensure that consumers are adequately informed about the costs and risks associated with reverse mortgages, this legislation creates a special disclosure for such transactions. The duration of a reverse mortgage is inherently uncertain at the time it is originated because it is designed to terminate upon the death of the consumer, transfer of the dwelling, or the consumer's ceasing to use the dwelling as a primary residence. Likewise, many such mortgages contain shared appreciation or shared equity features which further lend uncertainty to the transaction. The costs to a consumer and the payments that the consumer will receive are estimable only based on assumptions regarding factors such as life expectancy and appreciation in the value of the dwelling.

The disclosure required by this legislation must indicate the cost of the transaction based on three loan terms (two years, the consumer's life expectancy, and such longer period as the Federal Reserve Board deems appropriate). Likewise, the disclosure must indicate the cost of the transaction assuming three appreciation rates for the dwelling. The "cost" of the transaction shall be expressed as an annual interest rate and include all payments made to and for the consumer, all costs and charges to the consumer, the cost of any annuity associated with the transaction, and any limitation on the liability of the consumer.

The Conferees intend the reverse mortgage disclosure to be modeled after the matrix disclosure currently provided through the Federal Housing Administration's Home Equity Conversion Mortgage Program and required by Section 255 of the National Housing Act. This disclosure will indicate how certain variables impact the transaction. For instance, the interest rate implicit in a reverse mortgage is reduced as the consumer lives longer.

c. Home equity plan exemption

Section 154 also clarifies the inapplicability of Section 137(b) of the TILA to reverse mortgages. This provision is not intended to substantively change current law, but rather to codify current interpretation that Section 137(b) should not be construed so as to prevent acceleration of a reverse mortgage upon death of the consumer. The intent of Congress in this area was first clarified in Section 520 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715(z)–20(j)) with respect to the Home Equity Conversion Mortgage Program. This action affirms the exclusion for all reverse mortgages.

Section 155. Regulations

This section requires the Federal Reserve Board to issue regulations under the subtitle within 180 days of enactment of the Act. The regulations will become effective according to the schedule outlined in the TILA.

Section 156. Applicability

The provisions of this legislation will apply to mortgages consummated after regulations promulgated pursuant to Section 155 become effective.

Section 157. Federal Reserve study

Section 157 requires the Federal Reserve Board to conduct a study and submit a report to Congress regarding whether a consumer engaging in an open end credit transaction is provided adequate protections under Federal law, including under Section 127(A) of the TILA. This legislation exempts open end credit plans, such as home equity lines of credit. Hearings on reverse redlining produced insufficient evidence to establish whether there are significant numbers of abusive home equity loan transactions in the open and credit market. However, if the market changes, or the Board finds that open end credit plans are being used to circumvent this legislation, the Board has the authority to address abuses under Section 152(d). The Board must complete the study within 2 years and provide a report to Congress, along with any legislative recommendations.

Section 158. Hearings on home equity lending

Section 158 requires the Federal Reserve Board to conduct public hearings within 3 years and regularly thereafter to examine the home equity loan market and the adequacy of existing law and regulation in protecting consumers, particularly low-income consumers. These products have provided important liquidity to millions of consumers. By their nature, however, they also place at risk the equity that consumers have established in their homes. When problems arise in the home equity loan market, they are profoundly damaging.

The Conferees believe that this legislation is an important step to protect homeownership. Under this Conference Agreement, they have given the Federal Reserve Board the flexibility to address future problems before legislation is necessary and before consumers have lost their homes. These hearings will enable the Federal Reserve Board to develop a better understanding of home equity lending and ensure that regulatory policy responds to market developments in a timely fashion.

In conducting such hearings, the Federal Reserve Board should solicit the participation of consumers (particularly low income consumers), representatives of consumers, lenders, regulators, and other interested parties. The Congressional hearings that led to this legislation cast light on an entire segment of the credit market which had been largely ignored. Section 158 is designed to ensure that such aspects of the credit markets are better understood in the future.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A of Title II is intended to increase small business access to capital by removing impediments in existing law to the securitization of small business loans and leases. Subtitle A builds on the framework for securitization established by the Secondary Mortgage Market Enhancement Act of 1984, known as SMMEA. SMMEA was enacted to increase the flow of funds to the housing market by facilitating the participation of the private sector in the secondary mortgage market. To accomplish this, SMMEA amended the Securities Exchange Act of 1934 (Exchange Act) to facilitate the development of a forward trading market in "mortgage related securities" and designated such securities as "legal investments" for state and Federally regulated financial institutions. Subtitle A of Title II would create a similar framework for "small business related securities," with the goal of stimulating a similar flow of funds to small businesses. It is the hope of the Conferees that this improved access to capital will help create new jobs and stimulate economic growth in the United States.

The Conferees adopted sections 201 through 208 of the Senate bill.

Section 209 calls for the Board of Governors of the Federal Reserve System (the Board) and the Securities Exchange Commission (the Commission) to conduct a joint study of the impact of the provisions of this title on the credit and securities markets. The study will include an evaluation of the impact of the amendments made by this subtitle and by section 347 of this Act on the availability of credit for businesses and commercial enterprises in general, and in particular for businesses in low- and moderate-income areas, businesses owned by women and minorities, community development efforts, community development financial institutions, different geographical regions, and a diversity of types of businesses.

The section 209 study will examine the structure and operation of the markets that develop for small business related securities and commercial real estate mortgage related securities (as provided under section 347 of the Act), including the types of entities, such as pension funds and insurance companies, that are significant purchasers of these securities. The study will also discuss any adverse effects of these markets on commercial real estate ventures, pension funds, or pension fund beneficiaries. Depending on how these markets develop, the Board and the Commission shall have flexibility to modify or supplement, as appropriate, the issues to be addressed in the joint study. In keeping with the findings of these reviews, the study may contain recommendations for any additional suitability or disclosure requirements

or other investor protections that should be required.

The Board and the Commission will report to Congress on their joint study every two years over a six-year period beginning on the date of enactment of Subtitle A. These reports are to be accompanied by recommendations to Congress of administrative or legislative action as the Board and the Commission deem appropriate.

Section 210 calls for the Federal Financial Institutions Examination Council (FFIEC) to study the need for the use of consistent financial terminology by depository institutions for small business loans or leases which are sold for the creation of small business related securities. The results of the study and any appropriate policy recommendations will be reported to Congress within two years after the date of enactment of this Act. The Conferees do not intend that small business loans should have common terms and conditions. Rather, the Conferees direct FFIEC to determine whether the words used to describe loans and leases should have commonly understood definitions and meanings. The Conferees further intend that the FFIEC consult with the Commission to assure that any recommendations do not conflict with the terminology developed concerning securitization under the federal securities laws.

The Conferees did not agree to include in the Conference Report section 209 as passed by the Senate. That section provided that the Secretary of Labor, in consultation with the Secretary of the Treasury, may exempt transactions involving small business related securities from the prohibited transactions provisions of the Employee Retirement Income Security Act of 1974 (ERISA). Since the Secretary of Labor already has the authority to issue either individual or class exemptions for all types of securities, including those provided for under section 347 of this Act, the Senate-passed section 209 was unnecessary.

Subtitle B of Title II provides for the use of $50 million in Federal funds to encourage and expand Capital Access Programs administered by States and certain localities. The Conference Report substitutes the Community Development Financial Institutions Fund, established under Section 104 of the Conference Report, for the Department of Housing and Urban Development as the program administrator. The Fund's responsibilities with respect to the capital access program are limited and similar to the Fund's assistance responsibilities under Title I of the Conference Report.

Second, the Conference Report extends the commencement date of the capital access program from the date of the bill's enactment to January 6, 1996. This change will afford those States that have not established qualifying programs additional time to act in order to benefit from the program's assistance.

The subtitle authorizes the appropriation of $50 million to implement the program and requires the appropriation of this amount without fiscal year limitation prior to the Fund's approval of State or local jurisdictions as recipients of assistance. The Conference Committee intends for funds appropriated to the Fund to carry out the capital access program to include an amount for program administrative expenses. In light of the Fund's very limited responsibilities under the program, the Committee expects the Fund to administer the program with a lean staff that minimizes its administrative expenses. Therefore, the Committee expects only a small portion of the appropriated amount to be needed for such expenses.

TITLE III: PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

SECTION-BY-SECTION

Section 301. Incorporated definitions

The terms "appropriated Federal banking agency," "Federal banking agencies," "insured depository institution," and "insured credit union" are defined to have the same meanings as in the Federal Deposit Insurance Act and the Federal Credit Union Act.

Section 302. Administrative consideration of burden with new regulations

In setting the effective date of new regulations and imposing new administrative compliance requirements, the Federal banking agencies are directed to consider the burden and benefits of those requirements for depository institutions and their customers. The agencies should take into account institution size and are specifically directed to give consideration to small institutions.

Section 302 also states that new regulations and amendments to existing regulations that impose reporting, disclosure, and other requirements on depository institutions shall take effect on the first day of a calendar quarter. This effective date requirement will provide insured depository institutions with a consistent date for complying with Federal banking regulations. Currently, regulations can become effective at any time, requiring insured depository institutions to constantly review and update their policies and procedures. This process is burdensome and costly, especially to smaller institutions. By having regulations generally take effect on only four days each year, insured depository institutions will be more regularly informed of new rules with which they must comply and will be able to effectuate training, software, and other operational modifications in a coherent manner.

Under this section, the requirements of the Administrative Procedures Act will continue to apply, requiring a minimum of thirty days between publication of a regulation and its effective date. A banking agency may accelerate the effective date for good cause and must publish the reasons for such a determination with the regulation. Likewise, depository institutions may comply with the regulation prior to its effective date. This rule does not apply to regulations issued by the Board of Governors of the Federal Reserve in connection with the implementation of monetary policy.

Section 303. Streamlining of regulatory requirements

Each Federal banking agency must review and streamline its regulations and written supervisory policies within 2 years, removing regulatory inconsistencies, outmoded or duplicative requirements and unwarranted constraints on credit availability. Where agencies have adopted different requirements in regulations or other general guidance to banks implementing a common statutory scheme or supervisory concern, the agencies must make their requirements uniform. The agencies must report on their progress after one year and again at the end of the two-year period for completing this streamlining.

In addition, section 303 requires the Federal Reserve Board to review the regulations and policies regarding variable rate mortgages in order to simplify the disclosures, if necessary, and make the disclosures more comprehensible. The Board must work with consumers in conducting this review and report to Congress within two years with findings and any legislative recommendations.

Section 304. Elimination of duplicative filings

The agencies must work together to eliminate, to the extent possible, requests for duplicative and other unnecessary information in connection with applications and notices. In addition, the agencies are required to harmonize any inconsistent publication and public notice requirements they have adopted pursuant to regulatory authority.

Section 305. Coordinated and unified examinations

Section 305 requires the Federal banking agencies to coordinate their examinations and, in two years, to jointly develop and implement a system under which one of the federal banking agencies will take the lead in managing a unified examination of the insured institutions that it supervises and the other insured banks, thrifts and other companies in each banking organization. Upon establishment of the system, the agencies are required to submit a joint report to Congress, followed thereafter by annual reports.

The goals of the system should be to eliminate unnecessary examination overlap and to improve supervision and accountability. The Conferees intend the system to reduce the regulatory burden experienced by institutions that confront multiple duplicative exams from the four agencies through their national, regional and subregional offices. The Conferees also intend the system to resolve disagreements that arise among the different regulators in reviewing the same loans, activities and practices of the organization. Such duplication and disagreement undermine industry confidence in federal regulation.

Section 305 contemplates that the agencies will have the discretion to create and modify the unified examination system, as they agree. The requirement of a lead agency will not preclude the assignment of adequately trained and experienced examiners from the Federal banking agencies. Rather, the unified examination system is intended to permit the agencies to apply their resources more effectively, to allocate examiners appropriately, to draw on the expertise of all the agencies, and to promote safety and soundness. In addition, requiring one of the agencies to take the lead in managing the examination will provide a mechanism for resolving disagreements and will promote agency accountability.

Section 305 permits each appropriate federal banking agency to conduct a separate independent examination in an emergency or other exigent circumstances, or when the agency believes that a violation of law may have occurred. In these instances, there is an explicit preservation of the agencies' ability to individually pursue examinations in addition to the agency designated by the established system.

Section 306. 18 month examination rule for certain small institutions

Current law provides an on-site examination of an insured depository institution every 12 months, except that the examination cycle is extended to 18 months for an institution with assets less than $100 million that (1) is well-capitalized; (2) is well managed and has an outstanding composite condition (e.g., a CAMEL rating of "1"); (3) has not undergone a change of control within one year of its last examination; and (4) is not subject to a formal enforcement proceeding or order. Section 306 raises the asset threshold for the extended 18-month cycle to $250 million for such institutions.

In addition, section 306 also broadens the exception to institutions with a good composite condition (e.g., a CAMEL rating of

"2") and assets less than $100 million. After 2 years, the agencies may increase the $100 million level for such institutions to an amount not to exceed $175 million if the agency determines by regulation that the greater amount would be consistent with principles of safety and soundness.

Section 306 does not affect the existing discretion of the agencies to examine an institution more frequently than is required by statute.

Section 307. Call report simplification

To reduce the burden of filing and publishing reports of condition, commonly referred to as call reports, this section instructs the federal banking agencies to develop a system under which an institution may file call report data by electronic means. The section also provides that the agencies make these reports available to the public electronically. In addition, within one year the agencies must report to Congress on any other measures that would make reporting and dissemination more efficient.

The agencies are required to work jointly to adopt a single form for the filing of core information and to streamline the schedules supplementing the core information by eliminating requirements that are not warranted "for reasons of safety and soundness or other public purposes." The conferees intended that information requested by the banking agencies to determine an insured depository institution's semiannual assessment be considered as "warranted for reasons of safety and soundness or other public purposes" under section 307(c)(2).

The Conferees intend section 307 to apply to reporting pursuant to Federal banking laws. Reporting requirements relating to disclosures under the Federal securities laws, such as those required under the Securities Exchange Act of 1934, are not affected by section 307. These financial statements should continue to be prepared in accordance with generally accepted accounting principles and the Securities and Exchange Commission's Regulation S-X, 17 C.F.R. §210.

Section 308. Repeal of publication requirements

This section repeals requirements in section 5211 of the Revised Statutes, section 7(a)(1) of the Federal Deposit Insurance Act and section 9 of the Federal Reserve Act for newspaper publication by a bank of its reports of condition. The section does not affect the public availability of this information.

Section 309. Regulatory appeals process, ombudsman, and alternative dispute resolution

This section requires each Federal banking agency and the National Credit Union Administration Board (NCUA) to establish an internal regulatory appeals process for insured depository institutions within 6 months. The appeals process must be available to review material supervisory determinations and provide for expeditious review under appropriate safeguards to protect the institution from retaliation by agency examiners. The term "material supervisory determinations" is defined to include determinations relating to examination ratings, adequacy of loan loss reserves, and significant loan classifications. The appeals process does not affect the authority of the agencies and the Board to take enforcement or supervisory action against an institution.

Section 309 also requires each banking agency and the NCUA to appoint an ombudsman to act as liaison with respect to any problem that any party may have in dealing with the agency. The Conferees recognize that implementation of these provisions could impose an undue burden on certain federal agencies with limited staff and budgetary resources. Specifically, the Conferees expect that the National Credit Union Administration might meet the requirements by an appropriate part-time employee. Nonetheless, the Conferees intend that these provisions be carried out by each agency identified in section 309.

Some of the Federal banking agencies have in place procedures to settle disputes between the agency and a financial institution that may satisfy the requirements of this provision. In addition, some agencies, for example, the Comptroller of the Currency, may already have appointed an ombudsman to hear appeals. Nothing in this section is intended to interfere with such existing programs.

Finally, the Conferees have included an alternative dispute resolution (ADR) provision in this Act to encourage Federal banking agencies and the NCUA to utilize the various methods of ADR instead of litigation in resolving issues in controversy. ADR has been used in the private sector for many years and has proven to be quicker, less costly, and more efficient than litigation in resolving disputes. The use of ADR by all Federal banking agencies would save taxpayer money and decrease the regulatory burden for insured depository institutions and individuals who have claims with Federal banking agencies.

Section 309 requires only that each Federal banking agency and the NCUA establish a pilot program to resolve claims against insured depository institutions or credit unions for which the agency has been appointed conservator or receiver, claims involving any final action taken by a banking agency in its capacity as conservator or receiver for an insured depository institution, and any other issue which the agency determines appropriate. The use of ADR must be agreed to by all interested parties, including the agency itself. It is up to each agency to decide whether to implement ADR agency-wide, based on the success and effectiveness of the pilot program.

This section provides each agency with discretion in determining the method or methods of ADR it wishes to utilize. ADR methods include, among other things, mediation, fact finding, mini-trials, arbitration, and the utilization of an ombudsman. This section also requires the Administrative Conference of the United States to conduct an independent evaluation of each pilot program.

Section 310. Electronic filing of currency transaction reports

This section amends the Bank Secrecy Act to require the Secretary of Treasury to permit financial institutions and uninsured banks to maintain and submit electronically the currency transaction reports (CTRs) and other records currently required under the Act. The Secretary is authorized to prescribe terms and conditions for electronic filing. Electronic record-keeping and filing would remain optional for banks.

Section 311. Bank Secrecy Act publication requirements

To ease the burden on institutions and promote compliance, this section requires the Secretary of the Treasury to publish all written rulings concerning money laundering reporting or other requirements placed on banks under chapter 53 of title 31 of the U.S. Code. The Secretary must also issue, on an annual basis, staff commentary to the regulations implementing the chapter.

Section 312. Exemption of business loans from Real Estate Settlement Procedures Act requirements

Section 312 amends the Real Estate Settlement Procedures Act to exempt business purpose residential real estate loans from coverage under the Act. The language of the amendment is modeled after §226.3 of Regulation Z, the Truth in Lending Act regulation. The Conferees intend the Department of Housing and Urban Development, the agency responsible for RESPA regulation, to use the Truth in Lending Act as a basis for its regulations but also to retain discretion to define what constitutes a transaction "primarily for a business, commercial or agricultural purpose" for purposes of the RESPA.

Section 313. Flexibility in choosing boards of directors

This section revises section 5146 of the Revised Statutes to provide that a majority, instead of two-thirds, of the board of directors of a national bank must reside in the area in which the bank is located.

Section 314. Holding company audit requirements

This section amends section 36(i)(2) of the Federal Deposit Insurance Act to allow insured depository institutions with total assets of more than $9 billion and CAMEL ratings of 1 or 2 that are subsidiaries of holding companies to satisfy the requirements of section 36 at the holding company level. Further, when applying this new provision, if the FDIC determines that an institution is a "large institution," the holding company's audit committee may not include any large customers of the institution. Under this section, services and functions comparable to those required by section 36 must be provided at the holding company level, as is required by section 36(i)(1).

Under current law, section 36(i)(2) offered the holding company option only to institutions with assets of less than $5 billion or assets of between $5 billion and $9 billion and a CAMEL rating of 1 or 2. Under the FDIC's guidelines implementing section 36, services and functions are considered "comparable" if the holding company has an audit committee appropriate to its largest subsidiary institution, and management's report on the effectiveness of internal controls and compliance with designated laws is based on information regarding the activities and operations of all subsidiary institutions subject to section 36.

With respect to larger institutions that would be eligible under this section to satisfy the section 36 requirements at the holding company level, the Conferees expect that services and functions performed at the holding company level will be comparable to those that would otherwise be performed at all covered subsidiary institutions consistent with the FDIC's existing guidelines. Similarly, the scope of the duties and responsibilities of the holding company's audit committee will include all such subsidiary institutions. Nothing in these amendments should be construed as providing any basis for weakening current guidelines relating to comparable services and functions for holding companies under section 36(i).

Notwithstanding the availability of the holding company option to larger institutions, the section provides that a Federal banking agency may require a subsidiary depository institution with assets greater than $9 billion to comply with the section 36 requirements, if the agency determines that allowing the exemption would cause significant risk to the deposit insurance system.

The availability of an exemption under section 314 does not alter or provide an exemption from any requirement of a publicly held bank holding company or publicly held savings and loan holding company (or publicly held institution that does not have Federal insurance) to file audited financial statements with the Securities and Exchange Commission under the Federal securities laws or the rules and regulations promulgated thereunder.

Finally, section 314 requires the FDIC to notify an institution in writing if the FDIC requires the institution to have its quarterly reports reviewed by an independent public accountant under section 36.

Section 315. State regulation of real estate appraisals

This section instructs the Federal Appraisal Subcommittee of the Federal Financial Institutions Examination Council to encourage the States to develop reciprocity agreements so that appraisers licensed or certified by one State may perform appraisals in other States. The amendment also provides that a State agency may not impose excessive fees or burdensome requirements on out-of-State appraisers engaged in temporary practice in a State.

Section 316. Acceleration of effective date for interaffiliate transactions

This provision accelerates the availability, for certain well-capitalized thrifts, of the so-called "sister bank" exemption for thrifts, which is not scheduled to become effective until January 1, 1995. Currently, under this exemption, transactions between banks that are 80% owned by the same company are exempt from otherwise applicable affiliate transaction restrictions. Under this provision, well-capitalized thrifts that are 80% owned by the same company would likewise be exempt from such affiliate transaction restrictions, subject to the cross-guaranty liability provisions of section 5(e)(6) of the Federal Deposit Insurance Act that would otherwise not be effective until August 9, 1994. This provision does not alter the availability of this exemption for all other thrifts which is scheduled to become effective on January 1, 1995.

Section 317. Collateralization of public deposits

Section 13(e) of the Federal Deposit Insurance Act permits the FDIC to disavow a collateral agreement unless the agreement is in writing, is approved by the bank's board of directors, was executed contemporaneously with the acquisition of the asset, and has been an official record of the institution.

A recent court decision, *North Arkansas Medical Center* v. *Barrett*, 962 F.2d 780 (8th Cir. 1992), raised concerns among various parties that are secured by collateral received from an insured depository institution because the court upheld the FDIC's authority to claim collateral which was not pledged in strict compliance with section 13(e). To address the concerns of secured parties, the FDIC issued a policy statement in March 1993 indicating that it would not seek to void a security interest solely because the security agreement did not comply with the contemporaneous execution requirement.

Section 317 provides that in cases involving deposits made by Federal, state or local government entities, the FDIC will not invalidate a collateralization agreement solely because the agreement was not executed contemporaneously with the acquisition of the collateral or because changes were made in the collateral in accordance with the agreement. This codifies the FDIC policy statement with regard to securities pledged for public deposits. The Conferees note that the provision is not intended to affect the validity of the FDIC's policy regarding the contemporaneous execution requirement as it relates to other types of agreements with insured depository institutions.

Section 318. Modification of regulatory provisions

This section amends section 39 of the Federal Deposit Insurance Act to give the banking agencies greater flexibility in implementing standards relating to asset quality, earnings, and stock valuation. Under current law, these standards must be implemented by regulation. When an agency determines that an institution has violated a standard, the agency must require the institution to submit a plan indicating how the institution will correct the deficiency. Section 318 permits the banking agencies to implement these standards by either regulation or guideline. When an agency implements these standards by guideline, the agency can decide whether or not to compel institutions that fail to meet the guideline to submit compliance plans. The agency does not have this discretion when it acts by regulation—the law requires the submission of a plan.

Further, section 318 eliminates the requirement that standards implemented pursuant to section 39 apply to depository institution holding companies. The Conferees intend these requirements to apply only to the depository institutions.

Section 319. Expedited procedures for forming a bank holding company

Section 319 replaces the formal application process currently required under section 3 of the Bank Holding Company Act with a simplified 30-day notice procedure in cases in which the owners of a bank seek to reorganize their ownership interests into a bank holding company structure. This new procedure is available only for reorganizations in which the shareholders of the bank will receive substantially the same proportional share interest in the holding company as they held in the bank (except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under state or Federal law); the bank will be adequately or well capitalized immediately following the reorganization; the bank holding company meets all of the capital and other financial standards (including debt requirements) prescribed by the Federal Reserve Board; and the holding company does not engage in any activities other than managing or controlling banks. This new notice procedure would not apply to cases in which the shareholders seek to acquire an additional bank or to engage in nonbanking activities as part of the reorganization.

Section 320. Exemption of certain holding company formations from registration under the Securities Act of 1933

Section 320 adds section 3(a)(12) to the Securities Act of 1933 to facilitate the establishment of holding company structures for banks and savings associations. This section provides an exemption from the registration requirements (but not the anti-fraud provisions) of the Securities Act for equity securities issued or exchanged in the context of a reorganization of a bank or savings association into a holding company structure.

The exemption generally requires that, as part of the reorganization, the security holders exchange their equity securities of the bank or savings association for equity securities of a newly formed holding company that will have no significant assets other than the securities of the bank or savings association and the existing subsidiaries of the bank or savings association; the security holders receive securities representing the same proportional interest in the holding company as they held in the bank or savings association before the transaction; the rights and interests of security holders in the holding company are substantially the same as those in the bank or savings association before the transaction; and, after the reorganization, the holding company has substantially the same assets and liabilities, on a consolidated basis, that the bank or savings association had before the transaction.

These conditions are intended to ensure that the exemption is available only where the transaction is for the sole purpose of the formation of a holding company. The exemption is not available for transactions which transfer corporate control or substantially alter the proportional interests of shareholders. These transactions would have to comply with the registration provisions of the Securities Act. Additionally, the exemption would not be available for a holding company formed in connection with the concurrent conversion from mutual to stock ownership.

A newly formed holding company would be subject to the registration requirements of section 5 of the Securities Act for any subsequent offerings of securities for which another exemption is not available. In this regard, the exemptions in section 3(a)(2) and 3(a)(5) of the Securities Act are inapplicable for securities issued by a holding company. The registration, reporting, and other requirements under the Securities Exchange Act of 1934 would be applicable if the holding company applies for listing on a national securities exchange or if it is required to register under section 12(g) of the Act.

Section 321. Reduction of post-approval waiting period for certain acquisitions and mergers

Section 321 reduces the 30-day post-approval waiting period for mergers involving depository institutions and for certain bank holding company acquisitions to a minimum of 15 days, provided the Attorney General concurs and has not adversely commented on the proposed merger prior to its approval.

Section 322. Bankers' banks

Under current law, national banks may purchase shares of an insured bank, or the holding company of an insured bank, that is entirely owned by insured depository institutions and is engaged in providing services for such institutions (commonly referred to as a bankers' bank). Through a bankers' bank, a group of banks (in particular, small banks) can provide services to themselves on a cost efficient basis that they might otherwise have to purchase from correspondent banks.

Section 322(a) authorizes national banks to invest in a bankers' bank in which depository institution holding companies are investors and permits bankers' banks to provide services to such holding companies and their officers, directors, and employees. Section 322(a) also permits bankers' banks to provide correspondent banking services at the request of other depository institutions or their holding companies. Corresponding changes are also made to national banking laws to permit the Comptroller to charter bankers' banks that provide these services.

Section 322(b) gives a Federal savings association the authority to invest in a bankers' bank on the same terms and conditions as a national bank.

Section 322(d) increases the Federal Reserve Act limit on the percentage of a member bank's, including a national bank's, capital and surplus that may be represented by

loans secured by stocks. The current 10 percent limit is increased to 15 percent.

Section 323. Bank Service Corporation Act amendment

This section replaces the "prior approval" requirement for an investment in a bank service corporation with a "prior notice" requirement. The "Prior notice" standard of review has been applied in the past by the Federal banking agencies for other types of bank investments in subsidiaries and limited partnerships.

Section 324. Merger transaction reports

This section provides that a Federal banking agency does not have to file a report on the competitive implications of a merger if it notifies the banking agency with jurisdiction that such a report is not necessary because the merger does not raise competitiveness issues. This section does not eliminate the requirement for the filing of a competitive report by any appropriate Federal banking agency that finds that there are competitive issues implicated by a particular merger.

Section 325. Credit card accounts receivable sales

This section allows the FDIC to waive the right to repudiate, at a later date, an institution's sale of its credit card accounts receivable. The grant of a waiver is totally within the discretion of the FDIC.

Section 326. Limiting potential liability on foreign accounts

This section amends the Federal Reserve Act and the Federal Deposit Insurance Act to limit a domestic bank's liability for deposits in a foreign branch in cases of a sovereign action by that country or in cases of war, insurrection, or civil strife.

Section 327. GAO reports

Section 327 reduces the reporting burden on the General Accounting Office (GAO). The GAO is currently required to report quarterly on the FDIC's compliance with its statutory borrowing limits, whether or not the FDIC has borrowed any money from the Treasury. This section restricts the reporting requirements to those quarters for which the FDIC has outstanding debt owed to the Treasury, the Federal Financing Bank, or members of the Bank Insurance Fund.

Section 328. Study and report on capital standards and their impact on the economy

This section requires the Secretary of the Treasury, in consultation with the Federal banking agencies, to conduct a study of the effect of risk-based capital standards on both the safety and soundness of insured depository institutions, economic growth, and the availability of credit, particularly with respect to individuals and small business concerns. Section 328 requires the Secretary, within one year, to submit his findings and conclusions to Congress as well as any recommendations that are deemed appropriate.

Section 329. Studies on the impact of the payment of interest on reserves

Section 329 requires the Federal Reserve Board, in consultation with the FDIC and the NCUA, to report to Congress within six months on the monetary policy and banking implications of payment and nonpayment of interest on sterile reserves. Also within 6 months, the Office of Management and Budget and the Congressional Budget Office, in consultation with the Senate and House Budget Committees, must report on the budgetary impact of the payment of interest on sterile reserves to banks or to the deposit insurance funds.

Section 330. Study and report on the consumer credit system

This section requires the Secretary of the Treasury, in consultation with the Federal Reserve Board, the Administrator of the Small Business Administration, the Secretary of the Department of Housing and Urban Development, and the Federal banking agencies, to conduct a study of the process by which credit is made available to consumers and small businesses in order to identify procedures that reduce the amount of credit available, increase inconvenience and cost to consumers and business, or unnecessarily increase inconvenience costs and burdens on lenders. As part of the study, section 330 requires the Secretary to solicit comments from consumers, representatives of consumers, lenders and other interested parties. Within one year, the Secretary must submit a report to Congress containing any recommendations for administrative or statutory changes that are deemed appropriate.

Section 331. Clarification of provisions relating to administrative autonomy

Section 331 contains a number of provisions to clarify the degree of autonomy of the Office of the Comptroller of the Currency and the Office of Thrift Supervision as bureaus of the Treasury Department. The OCC and the OTS are responsible for supervising and regulating national banks and thrift institutions, which hold nearly two-thirds of the total assets in U.S. depository institutions, and must be impartial and accountable in carrying out their responsibilities. Section 331 provides for direct submission of testimony and other statements to Congress without prior review by any other agency; clarifies the status of the OCC chief counsel as an employee reporting solely to the Comptroller; and states that the Treasury Secretary will not intervene in any matter or proceeding before the OCC or the OTS, including enforcement proceedings, unless otherwise specifically provided by law.

With regard to rulemaking, section 331 provides that the Secretary shall not delay or prevent the issuance of regulations developed by the OTS or OCC. The Conferees do not intend to preclude the Treasury Department and the respective agencies from communicating during a rulemaking process regarding the Treasury Department's policy goals and objectives. However, regulations developed by the OCC and OTS shall no longer be subject to a Treasury Department review or clearance process that allows the Treasury to block, delay or rewrite any OCC or OTS proposed or final regulation that the Comptroller of the Currency or the Director of the OTS has determined to issue. The bill does not alter the Treasury Secretry's ability to express policy views to the Comptroller of the Currency and to the Director of the OTS.

Section 331 also provides the FDIC, the Federal Reserve Board and the OCC with the authority to conduct litigation through their own attorneys in enforcing the statutes governing the institutions that they oversee.

The provisions granting these agencies such independence are exceptions to the longstanding policy of the federal government that litigation in which the United States or an agency or officer thereof is a party should be conducted by the Attorney General (generally set forth in 28 U.S.C. §§515–519). The Conferees believe that this exceptional grant of authority is most appropriately exercised by the federal banking agencies where legal actions are central to their "core" function of regulating and supervising financial institutions. The Conferees expect these banking agencies to refer to the Department of Justice, or coordinate with the Department of Justice, any litigation involving matters with governmentwide implications, such as claims involving the Freedom of Information Act, the Privacy Act, and the Federal Tort Claims Act.

The Conferees intend to provide the Board of Governors of the Federal Reserve System with authority to litigate in its own name and through its own attorneys when it does so in its capacity as a bank regulator, not in it other primary role as the nation's monetary policy authority. The Board would, therefore, have independent litigating authority similar to that provided to the other federal bank regulators. The phrase "other entity" as used in the amendment is intended to cover individual and financial institutions, other than banks and bank holding companies, which are regulated by the Board, such as Edge Act corporations. In addition, the authority granted with respect to "the administration of its operations" should be construed to include only its internal regulatory operations, such as personnel and contract disputes, and not to include administrative matters unrelated to bank regulatory activities, such as Freedom of Information Act requests for monetary policy information.

Section 332. Exemption for business accounts

Section 332 defines the term "account" for purposes of the Truth in Savings Act as an account used by consumers primarily for personal, family, or household use. The Conferees intend this section to provide a business purpose exemption similar to that provided in the Truth in Lending Act. Under this provision, accounts of unincorporated businesses (i.e., generally, non-profit entities) are exempt from coverage under the Truth in Savings Act.

Section 333. Study on check related fraud

Section 333 requires the Federal Reserve Board to conduct a study regarding the advisability of extending to 2 business days the 1 business day period governing the availability of funds deposited by local checks under the Expedited Funds Availability Act. The Conferees intend the Board to determine whether there is a pattern of check related losses attributable to the 1 day period and whether extending the period to 2 days would significantly reduce these losses. The Conferees believe that there is a lack of reliable evidence indicating whether or not institutions are experiencing fraud losses as a result of the check schedule mandated by the Expedited Funds Availability Act. The Board is required to submit a report to Congress within 2 years of enactment containing its findings and any legislative recommendations.

Section 334. Insider lending

Section 334 amends the Federal Reserve Act to eliminate the requirement that prior approval of the board of directors be granted before an institution may make a loan to an executive officer that is secured by a first lien on the officer's residence. Such loans remain subject to the individual and aggregate lending limits established under section 22(h) of the Federal Reserve Act for loans to executive officers and directors.

Section 334 also enables the Federal Reserve Board, by regulation, to make exceptions from the lending restrictions placed on bank insiders for directors and officers of subsidiaries of a company that controls a bank if those persons do not have the authority to participate, and do not participate, in the policy making functions of the

bank. However, the provisions under section 22(h)(2) that prohibit banks from making loans to insiders on preferential terms are not excepted with respect to bank loans to such directors and officers.

Under Regulation O, executive officers of nonbank subsidiaries of a bank holding company are not subject to certain insider lending restrictions provided the individual: (a) is excluded from participation in major policymaking functions of the member bank by resolutions of the boards of directors of both the subsidiary and the member bank and (b) does not actually participate in such major policy-making functions. It is not the intent of the Conferees to affect the exemptions that the Federal Reserve Board has already extended to executive officers, but rather to allow the Board the authority to provide appropriate treatment for directors.

Section 335. Revision of standards

Section 335 specifies that in considering revisions to the risk-based capital standards, each Federal banking agency shall ensure that the standards take into account the size and activities of the institutions and not cause undue reporting burdens.

Section 336. Alternative rules for radio advertising

Section 336 of Title III provides streamlined disclosures for radio advertising of consumer leases. This alternative enables radio advertisers to reduce the amount of information that must be disclosed in an advertisement under the Consumer Lease Act and instead permits additional information to be disseminated to consumers through the use of a toll-free telephone number referenced in an advertisement or through a print advertisement.

The Conference Agreement also requires the Federal Reserve Board to submit a report to Congress, within one year from the date of enactment, on the rules applicable to credit advertising, how these rules could be modified to increase consumer benefit and decrease creditor costs, and how these rules could be modified for radio advertisements without diminishing consumer protection.

The Federal Reserve Board has begun considering whether and how Regulation M, which implements the Consumer Lease Act, should be simplified and clarified to permit an alternative method for advertising disclosures. The Board should fully review the comments of all interested parties and consider promulgating a rule to streamline the disclosures for media other than radio, such as television or print. Television advertisements, for example, raise complex questions regarding the content prominence, and duration of disclosures necessary to simplify the process and to convey more meaningful information to consumers. These issues are properly considered in the context of a rulemaking proceeding where a detailed record will be generated prior to any action. Section 336 is not intended to interfere with the Board's authority to conduct such a rulemaking.

Section 337. Deposit broker registration

This provision clarifies that insured depository institutions that are well capitalized do not have to register as deposit brokers.

Section 338. Amendments to the Depository Institution Management Interlocks Act

This section amends section 206 of the Depository Institution Management Interlocks Act by extending for an additional 5 years the grandfathering authority for otherwise prohibited management interlocks, subject to certain restrictions. In particular, the Federal banking agencies are directed to review, on a case-by-case basis (within 6 months of the date of enactment of this Act), timely requests by management officials who wish to continue to serve in dual capacities pursuant to this grandfathering authority. In determining whether to permit a management official to continue to serve in a dual capacity, the agencies are directed to consider the circumstances under which the person has already served in such positions.

The Federal banking agencies are directed to approve a request for continuation of a previously grandfathered management interlock under this provision only if: (i) the management official has provided a resolution from the boards of directors of each affected institution or company certifying to each appropriate regulatory agency that there are no other candidates available to serve who possess the level of expertise necessary for such position, and (ii) the agency determines that continuation of service by the management official does not produce an anticompetitive effect.

The section also amends section 209 of the Interlocks Act to repeal the Federal banking agencies' current exemption authority and replace such authority with specific exemption criteria similar to, but more restrictive than, that applicable to the new grandfathering authority criteria outlined above. Notwithstanding this more restrictive exemption authority, the section includes a limited exception for management official consignment programs established by the Federal banking agencies.

To date, the Federal banking agencies, generally, have used their exemptive authority to assist depository institutions that are particularly in need of management guidance and expertise to operate in a safe and sound manner. The types of institutions that have received case-by-case exemptions under the agencies' previous exemptive authority include institutions that are: (i) located in low-income or economically depressed areas, (ii) owned by women or minorities, (iii) new institutions that are just getting organized, or (iv) troubled institutions that are in an unsafe or unsound condition.

The limited exception for management consignment programs established by the Federal banking agencies will ensure that the agencies may continue to grant case-by-case exemptions from the prohibitions in the Interlocks Act consistent with the objectives outlined above. Such exceptions may be granted for up to two years, with one additional two year extension at the option of the agency. Examples of exceptions permissible under an agency management official consignment program include improving the provision of credit to low- and moderate-income areas, increasing the competitive position of minority- and women-owned institutions, and strengthening he management of newly chartered institutions or institutions that are in an unsafe or unsound condition. The program would be periodically monitored by each agency's Inspector General to ensure it is not being used to evade the restrictions of the Interlocks Act.

Section 339. Adverse information about consumers

This section amends the Fair Credit Reporting Act to require a consumer reporting agency to make certain disclosures when it maintains any information that has resulted or may result in an "adverse characterization" of a consumer because of one or more checks written on the consumer's account. Specifically, the consumer reporting agency must disclose to the consumer the dates, original payees, and amount of any checks upon which any adverse characterization of a consumer is based. This provision is intended to address consumer complaints that some consumer reporting agencies have not provided them with the basic facts that led, for example, to an adverse characterization that resulted in the denial of a check at a store or the denial of an opportunity to open a deposit account. Without knowing the basic facts upon which the adverse characterization is based, a consumer cannot readily dispute an incorrect characterization.

Section 340. Simplified disclosures for existing depositors

This section establishes alternative customer notice procedures, in lieu of written customer acknowledgement, that a depository institution is not Federally insured and that customers may not get back their money if the institution fails. The Conferees believe that the alternative notice procedures are warranted for existing customers because many such customers do not visit the institution and thus cannot be asked to sign an acknowledgement in person, and some customers who receive mailed notices and requests do not respond. For existing depositors, institutions may either obtain a written acknowledgement or comply with the notification requirements specified in this section.

Section 341. Feasibility study of data bank

This section requires the Federal Financial Institutions Examination Council to complete a study of the feasibility of creating and maintaining a data bank for depository institution reports. The study must be completed within 18 months of enactment of this Act.

Section 342. Timely completion of CRA review

Section 342 requires the Federal banking agencies to complete their regulatory review of the Community Reinvestment Act at the earliest practicable time.

Section 343. Time limit on agency consideration of completed applications

This section requires each Federal banking agency to complete action on an application to that agency within one year of receipt of the completed application. The applicant may waive the applicability of this section at any time. This section is intended to apply prospectively only, and not to any application that was filed with any Federal banking agency prior to the date of enactment of this legislation.

Section 344. Waiver of the right of rescission for certain refinancing transactions

Section 344 mandates a study by the Federal Reserve Board regarding whether a waiver or modification of the right of rescission with respect to loan transactions involving a refinancing or consolidation of existing indebtedness by a different creditor would benefit consumers. The provision specifies that the Board must determine whether granting the consumer the option to waive or modify the right of rescission would benefit the consumer. In conducting the study, the Board is to consult with consumers, representatives of consumers, lenders, the Consumer Advisory Council, and other interested parties.

Section 345. Clarification of RESPA disclosure requirements

Section 345 allows creditors to comply with the disclosure requirement concerning assignment, transfer, or sale of mortgages under the Real Estate Settlement Procedures Act (RESPA) by providing a statement

indicating that "the person making the loan has previously assigned, sold, or transferred the servicing of federally related mortgage loans" rather than providing the more extensive disclosure currently required under RESPA.

Section 346. Notice procedures for bank holding companies to seek approval to engage in certain activities

Section 346 establishes a new notice procedure for bank holding companies seeking to engage directly or through a company in nonbanking activities permissible under section 4(c)(8) of the Bank Holding Company Act. This section replaces the current application procedure with a 60-day notice procedure, and permits proposals to be consummated immediately if approved by the Federal Reserve Board at an earlier time during this period. Section 346 also authorizes the Board to prescribe shorter notice periods by regulation for particular activities or transactions. This authority would permit the Board to shorten or waive any notice in cases, for example, involving the de novo conduct of routine nonbanking activities previously approved by regulation.

By substituting a notice procedure for the current application requirement, section 346 is intended both to simplify and expedite the approval process for nonbanking activities and to reduce the information burden associated with an application. Permitting the notice period to begin upon the filing of a "complete" notice permits the Board to obtain information needed to assess the statutory factors, but should not unduly extend the process. Moreover, this section limits the ability of the Board to extend the processing period beyond the initial notice period.

At the same time, section 346 preserves the Board's authority to obtain any information that it needs to assess fully the statutory factors raised by nonbanking proposals, and authorizes the Board to object to any proposed transaction or activity if the notificant neglects, fails, or refuses to provide all the information required by the Board. The Conferees intend that this section will not affect the continuing ability of all interested parties, including community groups and consumers, to provide comments on the notice. Section 4(c)(8) requires the Board to consider whether the activity will "produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweight possible adverse effects." Community groups and consumers may provide important information for the board to consider in making such an evaluation.

This section is not intended to alter the Board's authority to impose conditions on the conduct of nonbanking activities or to change the standards applied by the Board in reviewing proposed transactions or activities under section 4(c)(8).

Section 347. Commercial mortgage related securities

Section 347 amends the Secondary Mortgage Market Enhancement Act of 1984 (SMMEA) by adding commercial real estate to the definition of "mortgage related security" under the Exchange Act. Section 347 confers upon commercial mortgage related securities the benefits of SMMEA treatment and removes certain impediments to trading and investing in commercial real estate-mortgage-backed securities, including eased margin requirements under the federal securities laws and permission for depository institutions to purchase these securities under conditions established by their regulators. SMMEA's preemption of state legal investment and blue sky laws would also apply to commercial mortgage related securities. However, the states may override the legal investment preemption by enacting a statute specifically referring to this section within 7 years of the Act's enactment.

The Conferees note that Section 347 preserves the existing authority of the Federal bank regulators to regulate bank purchases of commercial mortgage related securities. As part of their responsibility to ensure the safety and soundness of insured depository institutions, the appropriate regulators may limit or restrict bank purchases of investment securities. This includes the authority to regulate insured depository institutions' purchases for their own accounts for mortgage related securities.

Section 347 extends the definition of mortgage related security to include certain loans secured by 'one or more parcels of real estate upon which is located one or more commercial structure.' The Conferees wish to make clear that this extended definition includes multi-family residential loans secured by more than one parcel of real estate upon which is located more than one structure.

Section 348. Clarifying amendment relating to data collection

Seciton 348 clarifies that compliance with section 7(a)(9) of the Federal Deposit Insurance Act by the FDIC requires the collection of actual and accurate information on the amount of insured, uninsured and preferred deposits at each insured depository institution. Estimates of this information are inadequate and represent noncompliance with this legal requirement. The FDIC is directed to begin immediate compliance with section 7(a)(9), which has been in effect since 1991. The FDIC is directed to minimize the regulatory burden on well capitalized institutions in connection with the reporting requirement; but in all cases, institutions are obligated to report actual and accurate information on their deposits, and not estimates.

Section 349. Guidelines for Examinations

Section 349 requires the FFIEC to issue guidelines establishing standards regarding the adequacy of examinations by State regulators for purposes of section 10(d) of the Federal Deposit Insurance Act. Under section 10(d), a Federal banking agency may conduct an annual on-site examination of an institution in alternate 12 month periods, if the agency determines that a state exam of that institution conducted during the intervening period is adequate. The standards developed by the FFICE are intended to be used solely at the discretion of the Federal banking agencies.

Section 350. Revising Regulatory Requirements for Transfers of All Types of Assets with Recourse

Section 350 addresses an anomalous provision of current bank capital rules that requires more capital to be held for some assets transferred with recourse than the amount at risk. This creates an unnecessary disincentive to sell such loans. This section requires all Federal banking agencies to review their regulations and policies with respect to transfers of assets with recourse, to consult with other Federal banking agencies, and to issue new regulations within 180 days of the bill's date of enactment. After the 180 day period, the amount of risk-based capital required to be held by an insured depository institution with respect to an asset transferred with recourse may not exceed the maximum amount for recourse for which the institution is liable unless a higher amount is determined to be necessary for that institution's safety and soundness. Regulations issued by the Federal banking agencies may permit institutions to hold less capital than the amount at risk in appropriate situations. This provision does not supersede the recourse provisions for small business loans and leases with recourse under section 208(b).

TITLE IV—MONEY LAUNDERING

BSA REPORTING REQUIREMENTS AND TREASURY'S EXEMPTION PROGRAM

Section 402 of the Conference Report requires the Secretary of the Treasury (Secretary) to seek to substantially reduce the number of currency transaction reports (CTRs) filed by depository institutions pursuant to the Bank Secrecy Act (BSA). This reduction in CTR filings will be accomplished by reforming the Department of the Treasury (Treasury) procedures for exempting transactions between depository institutions and their customers.

The Conferees believe that reducing routine filings is important because these reports are expensive for financial institutions to file and for the Treasury to process, and impede law enforcement by cluttering Treasury's CTR database. Currently Treasury's database contains more than 50 million CTRs, and the General Accounting Office (GAO) expects this number to reach 92 million by 1996. However, IRS officials estimate that CTR filings could be reduced by at least 30 percent by exempting routine transactions. This estimate is the basis for the Conference Report's requirement that the Secretary seek to reduce filings by 30 percent.

Treasury currently has exemption procedures in place which are designed to reduce routine filings, but even Treasury's Assistant Secretary for Enforcement has characterized the procedures as "cumbersome and difficult to understand." Two key factors have inhibited the widespread use of exemptions. First, Treasury provides only guidelines regarding customer exemptions. Banks that make wrong exemption determinations based on these guidelines can be severely penalized. Last year, two banks paid large penalties due to errors involving exemptions. The current system does not provide banks with strong incentives to exempt customers. One bank representative informed the House Banking Committee during a hearing that his institution once exempted more than 200 customers, but has since cut that list to only 17.

Second, many banks have purchased automated CTR filing systems. Under the current exemption procedures, these systems make it more cost effective to file a report on all transactions above $10,000 than to exempt a small number of customers.

The Conference Report establishes a two-tier system for reforming exemption procedures. Mandatory exemptions shall be designated by the Treasury and shall include transactions which a depository institution has with (1) another depository institution; (2) any U.S. government department or agency, any State, or any political subdivision of a State; (3) any entity established under Federal or State law that exercises governmental authority on behalf of the Federal or State government; or (4) any business or category of business where the CTRs have little or no value for law enforcement purposes. The Treasury is required to publish the mandatory exemption list at least annually in the Federal Register.

The discretionary exemption list shall include transactions between a depository institution and its qualified business customers. These customers must meet criteria which the Secretary determines are sufficient to ensure that the purposes of the BSA are carried out without requiring a report with respect to such transactions. A discretionary exemption shall be effective only after the depository institution submits a list of its customers to the Treasury and the Secretary approves the application of the exemption to such customer. Depository institutions must annually review their lists of customers and resubmit the lists for the Secretary's approval. The Secretary is authorized to phase in the discretionary exemption process over two years.

The Conference Report also addresses the issue of banks' liability relating to exemptions. Depository institutions that have been granted either a mandatory or discretionary exemption will receive a limited safe harbor from the penalty provisions for failing to file a CTR.

Implementing these provisions will make the CTR data base more manageable and meaningful and will reduce the reporting burden on depository institutions. Depository institutions, however, will continue to be responsible for reporting on suspicious activities where routine CTRs are no longer filed.

Finally, the Conference Report directs the Secretary to redesign the format of the CTRs to eliminate the need to report information which has little or no law enforcement purposes and to reduce the reporting burden on financial institutions. The American Bankers Association testified during a Senate Banking Committee hearing that:

In 1993, the industry filed about 10.1 million currency reports. The time for completing one of these reports runs anywhere from 20 to 30 minutes. Based on those parameters, financial institutions believe that it costs anywhere from $3, which is the number we accept, to as high as $15, depending on whether or not the filing is manual or done by magnetic media.

As mentioned above, there is also a cost associated with processing the report once it arrives at Treasury. The Conferees intend that the redesigned format will be less costly to complete and process.

REPORTING OF SUSPICIOUS TRANSACTIONS

Reporting suspicious currency transactions is a key ingredient in the anti-money laundering effort. Permitting depository institutions to exempt certain customers from reporting requirements, as provided by section 402 of the Conference Report, makes it even more critical that depository institutions know their customers and report suspicions of money laundering activity. One way for a financial institution to do this is to check the box marked "suspicious transaction" on the CTR form (these are referred to as "Suspicious CTRs"). Section 403 of the Conference Report is intended to help law enforcement make more effective use of these reports by establishing a central collection point for them. Such a collection point is meant to improve coordination among law enforcement agencies and the agencies accountable for following up on each legitimate report. The Conference Report also requires a report on the disposition of Suspicious CTRs in order to give the Congress an idea of how law enforcement uses these reports.

The Conferees believe that Treasury has not capitalized on the potential of suspicious transaction reporting. Reporting suspicious transactions is not a requirement under Treasury's regulations. Instead, it is covered in Administrative Ruling 88-1 dated June 22, 1988:

Treasury *encourages* all financial institutions to be aware of the possibility that their institutions may be misused by those who intentionally structure transactions to evade the reporting requirement or engage in transactions that may involve illegal activity. (emphasis added)

The Conferees have found that the use of central collection for Suspicious CTRs would also be helpful to filers. Currently, many financial institutions are asked to file the same report with several different law enforcement agencies. The institutions may also be asked to communicate the information by telephone.

The Conferees understand that there is some overlap between the use of Suspicious CTRs and of Criminal Referral Forms (CRF), which are employed to report many types of suspected criminal activity at depository institutions. The GAO addressed this issue in response to a question during a House Banking Committee hearing:

. . . there appears to be considerable duplication in the system that could lead to a great deal of confusion . . . [B]lanks can report suspected money laundering of currency violations either with a Form 4789 (CTR) with the 'suspicious transactions' block checked, through a Criminal Referral Form, or both. It is our understanding that a third form is also being used for banks in the western part of the United States. Finally, some banks are simply reporting their suspicions on the phone to the local IRS office. Use of a single form would not only reduce the duplication and confusion, but could also lead to a better system of controls to ensure that the information is acted on.

The Conferees concur with GAO's recommendation that to the extent practicable consistent with effective law enforcement, a single form be established for bank and nonbank financial institutions. Furthermore, if such a form is created, the Conferees believe that a single collection point, similar to the one mandated by this legislation for Suspicious CTRs, be established to improve coordination among the law enforcement agencies. The Conferees urge all law enforcement agencies to enhance their cooperation in areas of overlapping jurisdiction.

IDENTIFYING MONEY LAUNDERING SCHEMES DURING BANK EXAMINATIONS

Presently, bank examiners' anti-money laundering efforts are primarily directed toward assuring compliance with BSA reporting and recordkeeping requirements, although regulators also are required to make a criminal referral when an examiner discovers evidence of criminal behavior. The Conference Report directs the Federal banking agencies to enhance their training and examination procedures to improve the identification of money laundering schemes.

The Conferees note that the Federal Reserve has already begun field testing procedures which direct examiners to look for money laundering activities in a bank. For example, under these procedures, the examiner is to take a sample of individual or multiple cash transactions of less than $10,000, and look for evidence of structured transactions, evidence of "concentration accounts" (accounts which have frequent cash deposits aggregating less than $10,000 on any business day, and relatively few transfers of large amounts out of the accounts, by check or wire), customers with frequent cash transactions of less than $10,000 who have not provided tax identification numbers, and customers with frequent cash transactions who have provided either a foreign address or post office box or have requested that the bank hold monthly statements.

In order to improve their methods of identifying money laundering schemes, bank examiners will need up-to-date information on common money laundering techniques. For this reason, the Conference Report requires law enforcement to regularly provide the Federal banking agencies with such information. The Conferees intend law enforcement agencies to share as much useful information as possible, consistent with their clear responsibility to protect information about open cases.

The intent of this section is to make sure that examiners are using the most effective means, through the examination process, to identify and report on money laundering. The section is not intended to make examiners into criminal investigators. Its purpose is to focus supervisory efforts on identifying money laundering schemes, rather than ensuring that institutions are filling out forms correctly.

NEGOTIABLE INSTRUMENTS DRAWN ON FOREIGN BANKS

Currently, the BSA requires a person who transports currency or monetary instruments of greater than $10,000 into or out of the United States to complete a Report of International Transportation of Currency or Monetary Instruments (CMIR). "Monetary instruments" is a term defined by statute to include negotiable instruments (such as checks, drafts, notes, and money orders) in bearer form. Section 405 of the Conference Report expands the definition of monetary instruments for the purpose of requiring CMIRs to include checks, drafts, notes, money orders, and similar instruments which are drawn on a foreign financial institution, regardless of whether or not the instruments are in bearer form.

The Conferees' concern about these instruments stems from reports by Treasury that they are frequently used in money laundering schemes. At a House Banking Committee hearing in July 1993, the Director of the Financial Crimes Enforcement Network (FinCEN) specifically identified foreign bank drafts as a money laundering tool. These drafts are U.S. dollar-denominated checks drawn by the foreign bank on its own account at a U.S. bank and sold to customers like cashier's checks. FinCEN has determined that a common money laundering technique is to smuggle currency across the U.S. border and present it to a bank in a foreign country which does not have currency reporting requirements. The cash then can be exchanged at the bank for a bank draft. Since no report is currently required when the bank draft is brought into the U.S. money launderers can successfully repatriate their wealth without detection.

Based on this information, FinCEN's Director recommended at the July 1993 hearing that reporting requirements be imposed on certain non-bearer foreign drawn instruments. Assistant Secretary of the Treasury Ronald Noble reaffirmed this position at a House Subcommittee on Financial Institutions hearing in October 1993. The Customs Service, which would be responsible for monitoring compliance with this requirement, also agrees. In response to a letter from Chairman Gonzalez, Customs stated that it sought legislation which would "define foreign issued bank drafts drawn on U.S. accounts as reportable monetary instruments

regardless of whether they are in bearer form or not. These bank drafts would be subject to filing under CMIR provisions."

It is the Conferees' intent that the Secretary avoid unnecessary burdens on routine financial transactions of foreign financial institutions. Specifically, the Conferees intend that an exemption should be prescribed with regard to CMIRs when the monetary instruments cross the border as part of the interbank collection and reconciliation process. The Conferees also believe that Treasury, in adopting regulations under this section, should consider whether a foreign country is participating in the Financial Action Task Force (FATF), has implemented the FATF's recommendations for combatting money laundering, and has appropriate currency record-keeping or reporting requirements.

IMPOSITION OF CIVIL PENALTIES UNDER THE BSA

The failure to file reports required by the BSA can result in criminal and civil penalties, depending on the nature of the violation. Criminal investigations are the responsibility of IRS's Criminal Investigation Division. Civil penalties are assessed by the Department of the Treasury's Office of Financial Enforcement (OFE). Civil penalties can range from $500 for negligent violations and from $25,000 to $100,000 per willful violation.

OFE currently receives civil penalty referrals from Federal banking agencies, the IRS, financial institutions and others. OFE sends each referral to IRS's Criminal Investigative Division to determine whether it should be handled as a criminal investigation or whether such an investigation is already underway. Once OFE receives clearances from IRS to pursue a civil penalty case, the referral is categorized as formal and assigned to a BSA specialist for processing. The Assistant Secretary for Enforcement makes the final decision to assess a penalty.

In the past, OFE did not process BSA civil penalty cases in a timely manner. In some instances, OFE was so slow that cases had to be closed because the statute of limitations expired. From 1985–1991, case processing times averaged 21 months, according to the GAO. While OFE's record has improved substantially in the last few years, the Conferees believe that it would be more efficient to allow the Federal banking agencies to impose civil penalties directly.

Section 406 of the Conference Report requires the Secretary to delegate any authority to assess a civil money penalty on depository institutions under the BSA to the appropriate Federal banking agencies, subject to any term or condition imposed by the Secretary. Because these agencies already examine depository institutions for BSA compliance, the authority to impose penalties flows naturally from their current responsibilities. Furthermore, the Federal banking agencies currently have penalty authority and experience under other banking laws. OFE would still be able to oversee the process and ensure that penalties are consistently imposed. OFE would also continue to promulgate the regulations under which any penalties would be imposed.

The Assistant Secretary of the Treasury for Enforcement testified before the House Subcommittee on Financial Institutions that "serious consideration should be given to delegation of penalty assessment not only to the Federal banking agencies, but also to IRS for the non-bank financial institutions and to Customs for CMIR violators." The Conferees fully support any additional delegations of civil penalty enforcement authority if appropriate for Treasury to do so, and if the result is a more efficient system.

MONEY TRANSMITTERS

Sections 407 and 408 of the Conference Report address the issue of money laundering at money transmitters. Money transmitters are businesses other than depository institutions that provide check cashing, currency exchange, money transmitting or remittance services, or issue or redeemed money orders, travelers' checks, or other similar instruments. The Conferees believe that such businesses are particularly vulnerable to money laundering schemes because their level of BSA compliance is generally lower. At a hearing before the House Subcommittee on Financial Institutions, the Assistant Secretary of the Treasury for Enforcement echoed this view:

It is indisputable that as banks have become more active in preventing and detection of money laundering, money launderers have turned in droves to the financial services offered by a variety of [money transmitters].

The IRS' Examination Division is responsible for identifying money transmitters, educating them about the reporting requirements, and conducting compliance checks to assess and enforce compliance with the BSA. However, there are simply not enough IRS agents to supervise and identify the tens of thousands of money transmitters nationwide.

Section 407 of the Conference Report expresses the sense of the Congress that states should develop and adopt uniform laws to license and regulate money transmitting businesses. The Conferees intend for these laws to cover only money transmitting businesses outside of the regulated financial sector. Therefore, section 407 is not meant to cover persons or entities registered with, and regulated or examined by, the Securities and Exchange Commission or the Commodity Futures Trading Commission.

Licensing and regulation of money transmitters have proven to be effective anti-money laundering weapons in some states. For example, during the House Banking Committee's July 1993 field hearing in San Antonio, Texas, the Texas Attorney General testified that his state's enactment of a licensing requirement on currency exchanges had significantly curtailed those businesses' money laundering activity. In fact many of the currency exchanges, known as casas de cambio along the border, simply went out of business in order to avoid the scrutiny of the licensing process. In testimony before the Committee, the Assistant Secretary of the Treasury expressed full agreement with Congress' recommendation to the states:

State licensing and regulation [of money transmitters] is essential to insure that these businesses are run to offer legitimate financial services and that they not be purchased or exploited for illegal purposes.

The House version of the Money Laundering Suppression Act of 1994 (H.R. 3235) included a provision reflecting Congress' sense that the model statute should require an appropriate State agency to review and approve the fee structure of institutions covered by the statute before granting those institutions a license. The Senate amendment did not include any reference to the fees charged by these businesses. The Conference Report replaces the House language with a provision reflecting Congress' sense that the model statute should require the businesses covered by the Statute to display their fee structure at each business location and to disclose the fee structure to an appropriate state agency.

Section 408 of the Conference Report requires the operators of money transmitting businesses to register with the Secretary. This provision was strongly supported by the Department of the Treasury in testimony before the Senate Banking Committee. The Conferees intend for the registration requirement to apply only to money transmitting businesses outside of the regulated financial sector. Therefore, section 408 does not require the registration of persons or entities registered with, and regulated or examined by, the Securities and Exchange Commission or the Commodity Futures Trading Commission.

The purpose of the registration requirements is to promote effective law enforcement by the Secretary and to encourage business cooperation in that effort. The Conferees also intend that the registration requirement be used as a way to educate money transmitters about their responsibilities under the BSA. To this end, the Conferees strongly urge the Secretary to include information on SBA compliance as well as the civil and criminal penalties for violating BSA requirements in the registration packets sent to money transmitters. The registration process should include an acknowledgement by the owner of the business that he or she has read and understands the information.

The Conference Report also contains a provision authorizing the Secretary to prescribe regulations that would require money transmitting businesses to maintain lists containing the names and addresses of their agents and make those lists available to appropriate law enforcement agencies.

Section 408 contains both civil and criminal penalties for violating the registration requirement. Both the House and Senate versions of the Money Laundering Suppression Act had also contained a civil forfeiture provision. The Conferees deleted the civil forfeiture provision so that the Attorney General may complete a comprehensive review of civil forfeiture policy.

The Conferees recognize that the contents of both the registration of a money transmitting business and the agent list maintained by the business will include privileged and confidential trade secrets, commercial, and financial information. To assist the Secretary in the enforcement of laws, yet not harm the competitive position of registrants by exposing the registration and list information to competitors, the Conferees intend that confidential proprietary, or trade secret information provided by registrants under section 408 shall only be disclosed subject to applicable law.

The Conferees also recognize that some of the data to be contained in the registrations will have legitimate uses outside of law enforcement. It is the Conferees' intent that the Secretary make such information available to the public in a manner which balances the need to protect confidential business information and the need of the public to have access to information about the businesses which serve it. Accordingly, the Conferees expect the Secretary to make such information available to the public in as much detail as possible without revealing confidential information.

The Conference Report also authorizes the Secretary to prescribe regulations establishing a threshold beyond which agents are treated as "money transmitting businesses" for purposes of applying the registration requirements to such agents. The intent of the Conferees is to eliminate the need for all agents of money transmitting businesses to register with the Secretary. Such massive registration of thousands of agents would

only create another needless and costly administrative burden. This legislation is designed to reduce unnecessary paperwork, not create additional administrative burdens for law enforcement.

INDIAN CASINOS

The House version of the Money Laundering Suppression Act of 1994 expanded the definition of a financial institution subject to BSA reporting requirements to include casinos or gaming establishments with an annual gaming revenue of more than $1,000,000 which (1) are licensed as a casino or gaming establishment under the laws of any State or any political subdivision of any State; or (2) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act, other than an operation which is limited to class I gaming. The Conferees adopted this provision.

The Conferees believe this expansion of the definition of financial institution is necessary to eliminate confusion about which currency reporting system applies to Indian casinos. The confusion originated in 1988, when Congress enacted the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq. This Act governs gaming operations conducted on Indian lands. Section 20(d)(1) of the Act provides that certain provisions of the Internal Revenue Code, including section 6050I, shall apply to Indian gaming operations. As a result of the Act, Indian casinos are presently subject only to the limited currency reporting requirements under Section 6050I. In comparison, the BSA mandates a comprehensive currency reporting and detailed recordkeeping system with numerous anti-money laundering safeguards.

IRS recommended that Congress adopt a statutory amendment to the BSA to specify that Indian Gaming operations are subject to that law's requirements. IRS stated that the comprehensive nature of the BSA would provide additional safeguards to the tribes, while providing law enforcement the paper trail necessary to conduct financial investigations.

BSA EXEMPTIONS FOR STATES

The BSA provides the Secretary with authority to "prescribe an appropriate exemption" from its requirements (31 U.S.C. 5318(a)(5)). In 1985, when Treasury established regulations for casinos to comply with the BSA requirements, the Secretary used this authority to grant an exemption to casinos supervised by Nevada's Gaming Control Board (GCB). This agreement was partly based on the GCB's pledge to establish reporting and recordkeeping requirements similar to those found in the BSA. Other state agencies have reportedly expressed interest in a similar exemption.

The House version of the Money Laundering Suppression Act of 1994 contained a section which would have revoked all exemptions granted to a State or political subdivision of a State on behalf of any financial institution that would otherwise be subject to the BSA. Furthermore, the House version would have prohibited the granting of this type of exemption in the future. The Conferees agreed to delete the House language and replace it with a section that explicitly permits the Secretary to exempt classes of transactions within a State if the Secretary determines that those transactions are subject to State requirements that are substantially similar to BSA requirements, and that there is adequate provision for enforcement of such requirements. This provision does not limit Treasury's broad authority under 5318(a)(5) to grant exemptions to BSA requirements or repeal any existing exemption under that section. However, the Conferees do not expect the Secretary to grant an exemption to a class of transactions within a State if that State's requirements are not substantially similar to those of the BSA.

CRIMINAL AND CIVIL PENALTY FOR STRUCTURING DOMESTIC AND INTERNATIONAL TRANSACTIONS

Section 410 of the Conference Report was adopted in order to correct the recent Supreme Court holding in *Ratzlaf* v. *U.S.*, U.S. Supreme Court No. 92-1196 (January 11, 1994). That case held that the government must prove not only that the defendant acted with the purpose of evading a financial institution's reporting requirement under 31 U.S.C. 5324, but also that the defendant knew his or her conduct to be unlawful. The legislation amends 31 U.S.C. 5324 by adding a criminal penalty and excepting section 5324 from the current criminal penalty provision found in section 5322 of title 31. Thus, a defendant is subject to the criminal penalty if he or she engaged in the actions described in section 5324 for the purpose of the evading the reporting requirement of section 5313(a), 5316, or 5325 of title 31 or the regulations prescribed thereunder. This section restores the clear Congressional intent that a defendant need only have the intent to evade the reporting requirement as the sufficient reason for the offense. The prosecution would need to prove that there was an intent to evade the reporting requirement, but would not need to prove that the defendant knew that structuring was illegal. However, a person who innocently or inadvertently structures or otherwise violates section 5324 would not be criminally liable.

The civil penalty provisions of section 5321(a)(4)(A) of title 31 are similarly amended so that civil penalties could be imposed on persons who structure transactions with an intent to evade reporting requirements, without a showing that such person knew such structuring was unlawful.

CASHIER'S CHECKS

The BSA currently does not require any reporting or recordkeeping requirements for cashier's checks unless the checks are purchased with currency. However, the Conferees believe that these checks can be a very useful tool in a money laundering scheme. For example, after a launderer smurfs (i.e., structures his deposits in amounts less than $10,000) his currency into a bank account, he or she can ask the bank to issue a cashier's check for the amount in the account. Since the cashier's check is actually drawn on the bank's account, it will be difficult for an investigator to make a connection between the cashier's check and the withdrawal from the launderer's account.

The Conference Report requires the Comptroller General to study the extent to which cashier's checks are vulnerable to money laundering schemes and the extent to which additional recordkeeping requirements should be imposed on financial institutions that issue cashier's checks. The Conferees intend for the GAO to specifically address the issue of whether it would be useful to require banks to make copies of cashier's checks retrievable by customer name or account rather than just chronologically as is generally the practice. The Conferees also intend that GAO determine whether the recordkeeping requirements scheduled to be imposed on wire transfers may also be applicable for cashier's checks. Both wire transfers and cashier's checks can be used to disguise the illegitimate source of the money.

TITLE V—FLOOD INSURANCE

The conferees believe this legislation contains important reforms to improve the financial condition of the National Flood Insurance Program (NFIP). First, this legislation will improve compliance with the mandatory purchase requirements of the NFIP by lenders and secondary market purchasers. Improved program compliance will increase participation nationwide by those individuals who have mortgaged homes or businesses in special flood hazard areas but have not purchased or maintained flood insurance coverage. Increasing compliance and participation in the NFIP will provide added income to the insurance fund and decrease the financial impact of flooding to the federal government, to taxpayers, and to citizens who are victims of floods.

Next, this legislation creates a new supplementary mitigation insurance program intended to reduce the number of properties in the program that do not comply with current flood protection standards. This will protect the NFIP by reducing claims over time. This expanded coverage will be used to rebuild repetitive and substantial loss properties up to current building code standards. This will mean less risk to the fund because the structure will be built up to a building code designed to provide less risk of future flood damage. In addition, the policy holder who rebuilds up to code will be required to pay actuarial premiums to the flood insurance fund.

Also, this legislation codifies the current Community Rating System Program (CRS) administered by FEMA. The CRS program provides incentives, in the form of reduced premiums, to communities who voluntarily adopt and enforce measures that reduce the risk of flood damage that exceed the current program criteria. If a community has utilized grants from the new mitigation assistance grant program, then reductions in premiums to the community will be phased in as those grants are repaid to the mitigation grant program.

This legislation creates mitigation assistance grants to states and communities. These grants will be used for a wide variety of eligible mitigation activities in order to reduce the risk of flooding and therefore to reduce exposure to flood damage of insured structures. Mitigation projects must be cost-beneficial.

This legislation also requires a study on the economic impact of mapping erosion hazard areas: on the value of residential and commercial properties, on changes in community tax revenues, on employment, and existing and future economic development. Other areas to be studied include: the economic impact of identified erosion hazard areas with regard to the denial of flood insurance; the establishment of actuarial rates in erosion hazard areas; determining the costs and benefits of mapping erosion hazard areas; the economic effect of previous and current denials of flood insurance; the economic impact of state and community activities undertaken to reduce flood-related damage; and determining the amount of flood insurance claims that are attributable to erosion.

SUBTITLE B—COMPLIANCE AND INCREASED PARTICIPATION

The compliance provisions of Subtitle B are intended by the Conferees to ensure that those who should have flood insurance, pursuant to the mandatory purchase requirements of existing law, obtain it and maintain it. Increasing compliance and participation in the NFIP will provide added income

to the insurance fund and decrease the financial impact of flooding to the federal government, and to citizens who are victims of floods.

Section 521. Nonwaiver of flood purchase requirements of recipients of Federal disaster assistance

The Conference Committee is concerned that federal agencies have not fully implemented the mandatory purchase requirement in the wake of flooding disasters. In some instances, federal agencies providing relief in the wake of natural disasters have waived the requirement that uninsured recipients purchase flood insurance as a condition for obtaining disaster assistance to repair or rebuild structures damaged by flooding. Some recipients of federal disaster assistance continue to remain uninsured, thereby increasing the chances they will need federal disaster assistance, yet again, in the future. It is the Committee's intent that the purchase requirement not be waived for any purpose. Disaster assistance for temporary housing and for purposes other than repairing or rebuilding structures are not affected by this provision.

Section 522. Expanded flood insurance purchase requirements

The Committee intends that compliance with the mandatory purchase requirement will be the responsibility of the primary lender and the secondary market purchaser, if any (the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association).

The 1973 Act provides that flood insurance must be secured at the time of origination, extension or renewal of a loan secured by improved real estate or a mobile home in a special flood hazard area that is made by a federal agency or by a federally-regulated, -supervised or -insured financial institution. This section clarifies the law to specify that flood insurance is required for the life of the loan so long as the underlying collateral is designated or determined to be in a special flood hazard area. If a flood map revision determines that a property is no longer in a special flood hazard area, flood insurance is no longer required. It is the Committee's view that flood insurance is required under existing law if a re-mapping or review of the flood designation subsequent to loan origination, extension, or renewal results in the underlying collateral being designated as located within a special flood hazard area. Although disputed by some local officials, the Committee further believes that current law requires lenders to maintain coverage for the term of the loan. This section establishes a mortgagor's or mortgage servicer's obligation to require the purchase of flood insurance at origination, or at any time thereafter during the life of the loan when the institution determines that the improved property or mobile home is located in an area having special flood hazards.

For regulated lending institutions, which includes any bank, savings and loan association, credit union, or similar institution supervised, regulated or insured by a federal entity for lending regulation, the Committee expects the Federal Deposit Insurance Corporation, the Federal Reserve, the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration, as appropriate, to develop regulations which direct regulated institutions not to make, increase, extend, or renew any loan on a structure located in a special flood hazard area unless flood insurance is purchased and maintained for the term of the loan. Refinancing an existing loan should be considered as the making of a new loan for purposes of the mandatory flood insurance purchase requirements.

Federal agency lenders, which include any federal agency that makes direct loans secured by improved real estate, must issue similar regulations.

It is the view of the Conference Committee that the making, increasing, extending or renewing of a loan serves as a "tripwire" of sorts for compliance with the flood insurance purchase requirements. In the modern mortgage marketplace, this approach makes the compliance by lenders increasingly more likely, as borrowers obtain new loans on existing structures, for example, or refinance existing loans. At each designated "tripwire" in the mortgage process, it is the Committee's intent that the lender ensure that flood insurance is purchased and maintained, where required.

The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are required to implement procedures reasonably designed to ensure that loans required to have flood insurance at the time of origination or at any time during the time of the mortgage are covered by flood insurance for the term of the loan.

This section provides an exemption from the mandatory purchase requirements for any small loan that is made for $5,000 or less with a repayment term of one year or less.

Section 523. Escrow of flood insurance payments

Section 523 requires the escrowing of flood insurance premiums if the private lender, federal agency lender, or other servicer of a mortgage is required to maintain an escrow account for the loan for any other purpose. The Committee is mindful that a major reason for the lack of compliance with the NFIP is that many homeowners, believing they will not be flooded, simply stop paying premiums on their flood insurance policies. Requiring lenders to escrow for flood insurance premiums will significantly improve participation in the NFIP. At the same time, the Conference Committee decided to limit this escrow requirement to instances where a lender establishes an escrow account for a loan for another purpose. Consequently, if a lender terminates an escrow account for a loan, the lender is no longer required to escrow flood insurance premiums. This policy will balance the need to increase participation with the Conference Committee's desire not to establish significant new burdens on lenders and borrowers.

Section 524. Placement of flood insurance by lenders

Section 524 requires lenders and servicers to force-place insurance which has not been purchased by a borrower who is required by law to purchase such insurance. If a lender or servicer determines that insurance must be purchased, the borrower must be notified accordingly. If the borrower fails to purchase insurance within 45 days, the lender shall do so on behalf of the borrower. This provision is intended to ensure that properties in special flood hazard areas are covered by flood insurance, regardless of whether the area in which the property is located is designated by the Director of FEMA as a special flood hazard area before or after the mortgage is originated. The most common and practical situation in which this will occur is when a community or area is re-mapped by FEMA, with the consequences that properties which were not located in a special flood hazard area at the time the mortgage was made are later identified, as a result of re-mapping, to be in a special flood hazard area.

This requirement, which is effective for all loans outstanding on or after the date of enactment of the legislation, recognizes existing servicers as one of several components in a renewed effort to ensure compliance with purchase and maintenance of federal flood insurance. The Committee has found that while some lenders purchase flood insurance at the time of loan origination, this authority has been used sparingly because of concerns raised by lenders about its validity.

It is the Committee's further understanding that there are questions with regard to whether lending institutions have the authority to force-place under the Flood Disaster Protection Act of 1973 as it existed prior to the adoption of this Act. Congress intended lenders to have such authority under 1973 Act. That earlier Act was founded on the understanding that the Director of FEMA would engage in continual re-mapping as flood hazards were identified. Because the effectiveness of federal flood insurance was and is dependent upon the authority of lenders to require borrowers to obtain necessary flood insurance, the coverage of the borrower and the borrower's property from flood perils is just as important whether the flood zone is identified before or after the borrower has obtained a mortgage on the property.

Therefore, this provision reinforces the authority of lenders and servicers to require a borrower whose improved property is in a special flood hazard area to obtain insurance at the borrower's expense at any time during the loan, regardless of when the property is determined to be in a special flood hazard area. This legislation makes it clear that the institution may procure such insurance at the borrower's expense if the borrower fails to obtain insurance after due notice. The term "servicer" is broadly defined and is derived from the Real Estate Settlement Procedures Act (RESPA), and is intended to grant authority to those institutions that are covered by the RESPA definition.

It is the intention of the Conference Committee that the length of time specified in a letter from the Director resolving a contested determination reflect the likelihood that the area in question will be scheduled for imminent re-mapping. Thus, the effective duration of a letter pertaining to an area that has recently been re-mapped will be substantially longer than for one which pertains to an area that is scheduled to be remapped in the near future.

It is the further intention of the Conference Committee that the period under which the Director is required to reply to a contested determination applies only to those requests that are made in connection with the origination of a loan and not a remapping or map revisions.

Section 525. Penalties for failure to require flood insurance or notify

The penalty provided in this section for a pattern or practice of noncompliance with flood insurance purchase or notification requirements is $350 per loan, up to $100,000 annually for any single federally regulated or insured lending institution, or GSE.

Penalties may be assessed by the appropriate federal entity for lending regulation, in the case of regulated lending institutions or by the Director of the Office of Federal Housing Enterprise Oversight with respect to GSE's. Penalties should not be assessed unless a pattern or practice of noncompliance is found by the regulator.

To remedy patterns of noncompliance, the federal entities for lending regulation, in the

case of regulated lending institutions, have broad authority to take such remedial actions as are necessary if an institution has engaged in a pattern or practice of noncompliance or has not demonstrated measurable improvement in compliance following assessment of civil money penalties.

Penalties assessed under this section will be deposited in the Mitigation Fund created by the Act.

Section 527. Notice requirements

Section 527's notice requirements are intended to increase compliance with flood insurance purchase requirements. One of the reasons for the low rate of compliance may be that parties to the mortgage process—including borrowers, lenders, lessees, servicers, and purchasers—often are not sufficiently aware that a property that is security for a mortgage is in a special flood hazard area. Section 627 establishes notice requirements that are intended to insure that relevant parties are aware of their responsibilities concerning obtaining and maintaining flood insurance.

Section 528. Standard hazard determination forms

The Conferees recognize and intend that the guarantees for third party information in this provision are adequate to protect the interests of the borrower and to ensure the quality of the information provided by the third party. Since the lender is relying on the guarantee in order to ensure compliance with the mandatory flood insurance purchase requirements, lenders have ample incentives to ensure that the guarantees are adequate to protect the lender.

SUBTITLE C—RATINGS AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT PROGRAMS

Section 541. Community Rating System and Incentives For Community Floodplain Management

The Conferees further intend that the Director will phase in the recovery of grants for mitigation activities so as to encourage, and not discourage, the early implementation of mitigation consistent with the need to maintain the strong financial condition of the Fund.

SUBTITLE D—MITIGATION OF FLOOD AND EROSION RISKS

Section 553. State and community mitigation assistance

The Committee intends that the FIA will make states and communities aware of the mitigation grant program and provide education and encouragement for them to participate in the program.

Eligible mitigation activities described in the Act are not intended to be an exhaustive list. The Director of FEMA should be flexible in funding various activities and take into consideration regional differences, specific flooding problems confronting a community, and the past history of flood events.

However, in order to be eligible for mitigation assistance, activities must be technically feasible and cost-beneficial. In order to ensure that the limited resources for mitigation activities are used in a manner that maximizes the benefits to the Fund, the Director must fund those activities that are cost-beneficial to the Fund.

Activities that may be worthy of funding include minor physical mitigation efforts which do not duplicate the flood prevention activities of other federal agencies and which will lessen the frequency or severity of flooding and decrease predicted flood damages. Minor physical changes can reduce flooding, and losses, for whole groups of homes, and even whole neighborhoods. In many cases it may be far more cost-effective for the Mitigation Fund to pay for minor physical changes which will protect a group of homes or a neighborhood, than to pay to move or elevate each and every home in that area. Examples of such minor physical mitigation efforts would include: flood-proofing sewers; grading to direct flood waters away from homes; and installing or improving of flood gates, retention ponds, drain pipes, and pumping stations. Specifically excluded from the list of eligible mitigation activities are major flood control activities funded by other agencies like constructing dikes, levees, seawalls, groins and jetties unless they are deemed to be among the most cost-effective means of reducing risk to the Fund.

The Committee intends that the activities of the Flooded Property Purchased and Loan Program (Section 1362 of the National Flood Insurance Act of 1968) a program which is abolished under this Act, should continue to be funded through mitigation assistance grants which this section creates.

The Conferees believe that the effectiveness of the current Section 1362 program has been impeded by the Director's inability, in connection with pending buyouts, to provide communities with a list of policyholders within 30 days of a request. Therefore, the Committee believes it is reasonable to expect the FIA to provide this information within 30 days. In addition, once a local community has submitted a buyout request, the Committee believes that the FIA can evaluate the proposal and if approved, begin appraising property within 90 days.

No mitigation grant can be made to a state or community without an approved mitigation plan. The FIA may provide technical assistance as requested and make such suggestions to the plan as to maximize the effect of flood reduction. The legislation requires that mitigation activities be technically feasible and cost-effective. More importantly, the legislation requires the Director to approve only those plans that are the most cost-beneficial to the Fund. The National Flood Mitigation Fund may make grants to states and communities for mitigation activities that benefit uninsured properties. The Committee further recognizes that currently uninsured properties that are floodproofed or elevated will remain subject to the mandatory purchase requirements in the future.

The bill specifies the basic elements of a mitigation plan. The plan of a community must be adopted by the appropriate public body after at least one public hearing. The Committee intends that the citizens of a community be involved in the development of a mitigation plan. FEMA must coordinate the program and have the final approval authority for mitigation plans. Federal, state, and local officials and private citizens are encouraged to participate in the program and to be receptive to new approaches in reducing flood-related losses.

The conferees are further aware that new technologies may provide feasible means of floodproofing residential structures in floodprone areas. The conferees expect FEMA to be accommodating to the testing of such technologies, so long as such testing is performed using uninhabited structures that are dismantled after testing is complete.

To the extent such technologies are shown to be equivalent in effect to permanent elevation of a structure through use of pilings or technologies permitted under current regulations and practices, the conferees expect FEMA to consider making flood insurance available for such structures under the same terms and conditions as if structures were permanently elevated. In determining if a technology is equivalent in effect to permanent elevation of a structure, the conferees expect that FEMA will review the extent to which the new technology would provide levels of protection of the structure from flood damage and levels of protection for personal safety that are equivalent to levels provided by permanent structural elevation through existing technologies, as well as to the extent which levels of active human maintenance involved in the new technology are equivalent to those involved in permanent elevation of the structure through existing technologies.

The Conferees intend that planning assistance monies provided in this section for development of mitigation plans should be used to facilitate various aspects of the planning process, including evaluation of alternatives. However, the Conferees intend that while the identification of the level of risk to which specific structures are exposed may be included, these funds are not be used to develop new or improved floodplain mapping.

Section 555. Additional coverage for compliance with land use and control measures

It is the intent of the Committee that the Director provide insurance coverage to cover the cost to repair and reconstruct repetitive loss structures and substantially damaged insured buildings, or otherwise mitigate future hazards to those buildings to comply, with local building codes and floodplain management.

The Committee recognizes and appreciates the benefits of mitigation insurance, and believes that this concept must be embraced to ensure that flood risks are reduced and removed when it is most cost-beneficial to do so. The Conferees further recognize that inclusion of mitigation insurance in the standard flood insurance policy is an excellent mechanism to deliver funding to individuals to bring their flood-damaged structures into compliance with floodplain management standards.

This mandatory coverage will have a surcharge cap of $75. This cap will not be subject to the 10% risk classification cap established in this Act.

SUBTITLE E—FLOOD INSURANCE TASK FORCE

Section 562. Task Force on natural and beneficial functions of the floodplain

The Committee intends that the Director of FEMA, the Undersecretary of Commerce for Oceans and Atmosphere, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency, and the Secretary of the Army, shall serve on a Task Force on the National and Beneficial Functions of the Floodplain, which shall identify the natural and beneficial functions that reduce flood losses and make recommendations on how the nation can further reduce flood losses through the protection of the natural and beneficial functions of the floodplain.

In addition, the Conferees expect that the study will include a discussion of examples of the uses of natural floodplain management to reduce flood losses, and the status of, range of benefits associated with, and potential that may exist for protecting relatively natural floodplain functions. The study should also address tradeoffs and costs and benefits associated with such floodplain management approaches, the range of uses usually considered compatible with the protection of such floodplain functions, and benefits that may be associated with ancillary

floodplain functions, such as protecting water quality, recharging groundwater, and provision of habitat that may accompany protection of relatively undisturbed natural floodplains. In addition, the study should consider the appropriate roles of local, state, and federal government agencies and the private sector in identifying, managing, and protecting such floodplain functions, how such approaches may relate to other approaches to reduce flood losses, and make recommendations for administrative and legislative initiatives to best utilize natural floodplain resources.

The Task Force is also encouraged, to the extent appropriate, to consult with other relevant departments and agencies, such as the National Park Service Rivers and Trails Program, state and local government officials, and the public in preparing this study.

SUBTITLE F—MISCELLANEOUS PROVISIONS

Section 575. Updating of flood maps

It is the Conferees intention that FEMA recognize that the mapping needs of all communities are to be fairly assessed in the 5-year review process. Requests by states and local communities to update maps does not effect FEMA's obligation under this section to revise and update outdated maps.

Section 577. Evaluation of erosion hazards

It is the intent of the Conferees that the Director conduct a study, through an independent entity, regarding the various effects that erosion has on the NFIP, its policyholders, and communities prone to erosion.

This study shall examine three areas. The first area of the report is designed to determine the amount of flood insurance claims that are attributable to erosion. In developing the data to make this determination, the Director may map a statistically valid and representative number of communities with erosion hazard areas throughout the United States, including coastal, Great Lakes, and, if technologically feasible, riverine areas.

The second part of the study shall examine the economic impact of proposals to change the Program by denying flood insurance, or making flood insurance available at actuarial rates in communities having erosion hazard areas. This economic study is designed to assist Congress in determining whether the NFIP needs to revise its treatment of structures at risk of erosion. Specifically the study would address the economic impact of erosion on communities, the denial of flood insurance for structures in the identified communities, the establishment of actuarial rates for existing structures, the establishment of actuarial rates for existing structures in connection with the denial of insurance, the establishment of actuarial rates for new structures, the previous and present denials of flood insurance, the erosion hazard management activities undertaken by states and communities, and the mapping and identifying of communities having erosion hazard areas.

The third area of the study will concentrate on whether the costs of mapping erosion hazard areas exceed the benefits to the Fund. In addition, the study will determine whether the expenditure of insurance premiums to map erosion hazard zones is the most cost-beneficial use of these funds to the Program.

Section 578. Study of economic effects on charging actuarial based premium rates for pre-FIRM structures

The bill requires FEMA to study the economic effects that would result from increasing premium rates for flood insurance coverage for pre-FIRM structures. The Committee is concerned by information provided by FEMA which indicates that the Program had a deficit of $668 million on pre-FIRM structures from 1978–1992, which negated the $250 million surplus the Program enjoyed on post-FIRM structures in the same period. However, a recent GAO study found that increasing the premiums for Pre-FIRM structures would cause many policyholders to terminate flood insurance coverage and thereby exacerbate the need for federal disaster assistance when flooding occurs.

Section 579. Effective date of policies

Section 579 states that new contracts for flood insurance entered into after the date of enactment shall not become effective for 30 days. The Committee is concerned by information that arose from the 1993 Midwest flooding that suggests that some homeowners bought flood insurance only when flooding was imminent. This section provides an exemption by FEMA to the 30-day delay period in instances regarding the initial purchase of flood insurance in connection with the making, increasing, extending, or renewing of a loan or when the insurance coverage is purchased within one year of a re-mapping or map revision. The bill also provides for a study regarding effective date of coverage.

Section 580. Agricultural structures

It is the intent of the Conferees that Agricultural structures that are substantially damaged by flood are exempt from the building requirements under the Act provided that they are assessed actuarial rates and are no longer eligible for federal disaster assistance. In addition, the Director is not required to make flood insurance available unless "wet-floodproofing" is incorporated in the reconstruction of the structure.

Section 582. Prohibited flood disaster assistance

It is the intent of the Conferees that a structure that received federal disaster assistance subsequent to a flooding occurrence that was subject to the homeowner purchasing flood insurance, shall not be eligible for federal disaster assistance at any later date if the homeowner has let the flood insurance policy lapse.

Section 582 now makes it explicitly clear that once the federal government provides flood disaster relief assistance to repair or replace property that was not previously insured, flood insurance must be maintained on the property for the useful life of the property, regardless of the transfer in ownership of the property.

TITLE VI—GENERAL PROVISIONS

SECTION-BY-SECTION

Section 601. Oversight hearings

This section expresses the Sense of the Congress regarding hearings on matters related to Whitewater Development Corporation.

Section 602. Additional technical amendments to the Federal banking laws

This section makes numerous technical changes to the Federal banking statutes, including eliminating obsolete statutes that govern the issuance, replacement, redemption and failure to redeem circulating notes issued by national banks. National banks no longer issue such notes. It also repeals obsolete provisions of statutory law that govern the deposit and return of U.S. bonds that back a national bank's circulating notes, the issuance of post notes by national banks, and the formation of banks to issue gold notes to circulate as money. National banks no longer issue post or gold notes.

This section also repeals provisions of law that, among other things, require banks to receive circulating notes equal in value to the United States bonds deposited with the Treasury, authorize specific denominations of circulating notes and limit the amount of notes that a bank may circulate, and authorize the Comptroller of the Currency to require the printing of national charter numbers on all national bank notes.

Additionally, this section transfers authority for the engraving and printing of Federal Reserve notes to the Secretary of the Treasury from the Office of the Comptroller of the Currency. The responsibility for printing currency is no longer consistent with the OCC's duties as a regulator of national banks and is, in fact, performed by other Treasury bureaus. Accordingly, these functions are transferred to the Secretary of the Treasury for appropriate delegation elsewhere within the Treasury Department. In addition, this section amends provisions of land to eliminate and simplify language relating to the currency function.

Section 602 also repeals section 5170 of the Revised Statutes, an obsolete provision that requires national banks to publish the OCC's certification to commence business. The amendment to the Act of March 3, 1875 in section 602 has the effect of repealing 12 U.S.C. §106, which authorizes the Comptroller to require distinctive paper for the printing of national bank notes. The other provisions of that Act generally relate to appropriations and are not affected by this legislation.

The amendments made to sections 5199 and 5204 of the Revised Statutes by this section delete outdated statutory restrictions relating to national banks' dividend payments and replaces the outdated term "net profits" with "undivided profits" or "net income" as appropriate.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment (except titles II and V), and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOE KENNEDY,
FLOYD H. FLAKE,
KWEISI MFUME,
LARRY LAROCCO,
WILLIAM ORTON,
JIM BACCHUS,
JAMES LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
R.H. BAKER,
JIM NUSSLE,

Provided, that for consideration of section 348(b) of the Senate amendment, Mr. Klein is appointed in lieu of Mr. LaFalce.

HERB KLEIN,

Provided, that for consideration of title VI of the Senate amendment, Mr. Lazio is appointed in lieu of Mr. Ridge.

RICK LAZIO,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the Senate amendment and modifications committed to conference:

HENRY GONZALEZ,

STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOE KENNEDY,
FLOYD H. FLAKE,
KWEISI MFUME,
WILLIAM ORTON,
HERB KLEIN,
NYDIA M. VELÁZQUEZ,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
R.H. BAKER,
JIM NUSSLE,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title V of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
CHARLES SCHUMER,
BARNEY FRANK,
JAMES LEACH,
DOUG BEREUTER,
BILL MCCOLLUM,

As additional conferees from the Committee on Education and Labor, for consideration of section 209 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
PAT WILLIAMS,
WILLIAM L. CLAY,
DALE E. KILDEE,
GEORGE MILLER,
BILL GOODLING,
MARGE ROUKEMA,
HARRIS W. FAWELL,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 201–05, 207, 320 and 347 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD MARKEY,
PHIL SHARP,
AL SWIFT,
CARDISS COLLINS,
RICK BOUCHER,
THOMAS J. MANTON,
RICHARD H. LEHMAN,
LYNN SCHENK,
MARJORIE MARGOLIES-MEZVINSKY,
MIKE SYNAR,
RON WYDEN,
BILL RICHARDSON,
JOHN BRYANT,
CARLOS J. MOORHEAD,
JACK FIELDS,
TOM BLILEY,

As additional conferees from the Committee on Energy and Commerce for consideration of sections 503–05, 507 and 706 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD MARKEY,
CARDISS COLLINS,
E. TOWNS,
RICHARD H. LEHMAN,
CARLOS J. MOORHEAD,

As additional conferees from the Committee on Foreign Affairs, for consideration of section 703 of the Senate amendment, and modifications committed to conference:

LEE H. HAMILTON,
SAM GEJDENSON,

As additional conferees from the Committee on the Judiciary, for consideration of section 139 of the House bill, and sections 325, 408 and 409 of the Senate amendment, and modifications committed to conference:

CHARLES E. SCHUMER,
DON EDWARDS,
JOHN CONYERS, Jr.,
BILL HUGHES,

As additional conferees from the Committee on Small Business, for consideration of section 348(b) of the Senate amendment, and modifications committed to conference:

JOHN J. LAFALCE,
NEAL SMITH,
JAN MEYERS,

As additional conferees from the Committee on Ways and Means, for consideration of sections 210 and 502–04 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
C.B. RANGEL,
PETE STARK,
BILL ARCHER,
PHIL CRANE,
BILL THOMAS,

Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER DODD,

From the Committee on Finance, for matters solely within the Finance Committee's jurisdiction, including sections 209, 210, and 408 of the Senate amendment:

DANIEL MOYNIHAN,
MAX BAUCUS,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for yesterday and today, on account of official business.

Mr. FOGLIETTA (at the request of Mr. GEPHARDT), for August 1, on account of medical procedure.

Mr. FORD of Tennessee (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mr. DEFAZIO (at the request of Mr. GEPHARDT), for today, on account of illness in the family.

Mr. MONTGOMERY (at the request of Mr. GEPHARDT), after 2 p.m. today and tomorrow, August 3, on account of official business.

Ms. SLAUGHTER (at the request of Mr. GEPHARDT), for today, between 4 and 5 p.m., on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. HUNTER, for 5 minutes, today.

Mr. KIM, for 5 minutes, today.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

Mr. MANZULLO, for 5 minutes, today.

(The following Members (at the request of Mr. OLVER) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

Mr. LAROCCO, for 5 minutes, today.

Mr. DURBIN, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. CARDIN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. COMBEST.

Mr. SANTORUM.

Mr. PORTMAN.

Mr. EWING.

Mr. GINGRICH in two instances.

Mr. PACKARD in two instances.

Mr. SMITH of Michigan.

Mr. GRAMS.

Mr. DELAY.

(The following Members (at the request of Mr. OLVER) and to include extraneous matter:)

Ms. HARMAN.

Mr. BERMAN.

Mr. STARK.

Mr. MAZZOLI.

Ms. NORTON.

Mr. JOHNSON of Georgia.

Mr. MANTON.

Mr. RICHARDSON.

Mrs. SCHROEDER.

Mr. SWIFT.

Mr. OLVER.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. LANTOS.

Mr. MINGE.

Mr. FILNER.

Mr. OLVER.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until tomorrow, August 3, 1994, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3620. A letter from the Deputy Assistant Secretary, Department of the Air Force,

transmitting notice of decision to convert to contract operations the military family housing maintenance function at Randolph Air Force Base, TX, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

3621. A letter from the Chairman, National Commission on Manufactured Housing, transmitting the Commission's final report, pursuant to Public Law 101-625, section 943(d)(2) (104 Stat. 4414; 103 Stat. 1150); to the Committee on Banking, Finance and Urban Affairs.

3622. A letter from the Secretary of Labor, transmitting the Secretary's annual report on employment and training programs for 1990 and 1991, pursuant to 29 U.S.C. 1579(d); to the Committee on Education and Labor.

3623. A letter from the Secretary of Transportation, transmitting a report regarding the implementation of the "Imported Vehicle Safety Compliance Act of 1988" for fiscal year 1993, pursuant to 15 U.S.C. 1397 note; to the Committee on Energy and Commerce.

3624. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a memorandum of justification for Presidential determination regarding the drawdown of defense articles and services for the Government of Jamaica, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

3625. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Japan (Transmittal No. DTC-15-94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3626. A letter from the Director, Defense Security Assistance Agency, transmitting the price and availability report for the quarter ending June 30, 1994, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

3627. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112(b)(a); to the Committee on Foreign Affairs.

3628. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's determination that it is in the national interest of the United States to furnish assistance and permit United States executive directors to vote in favor of international financial institutions loans to Nicaragua, pursuant to Public Law 103-236, section 527(g); to the Committee on Foreign Affairs.

3629. A letter from Manager, Employee Benefits, AgriBank, transmitting the annual report of the retirement plan for the employees of the Seventh Farm Credit District, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3630. A letter from the Director of Employee Benefits, Farm Credit Bank of Baltimore, transmitting a copy of the 1993 report for the Farm Credit District of Baltimore Thrift Plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3631. A letter from the Chairman, U.S. International Trade Commission, transmitting the 78th quarterly report on trade between the United States and China, the successor states to the former Soviet Union, and other title IV countries during January-March 1994, pursuant to 19 U.S.C. 2440; to the Committee on Ways and Means.

3632. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the intended program and process for purposes of Nonproliferation and Disarmament Fund activities, pursuant to 22 U.S.C. 5858; jointly, to the Committees on Foreign Affairs and Appropriations.

3633. A communication from the President of the United States, transmitting the economic development plan of the Republic of Palau, including supporting material, pursuant to Public Law 101-219, section 101; jointly, to the Committees on Natural Resources and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3600. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; with an amendment (Rept. 103-601, Pt. 4). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. H.R. 4822. A bill to make certain laws applicable to the legislative branch of the Federal Government; with amendments (Rept. 103-650 Pt. 1). Ordered to be printed.

Mr. ROSE: Committee on House Administration. H.R. 4822. A bill to make certain laws applicable to the legislative branch of the Federal Government; with amendments (Rept. 103-650 Pt. 2). Ordered to be printed.

Mr. GONZALEZ: Committee of Conference. Conference report on H.R. 3841. A bill to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching (Rept. 103-651). Ordered to be printed.

Mr. GONZALEZ: Committee of Conference. Conference report on H.R. 3474. A bill to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes (Rept. 103-652). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. NORTON (for herself, Mr. MORAN, Mr. WYNN, Mr. HOYER, Mr. WOLF, Mrs. MORELLA, Mrs. BYRNE, and Mr. MFUME):

H.R. 4884. A bill to authorize noncompetitive, career or career-conditional appointments for employees of the Criminal Justice Information Services of the Federal Bureau of Investigation who do not relocate to Clarksburg, WV; to the Committee on Post Office and Civil Service.

By Mr. DE LA GARZA:

H.R. 4885. A bill entitled, "The North American Border Stations Improvements Act"; to the Committee on Public Works and Transportation.

By Mr. EWING:

H.R. 4886. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. GRAMS:

H.R. 4887. A bill to amend the Nuclear Waste Policy Act of 1982 to reaffirm the obligation of the Secretary of Energy to provide for the safe disposal of spent nuclear fuel beginning not later than January 31, 1998, and for other purposes; jointly, to the Committees on Energy and Commerce and Natural Resources.

By Ms. NORTON:

H.R. 4888. A bill entitled, "District of Columbia Government Revenue Bond Delegation Authority Act of 1994"; to the Committee on the District of Columbia.

By Mr. TORRES:

H.J. Res. 397. Joint resolution designating the week beginning September 12, 1994, as "National Hispanic Business Week"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GILLMOR:

H.R. 4889. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for the vessel *Island Star*; to the Committee on Merchant Marine and Fisheries.

By Mr. ROSE:

H.R. 4890. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and the fisheries for the vessel *Raven*; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. FAZIO.

H.R. 70: Mrs. BYRNE and Mr. DOOLITTLE.

H.R. 127: Mr. POMEROY, Mr. HOKE, Mr. DOOLITTLE, Mr. DELAY, Mr. LEACH, Mr. MCDADE, Mr. COX, and Mr. JOHNSON of South Dakota.

H.R. 140: Ms. HARMAN and Mr. SHAYS.

H.R. 301: Mr. KNOLLENBERG and Mr. CALVERT.

H.R. 688: Mr. LAFALCE.

H.R. 967: Mr. WOLF, Mr. DEUTSCH, Mr. BARCA of Wisconsin, and Mr. EHLERS.

H.R. 998: Mr. DOOLITTLE.

H.R. 1009: Mr. DOOLITTLE.

H.R. 1056: Mr. DEFAZIO, Mr. TAYLOR of Mississippi, Mr. PETE GEREN of Texas, and Mr. CUNNINGHAM.

H.R. 1099: Mr. CALVERT.

H.R. 1110: Mr. MCDADE.

H.R. 1168: Mr. SAXTON.

H.R. 1297: Mr. COX.

H.R. 1433: Mr. MCCURDY, Ms. MARGOLIES-MEZVINSKY, Mr. POMBO, Mr. TAYLOR of North Carolina, Mrs. JOHNSON of Connecticut, Mr. PRICE of North Carolina, Mr. FINGERHUT, Mr. BARCA of Wisconsin, and Mr. HOAGLAND.

H.R. 1509: Mr. DICKS, Mr. VENTO, Mr. ABERCROMBIE, Mr. ANDREWS of Maine, Mr. THOMPSON, Mr. CONYERS, and Mr. FOGLIETTA.

H.R. 1627: Mr. LEWIS of Kentucky.

H.R. 1671: Mr. REED, Mr. QUINN, Mr. MEEHAN, Mr. ENGEL, and Mr. NEAL of North Carolina.

H.R. 1989: Mr. KINGSTON, Mr. DORNAN, and Mr. COX.

H.R. 2292: Mr. GEJDENSON and Mr. MCCRERY.

H.R. 2365: Mr. SAXTON.

H.R. 2556: Mr. TORRICELLI.

H.R. 3017: Mr. DOOLITTLE.

H.R. 3086: Mr. KNOLLENBERG.

H.R. 3179: Mr. HERGER.

H.R. 3250: Mr. KNOLLENBERG and Mr. DOOLITTLE.

H.R. 3263: Ms. DELAURO and Ms. MARGOLIES-MEZVINSKY.

H.R. 3288: Mr. BARRETT of Nebraska.

H.R. 3337: Ms. DELAURO.

H.R. 3457: Ms. SCHENK.

H.R. 3766: Ms. SCHENK.

H.R. 3794: Mr. EVERETT.

H.R. 3955: Mr. MAZZOLI and Mr. MILLER of Florida.

H.R. 3967: Mr. SAXTON.

H.R. 3978: Mr. KIM.

H.R. 3990: Mrs. FOWLER, Mr. GENE GREEN of Texas, and Mr. HASTINGS.

H.R. 4024: Mr. CONYERS.

H.R. 4036: Mrs. ROUKEMA, Mr. KLUG, Mr. SAXTON, and Mr. LIPINSKI.

H.R. 4056: Mr. BOEHNER.

H.R. 4057: Mr. MICA, Mr. STEARNS, Mr. ZIMMER, and Mr. TALENT.

H.R. 4077: Mr. RICHARDSON.

H.R. 4091: Mr. GUTIERREZ and Mr. FOGLIETTA.

H.R. 4142: Mr. MATSUI, Mr. BOEHLERT, Mr. OWENS, Mr. BARCA of Wisconsin, Mr. HINCHEY, Ms. SHEPHERD, Mrs. BYRNE, Mrs. JOHNSON of Connecticut, and Mr. TORRICELLI.

H.R. 4327: Mr. PENNY, Mr. ZIMMER, Mr. JACOBS, Mr. COLLINS, of Georgia, Mr. BALLENGER, and Mr. SHAYS.

H.R. 4379: Mr. MCHUGH, Mr. FROST, Mr. WILSON, Mr. SOLOMON, Mr. THOMPSON, and Mr. BARRETT of Nebraska.

H.R. 4517: Mr. FOGLIETTA.

H.R. 4527: Mr. BOUCHER, Mr. SPRATT, Mr. TAYLOR of North Carolina, Mr. DUNCAN, Mr. STENHOLM, and Mr. SHAW.

H.R. 4643: Mr. DELAY.

H.R. 4675: Mr. CANADY.

H.R. 4697: Mr. PASTOR, Mr. COPPERSMITH, Mr. STUMP, Mr. KYL, and Mr. KOLBE.

H.R. 4742: Mr. CONDIT, Mr. WELDON, Mr. GALLEGLY, Mr. CRAPO, Mr. SMITH of Oregon, Mr. BONILLA, Mr. POMBO, Mr. BAKER of California, Mr. LUCAS, Mr. SCHAEFER, Mr. DORNAN, and Mr. HEFLEY.

H.R. 4779: Mr. GILLMOR.

H.R. 4802: Mr. LEVY, Ms. SNOWE, Mr. CANADY, Mr. MCCLOSKEY, Mr. LAFALCE, and Mr. NEAL of Massachusetts.

H.R. 4805: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. PENNY.

H.R. 4831: Mrs. LLOYD.

H.R. 4841: Ms. NORTON.

H. Con. Res. 138: Mr. WAXMAN, Mr. HINCHEY, and Mr. PETERSON of Minnesota.

H. Con. Res. 148: Mr. KLECZKA, Mr. BATEMAN, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. ABERCROMBIE.

H. Con. Res. 179: Mr. LEVY.

H. Con. Res. 243: Mr. HASTINGS, Mr. SCHIFF, Ms. ESHOO, and Ms. PELOSI.

H. Con. Res. 254: Mr. JEFFERSON.

H. Con. Res. 256: Ms. PRYCE of Ohio and Ms. MARGOLIES-MEZVINSKY.

H. Con. Res. 257: Mr. DEUTSCH and Mr. MINETA.

H. Con. Res. 269: Mr. BALLENGER and Mr. FAWELL.

H. Res. 21: Mr. COX and Mr. CANADY.

H. Res. 117: Mr. SCHIFF.

H. Res. 181: Mr. COX.

H. Res. 190: Mr. COX.

H. Res. 234: Mr. BAKER of California, Mr. BATEMAN, and Mr. SOLOMON.

H. Res. 270: Mr. SCHAEFER.

EXTENSIONS OF REMARKS

ROOFERS PROVIDE EXAMPLE OF FEDERAL OVER-REGULATION

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. EWING. Mr. Speaker, over 2 years ago I brought to the attention of my colleagues a column written by the National Roofing Contractors Association [NRCA] which appeared in the Wall Street Journal, "So You Want To Get Your Roof Fixed * * *". This column detailed all of the Federal regulations which a roofer must comply with to perform a simple roof repair. This column, which I am including below, gave us a very vivid example of how just one industry is affected by excessive Federal regulations.

I am also including a recent letter I received from Mr. Charles E. Bechtel, president of the NRCA. Mr. Bechtel asked his staff to provide an updated version of "So You Want To Get Your Roof Fixed * * *". What this effort showed is that, over 2 years later, there has been no change for the better and in fact the situation is getting worse. When Federal regulation should be shrinking, it is instead growing worse every day.

I encourage my colleagues to review the updated version of "So You Want To Get Your Roof Fixed * * *." and join me in efforts to reduce costly and unnecessary Federal regulations.

NATIONAL ROOFING
CONTRACTORS ASSOCIATION,
Dayton, OH, July 28, 1994.

Hon. THOMAS W. EWING,
House of Representatives,
Washington, DC.

DEAR MR. EWING: Two-years ago, then-president of the National Roofing Contractors Association (NRCA), Richard Rosenow, wrote an article on federal regulations for fixing a neighbor's garage roof. On February 4, 1992, Mr. Rosenow's "So You Want to Get Your Roof Fixed. . . ," was run in The Wall Street Journal.

Today, I am president of NRCA and federal regulations are still growing unchecked. For example, the Occupational Safety and Health Administration is pursuing new regulations on reporting illnesses and injuries, hazard abatement notification and indoor air quality. It is formulating lead and fall protection standards, and will soon publish a massive regulatory proposal concerning "ergonomics."

There are also many new regulations from the Department of Transportation, Environmental Protection Agency, Department of Labor, and various other agencies and commissions. Furthermore, there are countless state and local regulations.

NRCA staff annotated, "So You Want To Get Your Roof Fixed. . . ," to see whether the regulations cited had been eased. I regret to tell you that not much has changed. We slightly altered the story to feature a school building, as opposed to a neighbor's garage, but the regulations from the original remain applicable.

I've enclosed both the original and the annotated versions. We are grateful for your efforts in the fight against overregulation and hope that you will call our Washington Office at (202) 546-7584 if we can be of assistance.

Sincerely,

CHARLES E. BECHTEL,
President, National Roofing Contractors Association.

Enclosure.

[From the Wall Street Journal, Feb. 4, 1992]

SO YOU WANT TO GET YOUR ROOF FIXED

(By Richard Rosenow)

Suppose you own a roofing business, and one morning you get a call from your neighbor, whose garage roof is leaking. He tells you that the roof is asphalt-based, and you agree to send a repair crew to try to fix it. In order to fully comply with federal regulations that are in effect today, you would have to:

First examine the roof to determine whether asbestos is present. There is a good chance that an asphalt roof will at least include asbestos-containing base flashings and cements; if they do, Environmental Protection Agency regulations will apply, and Occupational Safety and Health Agency regulations may apply.

It is very likely that you won't know from a visual examination whether asbestos is present. In that case, you will have to cut a sample from the roof, and patch it to avoid leaks at the point of the sample cut. You will then send the sample, after you have bagged it properly, to an accredited laboratory, and delay your repair work until the sample is analyzed. (In some states, only a certified abatement contractor is allowed to make this test cut.)

If you discover that asbestos is contained in the roof, you must:

notify the owner (your neighbor) in writing;

notify the EPA Regional Office (10 days prior to beginning work, which will mean your neighbor's roof will continue to leak);

be sure that at least one person on your repair crew is trained to satisfy EPA requirements;

conduct air monitoring on the job, once you are able to start work, to determine whether emissions of asbestos will exceed OSHA's action level. You can't do this, of course, until the 10-day EPA notification period has passed.

Once you begin any repair work, you will have to "adequately wet" the materials. EPA defines this as "thoroughly penetrating" the asbestos-containing material, which is an interesting concept for a waterproof material like asphalt. EPA also stipulates that there be no "visible emissions" on the job, even if you can demonstrate that the emissions contain no asbestos fibers.

You will then have to vacuum the dust generated by any "cutting" that you do, put it in double bags, and take it to an approved landfill.

You will also be responsible for prohibiting smoking on the job site, and are subject to fine if one of your employees lights up.

You will probably wonder why your neighbor will be asked to absorb all of the costs associated with these steps, since hundreds of test samples have shown no asbestos exposures above acceptable limits in roofing operations.

You must ensure that your crew is trained about any hazardous materials that they may encounter. (These will include the gasoline you use to power the pump on your roofing kettle.) You will also have to be sure that copies of the appropriate regulations at the work site, and that ask containers are properly labeled.

Your crew must also be thoroughly trained in handling these materials. This will be determined not by what steps you have taken to train them, but by why your employees tell the OSHA inspector who asks them what they have been taught.

Because you are transporting asphalt at a temperature above 212 degrees, so that your crew won't have to wait two or three hours at your neighbor's home for the asphalt to heat, you must:

Mark the side of your roofing kettle with a sticker that says "HOT" in capital letters;

Complete shipping papers before the truck leaves your yard;

Have emergency response procedures developed in the event the kettle should turn over en route to your neighbor's home;

Be sure that your driver has been drug-tested, and has a commercial driver's license;

Be sure that the driver completes his logs sheets for the day, and stops 25 miles after he leaves your yard to see if the load has shifted;

Be sure that your kettle has a hazardous material placard, in addition to the "HOT" sticker mentioned above.

Because your vehicle is being driven for work-related matters, you must be sure that the driver wears his seat belt, and has received driver training. If he does not wear his seat belt, of course, he will be fined.

Assuming you have met other OSHA safety standards, and are satisfied you will be in compliance with local and state regulations, it is now safe for you to begin. Your most dangerous act, however, is yet to come: presenting your neighbor with his bill, and explaining why your costs have increased so dramatically in the three years since these regulations have been promulgated.

SO YOU WANT TO GET YOUR ROOF FIXED

(Annotated Version of 2/4/92 WSJ Article, Revised 6/21/94)

Suppose you own a roofing business, and one morning you get a call from the facilities manager at a local school, where the roof is leaking. He tells you that the roof is asphalt-based, and you agree to send a repair crew to try to fix it before school opens. In order to comply with federal regulations that are in effect today, here are some of the things you would have to do:

First, examine the roof and take samples to determine whether asbestos is present. There is a good chance that an asphalt roof will contain asbestos fibers, which have been embedded in asphalt, and which have been shown to remain in the asphalt even when

the roof is cut into sections to be removed. If the roof is asbestos-containing, then Environmental Protection Agency and Occupational Safety and Health Administration Agency regulations will apply;[1] of course, they are different.

You will have to cut a sample from the roof, and patch it to avoid leaks at the point of the sample cut. You will then send the sample, after you have bagged it properly, to an accredited laboratory, and delay your repair work until the sample is analyzed.[2] (In some cases, only a certified asbestos abatement contractor is allowed to make this test cut.) You also need to examine the school's interior to make sure no asbestos would be disturbed by reroofing activities.

If you discover that asbestos is present, you must:

Notify the school in writing;

Notify the EPA Regional Office 10 days prior to beginning work, which means that the leaks will continue;[3]

Be sure that at least one person on your repair crew is trained to EPA's satisfaction;[4]

Conduct air monitoring on the job, once you are able to start work, to determine whether emissions of asbestos will exceed OSHA's action level or permissible exposure limits.[5]

You can't do this, of course, until the 10-day EPA notification period has passed;

Once you begin repair work, mist the roof while you are cutting it, then vacuum up what you have cut, put this dust into bags, label the bags, carefully lower them to the ground via a hoist, crane or enclosed chute, and have them taken to an approved landfill;[6]

Ensure that your employees don't smoke on the job, recognizing that you—not they—will be fined if they do.[7]

You may wonder why the school should be asked to absorb all the costs associated with these steps, since hundreds of test samples have shown no asbestos exposure above acceptable limits in roofing operations.[8]

You must ensure that your crew is trained about any hazardous materials that they may encounter. (These will include the gasoline you use to power the pump on your roofing kettle.) You will also have to be sure that copies of the appropriate Material Safety Data Sheets are present at the work site, and that all containers are properly labeled.

Your crew must also be thoroughly trained in handling these materials. This will be determined not by what steps you have taken to train them, but by what your employees tell the OSHA inspector who asks them what they have been taught.[9]

Because you are transporting asphalt at a temperature above 212F degrees, so that your crew won't have to wait two or three hours at the school for the asphalt to heat, you must:

Mark the side of your roofing kettle with a sticker that says "HOT" in capital letters;[10]

Complete shipping papers before the truck leaves your yard;[11]

Have emergency response procedures developed in the event the kettle should turn over en route to the school;[12]

Be sure that your driver has been drug-tested and has a commercial driver's license;[13]

Be sure that your driver completes his log sheets for the day[14] and stops 25 miles after he leaves your yard to see if the load has shifted;[15]

Assuming you have met other OSHA safety standards,[16] and are satisfied you will be in compliance with local and state regulations, it is now safe for you to begin. Your most dangerous act, however, is yet to come: presenting the engineer with the bill, and explaining why your costs have increased so dramatically in the three years since these regulations have been promulgated.

FOOTNOTES

[1] EPA NESHAP 40 CFR 61, 61.140 through 61.152 OSHA Asbestos Standard 1926.58, and proposed revisions.

[2] EPA Asbestos-Containing Materials in Schools 40 CFR Part 763—Asbestos Hazard Emergency Response Act (AHERA)—Under AHERA, Laboratories must be accredited and follow EPA requirements for analysis of bulk samples and/or air samples of asbestos.

[3] EPA NESHAP 40 CFR 61—61.145.

[4] EPA NESHAP 40 CFR 61—61.145 and EPA notice of guidance FR 46380, September 12, 1991.

[5] OSHA Asbestos Standard 1926.58 and amendment issued September 14, 1988.

[6] EPA NESHAP 40 CFR 61.145 and letter to Honorable Sonny Callahan, House of Representatives from EPA's John Seitz, Director, Office of Air Quality Planning Standards.

[7] 1926.58 Amended February 5, 1990.

[8] "Exposure to Asbestos During Roofing Removal", SRI International and Fowler Associates, 1990.

[9] OSHA Hazard Communication Standard, 1926.59 and Safety Training, 1926.21.

[10] 49 CFR Part 172.325 Elevated Temperature Materials.

[11] 49 CFR Part 177.817 Shipping Papers.

[12] 49 CFR Part 172.203(n) Additional description requirements.

[13] 49 CFR Part 391 Subpart H—Controlled Substance Testing and Part 383—Commercial Driver's License Standards.

[14] 49 CFR Part 395 Hours of Service of Drivers and 396.11 Driver's Inspection Report.

[15] 49 CFR Part 392.9(b)(2) Safe loading.

[16] 29 CFR 1926.21 Safety Training and education; 1926.500(g) Guarding of low-pitched roof perimeters; 1926.28 Personal protection equipment.

[1] Footnotes at end of article.

NO NUKES FOR NORTH KOREA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. STARK. Mr. Speaker, when the House further considers the Export Administration Act, I hope we will adopt a sense-of-the-Congress amendment I have proposed, against providing nuclear powerplants to North Korea.

Following is an op ed from today's Washington Post that makes some of the arguments against the idea of sharing light-water reactors with North Korea.

NO QUICK FIX ON KOREA

(By Victor Gilinsky)

The idea has gotten about that there is a neat technical fix to the threat posed by North Korea's homemade nuclear reactors. This involves replacing their reactors, which are fueled with natural uranium and geared to producing plutonium, with ones like ours, which are more "proliferation resistant." It was explained in the headline of a recent Post story: "U.S. to Dangle Prospect Reactor at N. Korea; Deal Would Allow Nuclear Plant for Electricity" [front page, July 7]. Jimmy Carter is said to have supported this idea in his talks with North Korea.

It was actually the North Koreans who came up with the offer to switch technologies. During U.S.-North Korean talks a year ago, they said they would rather have U.S.-style power reactors (called light-water reactors, or LWRs) than the outmoded ones they possess. Because the two reactors they are building would soon multiply their weapon potential many times, this offer by the North Koreans seemed almost too good to be true.

In a joint communique of July 19, 1993, the United States agreed that if the "nuclear issue" could be resolved finally, then it was "prepared to support the introduction of LWRs and to explore with the [North Koreans] ways in which LWRs could be obtained." A year later, the idea seems to be very much alive. The Post story cited above quotes a "senior U.S. official" as saying "the attitude is, if that's what they want, that's what we'll give them."

We had better stop and think.

Sure, it would be great if we would switch their nuclear plants into less threatening ones with a snap of our fingers. But the reality of such an exchange is more tangled than it might appear, and the attempt would likely do more harm than good.

To begin with, for the United States to provide technology and assist with financing (North Korea is without funds or credit), the president would have to override our strict statutory standards for nuclear exports. He would have to make favorable findings about North Korea that, in effect, would make us accomplices to its violations of Nonproliferation Treaty inspection rules.

By thus buying off an international troublemaker, we would be giving the wrong idea to others similarly inclined (as well as to those who have played by the rules). The undermining of international nuclear export rules would not be lessened if we sent U.S. technology through another country with weaker export rules (South Korea has been mentioned), or (this is the latest proposal) if we paid the Russians to export their version of LWRs to the North Koreans.

In an era when we are extolling the virtues of the marketplace, it is also more than a little inconsistent to indulge the technological vanities of dictators for uneconomic prestige projects. A nuclear power plant of even modest size needs an infrastructure of people and equipment and a sizable and secure electrical grid that—from everything one hears—is lacking in the North. To develop these, to train large numbers of North Koreans and to build a plant would take most of a decade. Do we really want to do this?

If North Korea is willing to trade its outmoded nuclear plants for their modern electrical equivalent, then coal-fired plants make such more sense. And more than a new generation of nuclear plants, the North Koreans need to improve the efficiency of the way they transmit and use electricity. Such changes would be relatively cheap and would produce results much faster, perhaps within a year. Whether North Korea seeks genuine improvements or prefers an uneconomic prestige nuclear project is a test of its goodwill and judgment.

It will no doubt be argued that, given the nature of the North Korean regime, a prestige project from the West is exactly what is needed to get it off its dangerous course toward nuclear weapons. Moreover, the multiyear duration of the project—and its dependence on enriched uranium fuel, which North Korea would have to import from one of the advanced countries—would allow us to remain in control. The same factors would seem to give the North Koreans the incentive to hold up their end of the bargain.

Let us not, however, deceive ourselves. Barring a miraculous change in the regime (in which case the deal would be unnecessary), the North Koreans are not likely to give up their plutonium production potential

during the 10-year construction of replacement reactors. And they will likely want a sufficient stockpile of enriched uranium fuel so they will not be at our mercy when those reactors do operate.

Instead of being under our control, the project is likely to develop strong constituencies and to take on a life of its own. We should not imagine that we would be able to turn it off if the North Koreans did not keep their promises. If history is any guide, we would be the hostages, not the North Koreans.

In the end, what is wrong with the LWR proposal is that it presumes a level of goodwill on North Korea's part that, were it present, would obviate the need for the proposal. If the North Koreans are interested in electricity, there are much cheaper, better and safer ways to provide it. If they insist on a prestige nuclear project, we can be sure the deal is, in fact, too good to be true. There are no neat technological fixes to the present impasse. What is needed is change in North Korea.

TRIBUTE TO BRIAN EARLEY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. PACKARD. Mr. Speaker, I rise today to pay tribute to a truly outstanding athlete, Mr. Brian Earley of Aliso Viejo, CA. Mr. Earley recently competed at the U.S. Olympic Festival in St. Louis. He won a Silver Medal in the 1-meter springboard competition.

Mr. Earley has competed in numerous national and international competitions. He has been diving for 17 years and trains 2 to 5 hours per day.

His diving career is distinguished, with such accolades as qualifying first on the 1-meter springboard at the 1994 Alamo World Diving Trials, 1994 U.S. 1-meter champion, winner of the Phillips Performance Award at the 1994 Phillips 66 National Diving Championships, and 1994 and 1992 NCAA platform champion. He has also placed in international events such as the China Open, Four Nations Meet, and several other competitions. He has been a national team member in 1990, 1992, and 1994. He was trained by his father, Mr. Rick Earley, a former diving olympian.

Mr. Brian Earley recently graduated from the University of Southern California with a B.S. degree in business. I commend Brian for his achievements thus far and wish him the best in his future endeavors.

Mr. Speaker, I hope you and my colleagues will join me in recognizing the accomplishments of Brian Earley. It is my sincere belief that Mr. Earley will further distinguish himself in the sport of diving. I join friends and family who salute him.

INTRODUCTION OF REVENUE BOND AUTHORITY BILL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Ms. NORTON. Mr. Speaker, today I am introducing legislation that presents a unique and extraordinary economic opportunity for the District of Columbia. This bill offers this unprecedented opportunity through revenue bonding authority, including the authority to build a new convention center, as well as a new sports arena downtown. These are not only remarkable projects. In light of the District's need for revenue in the midst of a severe economic crisis, these projects are remarkably timed. These two buildings hold virtually the only promise for indispensable economic development for a city that otherwise faces an unprecedented and painful fiscal crisis. The bonding authority authorized in this bill will mark a critical step toward the revival of the economy of the District.

Today, the Washington Convention Center operates at a 90 percent occupancy range. In this year alone, the District will lose over $80 million in economic impact because of the loss of shows that are too large for the present center. However, the new convention center will be three times the size of the current center. That translates into over $2.8 billion in direct convention revenue for the District between 1998 and 2003. On the other hand, without the new center, the District will lose $968 million in direct convention revenue by the year 2002.

A new sports arena also could not come at a better time for the District. Moving the arena from the Maryland suburbs to downtown Washington will result in more than $100 million in net new spending in the District annually from people buying tickets and purchases from concessions at events, as well as patronizing restaurants in the area. The arena also will create a minimum of 540 full-time equivalent jobs in the city.

I strongly urge support for this legislation. It will help give the District of Columbia the tools to become again the master of its own economic destiny.

THE CLINTON PLAN—LABOR WITHOUT PAINKILLERS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. GINGRICH. Mr. Speaker, I rise today to submit into the RECORD a column which recently appeared in the Washington Times, written by syndicated columnist Mona Charen. It draws to your attention the importance of maintaining a proper perspective when considering a huge government overhaul of the health care system.

HEALTH CARE HESITATION * * *

Recently, Senate Minority Leader Robert Dole, Kansas Republican, paused in the middle of a speech to issue a special thanks to the president and first lady for keeping the issue of health-care reform at the "front and center" of the nation's attention.

That is exactly what is wrong with the Republican Party. Sen. Malcolm Wallop, Wyoming Republican, captured the "Stockholm Syndrome" afflicting Republicans perfectly when he said that if the Democrats proposed legislation to burn down the Library of Congress, the Republicans would respond with a three-year phase-in.

Republicans are afraid of the popularity of health-care reform. Perhaps they are right. Perhaps even after they are given all of the facts, the American people will choose the Rube Goldberg, bureaucratic behemoth that the Clintons have advanced.

But the American people will certainly get no opportunity to make a sensible choice if Republicans roll over, failing to make any philosophical or practical arguments against reform.

If the Clinton proposal is a terrible idea, then it is silly for the Republican leader to thank the administration for proposing it. It's like Michael Fay thanking Singapore for keeping the law-and-order issue "front and center."

The leaders of the Republican Party have abdicated their role on health care, leaving it to private citizens to marshal that arguments. One such extraordinary individual is Dr. Gonzalo M. Sanchez of Sioux Falls, S.D.

Dr. Sanchez is a pilot, a hunter, a wildlife photographer, the father of four had a neurosurgeon who loves his adopted country and hates what the Clintons propose to do to it and to his chosen vocation. And so, Dr. Sanchez published two closely reasoned, fact-rich newspaper advertisements in the Sioux Falls Argus Leader about health care in America.

He took aim at the false premises on which the Clinton plan is based. Costs are not (surprise!) spiraling out of control. In 1990, according to Labor Department figures, health-care costs increased by 9.6 percent. By 1993, the rate of increase had dropped to 5.4 percent.

But costs are high. Is it because doctors, nurses and hospitals are greedy? Hardly. Costs are high because government-funded programs like Medicare and Medicaid create unlimited demand for medical services. Also, costs are high because medical care has become ever more sophisticated and effective. Patients, like heart-attack victims and premature infants, who only a few years ago would have died, now live and rack up health-care expenses.

Costs are high because America's social pathologies—specifically urban violence and illegitimacy—create special burdens for the health-care system. Illegitimate babies are far more likely to be low birth weight and therefore at greater risk for birth defects, illnesses and early death.

And finally, costs are high because American culture demands valiant efforts to preserve life, no matter what the cost. This sets us apart from other countries, like Germany, which does not fund life-prolonging treatment for the terminally ill.

What about the cost of imposing the Clintons' huge, bureaucratic octopus? When Medicare was introduced in the mid-1960s, Dr. Sanchez reminds us, President Johnson projected that its cost would reach $8 billion by 1990. He was off by $90 billion. The Clintons claim that their monster would cost $700 billion. Expect that figure to be low as well.

That will mean higher taxes. Higher taxes will mean less economic growth. Less economic growth will mean more poverty. And more poverty will mean, you guessed it, fewer healthy Americans.

Why even talk of a massive overhaul of the best health system in the world when all that needs fixing are some gaps in insurance coverage? Because, argues Dr. Sanchez, the Clintons are not really concerned about improving your health care—their true aim is the vast enlargement of government authority that health reform would mean.

If they succeed, the most intimate decisions we make, like when to get a mammogram or a TPA test to screen for prostate

cancer, will be dictated by interest groups politics. In Canada, some women are being denied access to epidurals in childbirth, partly to save money and partly because feminists oppose them.

Labor without painkillers seems a pretty good metaphor for the Clinton health plan.

NICHOLAS ROYCE, A DEDICATED ACTIVIST

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. BERMAN. Mr. Speaker, I commend to my colleagues the following National Catholic Register article which depicts the activism Los Angeles film distributor Nicholas Royce has undertaken for the rights of Orthodox Christians in what has historically been the center of Eastern Christianity.

CONSTANTINOPLE'S SON

Background: Eastern Orthodox activist wages tireless campaign for the rights of Christian minorities in Turkey.

For Christians, not all roads lead to Rome. Some lead to Constantinople—Istanbul, as the Turks call it now. Reminding Americans of this simple historical fact and the reality that Christians are persecuted today in what has historically been the center of Eastern Christianity is the quest of Los Angeles film distributor Nicholas Royce.

"Rome has to look for its roots in the East," Royce argues, noting that present-day Turkey was for hundreds of years the Center of Christianity, including the site of ecumenical councils which brought leaders of both Western and Eastern Churches together.

Now, however, Turkey is dominated by Islam. And Moslem militants have made life difficult for the few thousand Christians who remain, most of whom are of Greek descent.

Under the leadership of Ecumenical Patriarch Bartholomeos, who as leader of the Church in Istanbul is considered the spiritual leader of 270 million Eastern Orthodox Christians worldwide, Christians in Turkey are quietly enduring a persecution which has continued for centuries, says Royce.

Even the Christian dead are not immune. In recent years, hundreds of Christian gravesites have been vandalized. And the Patriarch, who is among only 5,000 ethnic Greeks still residing in Istanbul, has been criticized by some Moslem militants for attempting to construct a "second Vatican" in an Islamic country.

Three years after his election as spiritual leader of the world's Orthodox Christians, Bartholomeos is planning to travel the world, meeting with Orthodox communities in Eastern Europe and joining in ecumenical discussions with Pope John Paul II and the Archbishop of Canterbury, among others.

Royce would like to see the Patriarch speak forcefully about the persecution of Christians in Turkey. Too often, he says, Orthodox Christians have tried appeasement and have failed to better their situation. "Our people are still being crucified," he stresses, noting that for centuries Orthodox leaders "have been very passive." "We need martyrs today," he says.

Royce has taken his campaign for the rights of Orthodox Christians to the United Nations and to every U.S. president since Jimmy Carter. He found that American Cold War politicians were reluctant to offend Turkey, then considered a vital strategic U.S. friend on the Soviet border.

Royce is a tireless contributor to the religious press of all denominations as he attempts to generate outrage about the persecutions.

The activist recently persuaded the Los Angeles Council of Churches to petition the U.N. Human Rights Office in Geneva for the return of St. Sophia Cathedral in Istanbul, now a museum, to religious uses. The Council of Churches group also called for the reopening of seminaries and the return of Church property now administered by the Turkish government.

The campaign has not yet proven successful. But that hasn't stopped Royce.

Born in Bethlehem, Pa., as Nicholas Vlangas, he and his Greek-American family soon moved to Baltimore, where he was raised.

The Catholic youths in his neighborhood made fun of his Eastern Orthodox ways, recalls Royce, who is 68. Later he realized that responding to their taunts inadvertently helped him to learn more about his tradition.

"It was up to me not to become bitter but to study my culture and my traditions," he says.

At 14, he was entertaining American military troops and eventually he made a career as a nightclub singer and dancer, appearing on the Ed Sullivan show and other national network programs in the '50s. He changed his ethnic name like other big-name entertainers of that time.

But while his name changed, Royce never forgot his ethnic origins and his religious tradition. For years he helped wage an ultimately successful campaign to have Orthodox chaplains admitted into the American military.

"We had to educate the Christian world." Royce declares, saying that before his campaign the only groups allowed chaplains in the military were Catholics, Protestants and Jews. It took nine years to recognize the rights of Orthodox Christians in the military.

Next, he embraced the cause of Orthodox Christians in Turkey, inspired by the sight of devastated churches and shrines he saw on a trip there. That has proven to be a more difficult effort.

Ultimately, Royce wants to educate Roman Catholics—he emphasizes that Orthodoxy also embraces the "Catholics" term—to the spiritual links they have to the Eastern Church. Istanbul, formerly Constantinople, was for centuries one of the two great centers of the Church, sharing its role with Rome. "We were all united at one time," he emphasizes.

HEALTH CARE REFORM

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. COMBEST. Mr. Speaker, I would like to address some of my biggest concerns with the ongoing debate on health care reform.

I believe that the proposed Clinton health care reform plan mandating insurance coverage, in any of its many guises, would devastate the economy of this Nation.

Currently, many of the strengths of our economy are based upon "Mom and Pop" enterprises—small businesses. They employ an ever increasing number of workers, while the percentage of the employment provided by the great multinational corporations continues to shrink. Yet the successful small business is a rare and fragile organization. Right now, only 3 of 10 new small businesses will survive their first 5 years.

Another threat is now held over fledgling enterprises in the form of employer mandates.

Small businesses generally pay 10 to 40 percent more for health insurance than large companies. The majority of small businesses spend more than 12 percent of their payroll on health insurance. One can see very easily that when a small business with a small fixed labor cost is forced to pay more for their employees' health insurance, that firm will need to lay off employees to make up the difference. But that is not just my opinion; several studies evaluated the effect the proposed mandates would have on our Nation's economy. The following statistics are startling:

Estimates have been made that between 1 and 2 million workers would lose their jobs in this country;

The State of Texas alone would lose between 51,000 and 68,000 jobs;

Nearly half of all jobs lost nationally would occur in firms with less than 100 employees;

One-third of small businesses say any mandate would put them out of business;

Those most likely to lose their jobs would be low-wage workers with families;

Nationally, we could see a drop of as much as $93 billion in lost wages;

Personal income would drop for Texans by more than $7 billion.

Many of the issues that are key to successfully reforming our health care system already enjoy bipartisan support: optional medical savings accounts; health insurance portability; the elimination of the ban on preexisting conditions; medical malpractice reform; product liability reform for FDA approved drugs and devices; incentives to eliminate waste, fraud, and abuse in the health care system; and the reduction of paperwork. All this could be achieved without additional Federal spending, thereby eliminating the need for costly employer or individual mandates.

I believe that we should proceed with caution in enacting any reforms to the health care system. We stand to lose far more than we might gain.

DEFEND PEACE IN POLAND—SANTORUM SUPPORTS NATO MEMBERSHIP

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. SANTORUM. Mr. Speaker, as thousands of Polish Americans are meeting today in my district to celebrate the 63d annual Polish-American Day at Kennywood Park, I rise to join my colleagues in cosponsoring H.R. 4210, the NATO Expansion Act of 1994.

Mr. Speaker, this important piece of legislation assists and promotes the emerging democracies in Poland, Hungary, the Czech Republic, and Slovakia. H.R. 4210 provides aid

and military assistance in helping these countries in their transition to full NATO membership by 1999. The people of Poland were instrumental in pushing forward with democratic reforms and paved the way for the fall of the Iron Curtain. Now, with the dissolution of the Warsaw Pact, it is crucial that the United States continue its tradition of aiding Eastern Europe in consolidating their democratic and market reforms and in gaining NATO membership.

During the remainder of the 103d session of Congress, I will continue to work to move this historic legislation toward consideration on the House floor.

IN HONOR OF GINNY LEEUWENBURGH AND GORDANA SWANSON

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Ms. HARMAN. Mr. Speaker, I would like to honor two great community leaders from my district, Gordana Swanson and Ginny Leeuwenburgh, both of whom are retiring from many years of service as city council members for the city of Rolling Hills.

Ginny Leeuwenburgh was first elected to the council in 1982, and has served as mayor twice. The list of her contributions to her city is very long, and shows the range of her interests: the Traffic Commission, Emergency Services Disaster Preparedness Committee, the City/School Committee, Liaison to the Community Association and the Women's Community Club, Special Events Chair, Delegate to the Palos Verdes Regional Law Enforcement Committee, League of California Cities, California Contract Cities Association, Peninsula Geotechnical Task Force, Peninsula Mayors Committee, and the Peninsula Open Space Committee.

While on the council, Ginny demonstrated a deep concern for public safety, particularly the safety of the community's children, and unwavering support for quality education for the children of the peninsula. She has worked hard to maintain open space for recreational use and to preserve the rolling hills of our community in their natural beauty.

Ginny has also worked hard for many groups in the South Bay: the United Way Corporate Board, Harbor Advisory Council, Peninsula Seniors, Friends of the Library, and the League of Women Voters.

I know that Ginny will continue to be a vibrant part of her community, and I wish to recognize her for the important contributions she has made.

Gordana Swanson is another dynamic woman who has contributed greatly to her city and her community. She began serving on the Rolling Hills City Council in 1976, served as mayor three times, and as traffic commissioner, Chair of the City's Sewer Study Committee, liaison to the Planning Commission and the Caballeros Club, and a member of the Budget/Finance Subcommittee, Rubbish Franchise Committee, and the city's delegate to the Southern California Association of Governments, League of California Cities, California Contract Cities Association, South Bay Cities Association, South Bay Corridor Steering Committee, and the Peninsula Mayors Committee.

Gordana also served on the Boards of the Los Angeles County Sanitation Districts, West Basin Water Association, South Bay Juvenile Diversion Program, Coachella Valley Joint Powers Insurance Authority, and Southern California Rapid Transit District. She served on the Criminal Justice Council, the League of California Cities State Policy Committee on Transportation, and as fund raising chair for the South Bay District of the Red Cross. In 1981 she was selected as Citizen of the Year by the Palos Verdes Peninsula Chamber of Commerce.

During her years on the Rolling Hills City Council, Gordana worked tirelessly to maintain orderly low density development and an equestrian atmosphere in the city, and spearheaded the formation of the Rolling Hills Wildlife Preservation Committee. She became an expert on transportation issues, and was always available to speak out for the South Bay and its transportation needs. Her most recent success was as founder and first president of the National Women's Political Caucus of the South Bay.

Mr. Speaker I am privileged to know these two inspiring women, and proud to pay tribute to them as they retire from the Rolling Hills City Council.

DIABETES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. STARK. Mr. Speaker, health care reform is the best thing we can do for America's 14 million diabetics.

The leadership bill will guarantee health coverage for all Americans, thus ensuring that every diabetic will be able to get the help they need.

The bill will eliminate pre-existing conditions clauses in health insurance policies. This means that diabetic children will be able to buy their own policies when they leave the family's coverage. It means that a diabetic adult will be able to switch jobs or retire early without fear of losing health insurance.

The bill ensures choice of provider. Diabetics will be able to seek and obtain care from the doctor and the specialist that they want. Managed care plans will have to ensure access to centers of excellence and specialized treatment. Individuals won't be trapped in managed care plans that limit service.

For the individual diabetic or the diabetic in a small company, the bill will ensure that insurance is affordable. Private insurance will be available at community rates and one will also be able to join Medicare part C.

The bill's cost containment provisions will slow the rate of health inflation and give diabetics and their family needed financial relief.

The bill also dedicates billions to medical research, hopefully speeding the day that we find genetic cures to this serious illness.

The legislation also includes a special demonstration project to develop new and better ways of treating diabetics. This project will help ensure that the findings of the NIH's 10-year diabetes control and complications trial are translated into better education, training, and treatment of diabetics. The DCCT results prove that we can greatly improve the quality of health and life for millions of diabetics. Passage of health care reform can help transform the DCCT's findings into reality for the nation's diabetic community.

Halfway measures—partial insurance reforms, limited cost containment, soft-triggers—won't meet the needs of these 14 million Americans.

Let's do the right thing, and pass a comprehensive reform bill.

MORE TIME NEEDED TO CONSTRUCT HEALTH CARE BILL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. PACKARD. Mr. Speaker, Congress is racing to find the cure for what ails our health care system. However, the remedy the congressional leadership is hastily concocting may be more toxic than the disease.

The ingredients for this potion include taxes, mandates, global budgets, and huge Federal wage and price controls. If the American people are forced to swallow this brew, they will suffer from lost jobs, less choice, rationed care and higher taxes.

I believe that the American people deserve more than a last-ditch, last minute, closed-door effort by Members to turn the world's best health care system over to Government bureaucrats.

The cure the American people are looking for is a carefully constructed bill which would ensure access, choice and quality—not high costs, lost jobs and 50,000 more paper-shufflers.

Recent polls show that the majority of the American people oppose the Clinton-Gephardt approach to health care reform. However, some Members of Congress think that the views of the American people are insignificant, proclaiming that "we are going to push through health care reform regardless of the views of the American people."

Mr. Speaker, we are not mad scientists working in darkened labs to satisfy our own whims and objectives. We are here to serve the interests of the American people. We need to take the time to listen to those interests and construct a bill which addresses those concerns.

THE 10TH ANNIVERSARY OF THE NATIONAL POLITICAL CONGRESS OF BLACK WOMEN

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Ms. NORTON. Mr. Speaker, I rise in recognition of the 10th anniversary of the National Political Congress of Black Women

[NPCBW]. I am very proud to be a founder of the NPCBW, the most important black organization devoted exclusively to building the political strength of black women. The NPCBW was founded 10 years ago today, on August 2, 1984, when the Honorable C. DeLores Tucker called together a group of 35 African-American women leaders of diverse groups to organize for greater involvement in the political process. At the third meeting of the NPCBW, on August 9, 1984, the Honorable Shirley Chisholm, the first black woman to serve in the Congress, was elected the first chair of the organization—a position which she held until she assumed the title of chair emeritus.

The NPCBW is a nonpartisan organization that has worked long and hard to prepare African-American women to enter the political process. Its broad mission includes: First, mentoring African-American women; second, encouraging African-American women, on a nonpartisan basis, to engage in political activities, including voter registration; third, offering training to African-American women in understanding the political process; fourth, encouraging African-American women to seek office at all levels of government; and fifth, seeking the appointment of African-American women at all governmental levels.

Today is a historic date in the political history of African-American women. I am pleased to rise today in honor of the 10th anniversary of the National Political Congress of Black Women.

INTRODUCTION OF THE SPENT NUCLEAR FUEL DISPOSAL ASSURANCE ACT OF 1994

HON. ROD GRAMS

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. GRAMS. Mr. Speaker, today I am introducing the Spent Nuclear Fuel Disposal Assurance Act which will reaffirm the existing legal requirement that the Secretary of Energy provide for the safe disposal of spent nuclear fuel beginning not later than January 31, 1998. Only by reaffirming this requirement will the Department of Energy [DOE] be forced to fix a Government program which is now seriously broken.

The Secretary of Energy recently acknowledged that it is highly unlikely that DOE will be able to fulfill its legal obligation to begin accepting commercial spent nuclear fuel by 1998, as it is required to do so by the Nuclear Waste Policy Act. Moreover, DOE now is attempting to avoid its responsibility altogether by maintaining that it has no legal obligation to accept spent nuclear fuel absent an operational permanent waste repository, which only the DOE has the authority to build.

If the Department of Energy fails to meet its commitment to accept nuclear waste by 1998, an industry which today provides more than 30 percent of Minnesota's energy needs and 20 percent of all the electricity used in the United States will be threatened. Most importantly, electricity costs to tens of millions of consumers, our constituents, could unnecessarily increase. We cannot afford to let this happen.

In 1982, Congress enacted the Nuclear Waste Policy Act which required the Department of Energy to site and build a permanent repository for electric utility spent nuclear fuel. The act also required the DOE to accept nuclear fuel for disposal beginning not later than January 31, 1998. All utilities with nuclear generating plants have signed contracts with the Department of Energy which obligate the DOE to accept waste accordingly.

The civilian nuclear waste program financed almost entirely by annual fees paid by the ratepayers of nuclear utilities. To date, our constituents have paid more than $9.7 billion into a special fund which is intended to finance the waste program. In Minnesota alone, ratepayers have contributed more than $200 million to the nuclear trust fund. Despite the expenditure of over $3.8 billion, the DOE has fallen far behind in its schedule for siting and constructing a permanent nuclear waste storage facility. Originally promised for 1998, the DOE now says that a permanent facility will not be available before 2010, at the earliest.

Similarly, the DOE has made little progress in finding a site for a temporary monitored retrievable storage facility where spent fuel could be stored until a permanent repository becomes available.

Realizing the unlikelihood of its ability to fulfill its legal obligation to begin accepting waste by January 31, 1998, the Department of Energy issued a notice of inquiry on May 25, 1994 which raises questions about its obligations or willingness to accept nuclear waste. The notice indicated that it is the "Department's preliminary view that it does not have a statutory obligation to accept spent nuclear fuel in 1998 in the absence of an operational repository or other facility constructed under the [Nuclear Waste Policy Act]."

Mr. Speaker, the Government's failure to keep the waste program on schedule is not acceptable. The recent problems Minnesota faced with storage at Prairie Island should serve as a wake up call to the DOE—States are no longer willing to sit idly by as DOE drags its feet in accepting spent nuclear fuel—they are not willing to become de facto permanent storage facilities. And electric consumers are being burdened with unnecessary costs: Costs for continued onsite storage and with the prospect of having to purchase alternative supplies of power if we are forced to close powerplants before the end of their useful lives.

The Spent Nuclear Fuel Disposal Assurance Act will force the Department of Energy to move expeditiously to construct interim storage by reaffirming the Department's legal obligation to begin accepting spent nuclear fuel no later than January 31, 1998. My legislation will also make it easier for the Department to construct a temporary monitored retrievable storage facility by eliminating the current requirement that a permanent repository be selected and licensed before construction of such a temporary facility would be permitted.

Enactment of the Spent Nuclear Fuel Disposal Assurance Act is necessary in order to avoid saddling our constituents with the costs of yet another failed Federal program. I urge all members to join me in support of this important legislation. Thank you.

PRESIDENT CLINTON'S ROMANIA INITIATIVE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. RICHARDSON. Mr. Speaker, I would like to direct my colleagues attention to a new U.S. foreign policy initiative undertaken by President Clinton. The Romanian-American Enterprise Fund is a bold plan to further democratic progress in that country. This fund will supply loans, investments, and technical assistance to the Romanian people as they rebuild their nation. I urge my colleagues to take note of this fund and I applaud President Clinton for this important foreign policy initiative.

Mr. Speaker, I was pleased to learn that on July 6 President Clinton appointed the eight directors for the new Romanian-American Enterprise Fund. This board of distinguished Americans will be ably chaired by Robert L. Wald, one of the most respected members of Washington's legal community.

The aid fund will have $50 million with which to make investments and loans in addition to providing technical assistance to nurture private companies and entrepreneurs in Romania.

When the fund is fully operating later this year, it will provide significant additional momentum for Romania's already impressive progress in building a free market economy form scratch.

Since the December 1989 revolution that set the nation on a democratic course, Romanians have struggled to establish a stable economy that would allow a free market to flourish. Inflation has been tamed, a convertible currency has been established, reforms and laws to spur further privatization are in place and planning for a stock market is underway. In recognition of Romania's success, major international financial institutions are supplying critical support.

During the last several months, the International Monetary Fund, World Bank, and G-24 nations have pledged a total of more than $1 billion in loans and guarantees to Romania, and more is being considered.

The establishment of the Romanian-American Enterprise Fund is another welcome sign to the Romanian people that they have chosen the right path and that the United States supports their efforts.

I invite my colleagues to join me in congratulating President Clinton, the newly appointed directors of the Romanian-American Enterprise Fund and the courageous people of Romania.

TRIBUTE TO CHIEF DAVID R. BELL

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. OLVER. Mr. Speaker, I rise today to pay tribute to Mr. David Bell, who recently retired

as chief of the Deerfield Police Department after 14 years of service. It is my pleasure to join the town of Deerfield in honoring a man who has remained firmly committed to his profession and to serving his community.

Mr. Bell began his distinguished career in law enforcement in 1953 as a Chanceman [probationary patrolman] with the West Caldwell, NJ Police Department. While at West Caldwell, he took pride in his position as firearms instructor and excelled as a member of the pistol team, scoring a perfect 300 in one competition. In 1977, he was one of a select few admitted to the FBI National Academy where he further exemplified his skills on the firing range and qualified as a master in marksmanship. While at the Academy, he sharpened his natural artistic talent through the study of composite drawing, a skill he maintains to this day. Upon retiring as a captain of the West Caldwell force in 1980, David Bell had received numerous commendations over his 28 years of service.

Throughout his career as chief of the Deerfield Police Department, David Bell kept on the cutting edge of modern police techniques and helped the department to grow in both size and ability. He revamped the recordkeeping system and was instrumental in getting Deerfield on line with the LEAPS teletype. Moreover, Mr. Bell demonstrated an outstanding ability to communicate with people of various age groups and social backgrounds. Along with his accomplishments, his special understanding of human nature always earned him the respect of his fellow officers and the community he served.

Although Mr. Bell will be missed in his role as chief, the town of Deerfield is fortunate to have such an exemplary citizen. In honor of his contributions, I ask my colleagues to join me in wishing Mr. Bell continued success in the years to come.

THE AMERICAN CODE

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. SWIFT. Mr. Speaker, I have received many letters from my constituents who are worried about our Nation's crime problem, and Congress has had vigorous debates on the best solutions to stop this violence. We need to find a way to make sure our children become productive members of society and not callous criminals. Yet, there are limits to what Congress can do to stop violence. Individuals need to take personal responsibility for their actions—to step back and see that how they treat others directly impacts our society. Mrs. Nordica Wiggins, of Everett, WA, has developed a code of conduct which she calls The American Code, which we should all take the time to read. Her code provides a valuable guide for individuals, families, and communities to follow in order to return to those positive values of decency, courtesy, and respect.

I am submitting a copy of her letter for the RECORD.

THE AMERICAN CODE

1. I will respect my fellow Americans in speech, attitude and behavior.

2. I will not kill.

3. I will not steal.

4. I will not bear false witness against a fellow citizen.

5. I will protect children.

6. I will be kind to animals.

7. I will protect the environment.

8. I will obey the laws and pay the taxes that pertain to me.

9. I will not discriminate against others who differ from me in appearance, beliefs and customs.

10. I will respect and protect the American flag.

TRIBUTE TO FATHER DONAL FORRESTER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to a fine man, Father Donal Forrester. He has illustrated true loyalty not only to his country, but to his religion and community as well. On Sunday, May 22, 1994, he celebrated his 60th anniversary as a Paulist Father in St. Paul's the Apostle Church in New York City.

A wartime comrade to a number of other World War II veterans, Father Forrester has given his time to the friends and family of his colleagues. He appointed himself lifelong chaplain for the 809th battalion where he watches over them constantly.

In addition, many years ago, the Texas legislature honored him for services he did over the years. This year he was the celebrant of the 25th anniversary of his founding of a baseball league for the youth of the San Francisco Chinese community.

In his role as chaplain, Father Forrester has conducted an annual memorial and ecumenical mass for the 809th battalion at their yearly reunions for almost 50 years. He has done it for the ever-growing list of our fallen comrades. He allows for the remembrance of the important feats his comrades did for their battalion.

Although Father Forrester is Catholic, he had devoted himself to all of his comrades, no matter what faith they might be. For example, he accompanied the body of a Jewish companion to the gravesite where he was called upon to share his thoughts about Bernard Rosenbloom to soothe the family and friends gathered there.

In a day and age where selfishness is the norm for so many in our society, it is reassuring to know there are still people like Father Forrester. Those who are close to him continue to call him friend, comrade as well as chaplain. I commend Father Forrester for his dedication to his family, friends, and comrades. I know my colleagues join me in commending Father Donal Forrester on his 60th anniversary as a Paulist Father.

FEAR AND PAIN OF CRIME IN THE NATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mrs. SCHROEDER. Mr. Speaker, I was handed the enclosed poems by a young man named Joe Ford at the June 4 "Beat the Street" walkathon in Denver. I was deeply moved by his poem, and as the timing coincides with our consideration of the crime bill conference report, I want to share it with my colleagues in the House. Joe's words remind us of the reality on the streets and take us beyond this room to the truth—the fear and pain—of crime in this Nation. After reading this poem, it is difficult to question the importance of the work we are doing here today.

THE END

1993 was a bad summer for me,
Violence started and didn't stop.
It was like a war zone
Everyone was getting popped.

Pop pop as the cylinder rotated
The bullet from the gun
Was hitting everyone in its way.

THE END—PART TWO

Mothers and fathers who cried a
River of tears
To bury their child who
Didn't make it this year,

As each summer comes and goes
I'll always remember that violence
Has claimed its toll.

His message is certainly an important one and his words express it powerfully.

NEXT OF KIM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. GINGRICH. Mr. Speaker, although there are many important issues before us, we must not neglect a critical foreign policy problem: nuclear proliferation in North Korea. I urge all Members of Congress to read "Next of Kim," an article written by our former colleague, Stephen J. Solarz, and published in the New Republic. As Solarz points out, the Korean dilemma warrants our attention and immediate action so that we can prevent proliferation of nuclear weapons both in Southeast Asia and in the Middle East.

NEXT OF KIM

(By Stephen J. Solarz)

When Jimmy Carter, after concluding several hours of discussions in Pyongyang with North Korea's Great Leader, Kim Il Sung, declared that "the crisis is over" on the Korean peninsula, a sigh of relief could be heard around the world. It appeared as if the drift toward a diplomatic and economic confrontation, and possibly even a military conflict, had been averted. If Carter was right, and no one could say with certainty that he was wrong, the stage had been set for a peaceful resolution of the North Korean nuclear challenge.

Pyongyang subsequently agreed to permit inspectors from the International Atomic

Energy Agency (IAEA) to remain in North Korea to verify its commitment not to reprocess the fuel rods that it had recently extracted from its reactor (which would have given it the capacity to make five or six nuclear weapons by the end of the year), and to refrain from reloading its only operational reactor while negotiations were underway with the United States; and this, too, put wind in the sails of the optimists. So did the setting of dates for a third round of negotiations with Washington in July and the first summit ever between the leaders of the two Koreas in August.

Then Kim Il Sung died. (The Great Leader's fuel rods were finally spent.) In Pyongyang, nothing was clear. The struggle for succession, if such a struggle is taking place, is obscure; and the likely successor, the Dear Leader, Kim Jong Il, the son of the Great Leader, is even more obscure. It is hard, of course, to make foreign policy in circumstances so uncertain; but it would be a great blunder for American policymakers to allow gossip from Pyongyang and diplomatic politesse to interfere with the historical and strategic understanding of the North Korean problem. Idle speculation about the succession, or even informed speculation, matters less than the words and the actions of North Korea at the negotiating table in Geneva and at the nuclear facilities in Yongbyon.

This problem has a past and a logic. Pyongyang has persistently prevaricated on the nuclear issue. Over the years it has consistently said one thing and done another. It signed the Nuclear Non-Proliferation Treaty (NPT) but refused to carry it out. It agreed to let the IAEA inspect its nuclear facilities but interfered with the IAEA's efforts to do so. It entered into an agreement with South Korea obligating it to dismantle its reprocessing plant but blithely ignored the pact.

My own experience in North Korea suggests that its commitments have about the same value as Tsarist war bonds. In 1980, when I met Kim Il Sung for the first time, he told me that he favored ameliorating the human consequences of the division of Korea by permitting family visitations, the exchange of correspondence and trade between the peoples on both sides of the thirty-eighth parallel. More than a decade later virtually none of these reforms has taken place. In 1991, when I met him for the second time, the Great Leader assured me that he had no interest in obtaining nuclear weapons, and that North Korea was not attempting to construct a reprocessing facility, in spite of the fact that there was incontrovertible evidence the country was doing both.

Now, despite its promise to "freeze" its nuclear program while talks are underway with the United States, North Korea continues work on a 200 megawatt reactor, which will give it the capacity to produce enough fissile material for ten or more atom bombs per year when it is completed in 1996. It is also still constructing a "second line" in its reprocessing plant, which will enable it to produce additional nuclear weapons more rapidly should it decide to resume reprocessing in the future. What is needed now, in short, is not wishful thinking but hard-headed analysis.

Such an analysis must begin with a recognition of the fact that the North Korean nuclear project constitutes the most serious threat to the preservation of regional peace and global nonproliferation in the world today. An unconstrained North Korean nuclear program would give Pyongyang the ability to produce and to stockpile dozens, and eventually hundreds, of nuclear weapons. Far from being over, the crisis may soon be upon us. In the absence of a verifiable agreement bringing its nuclear weapons project to an end, the North Koreans will be in a position to make up to fifteen atom bombs per year by 1996, and could easily have more than fifty by the end of the century.

An atomic arsenal of this magnitude would have a number of dangerous and destabilizing consequences.

It would increase the risks of another conventional war on the Korean peninsula. Should it decide once again to attempt to reunify Korea under Communist control, or should it decide to break, by military means, the international community's efforts to thwart its nuclear program. Pyongyang would have enormous leverage to end the fighting on its terms, which might encourage it to begin the fighting in the first place.

It would increase the prospects for a nuclear arms race in Northwest Asia by putting pressure on Japan and South Korea, the countries most immediately threatened by North Korea's nuclear potential, to join the nuclear club themselves.

It would increase the chances that Japan, for the third time, and South Korea, for the first time, will become victims of a nuclear attack.

It would increase the possibilities of nuclear proliferation by giving North Korea the capacity to earn desperately needed foreign exchange by selling its fissile material, and even off-the-rack nuclear weapons, to whoever is able to buy them.

It is likely that the first three of these potential consequences could be averted by the realities of America's conventional military power and nuclear deterrent. North Korea has no interest, after all, in inviting its own destruction by launching another conventional war against South Korea or a nuclear attack against Japan; and so long as the United States credibly reaffirms its determination to consider a nuclear strike against South Korea or Japan the equivalent of a nuclear attack against itself, our allies would most probably continue to refrain from joining the nuclear's club. For this reason, some have dismissed concerns about North Korea's nuclear program on the grounds that, just as we prevented the Soviet Union and China from using their nuclear weapons through a policy of containment and deterrence, we can prevent Pyongyang from launching its nuclear weapons as well.

But this rather sanguine assessment overlooks the real problem, which is that Pyongyang is more likely to sell its nuclear weapons that use them. If this were to happen, and with an unconstrained North Korean nuclear program it surely will, it would dash whatever hopes still exist for a truly effective and global nonproliferation regime. The Hermit Kingdon, remember, has consistently demonstrated its difference to established norms of national behavior. Among its more notable exercises in international terrorism were its efforts in the 1980s to assassinate the entire South Korean Cabinet during the course of an official visit to Rangoon, the blowing up of a South Korean civilian airliner over the Andaman Sea and the abduction of a leading South Korean actress to satisfy the cinematic appetites of Kim Jong Il. Its record of selling intermediate-range missiles to Iraq, Syria, Libya and Iran leaves little doubt that it will provide fissile material and nuclear weapons to whatever rogue regimes and terrorist groups are prepared to pay the market price.

It is one thing to describe the threat. It is quite another to figure out how to deal with it. The Clinton administration has three options: diplomacy, sanctions and force. With the moment of truth fast approaching, it is important to consider each of these options, and for the United States and its Asian allies to determine not only what they want from North Korean, but what they are prepared to do in order to get it.

Obviously, the best way to resolve the problem would be through a negotiated agreement in which Pyongyang undertook to abandon its nuclear weapons program. Such a settlement would entail North Korea Dismantling its reprocessing facility, stopping any further work on its 200 megawatt reactor, relinquishing all the fissile material it has already produced, including its recently discharged spent fuel, and accepting "special inspections" by the IAEA. Without the latter, which would entitle the IAEA to inspect not just Pyongyang's declared facilities but also any location where it has reason to suspect that prohibited activities may be taking place, it would be impossible to preclude the possibility that, like Iraq before the Gulf war, North Korea had a clandestine program or arsenal. North Korea, after all, has a long history of building large-scale munitions factories underground, as it did during the Korean War, and tunnels under the demilitarized zone, as it did in the years after.

Such a settlement will require the United States and its Asian allies to be clear about what they would be willing to give North Korea in exchange for such commitments. In the discussions that preceded the recent meeting in Geneva, we said only that we would talk about the normalization of our relationship with Pyongyang if it agreed to our demands, and refrained from spelling out what we would be willing to do for North Korea if it abandons its nuclear project. A purely diplomatic strategy entails making North Korea an offer it can't refuse. (There is always the chance that Pyongyang, which has spoken from time to time about a "package deal," might accept it.) And so we should offer North Korea full diplomatic relations; a no-first-use pledge about the use of nuclear weapons; and whatever economic assistance it needs for its legitimate energy requirements, including, if necessary, a light water nuclear reactor. Japan and some of the other OECD countries would join in providing the resources for the construction of such a facility.

An offer of this magnitude would be a relatively small price to pay for the termination of North Korea's nuclear enterprise. Actually, all things being equal, the establishment of diplomatic relations with North Korea is in our interest as much as it is North Korea's, given the desirability of exposing Pyongyang as much as possible to the realities of the changing world situation. During the 1980s, when Beijing and Moscow had as little to do with Seoul as Washington and Tokyo had to do with Pyongyang, we pursued a policy of "cross recognition," in which the United States and Japan promised to establish diplomatic relations with North Korea if China and the Soviet Union established them with South Korea. Now that Moscow and Beijing have embassies in Seoul, and a thriving trade with South Korea, Washington and Tokyo are still without a diplomatic presence in Pyongyang, and have minimal economic involvement with North Korea. Recognizing Pyongyang without an acceptable resolution of the nuclear issue would be very foolish, since it would give up one of the main cards in our hand; but extending it in a nuclear agreement would be very wise.

Such an offer would be worth making, moreover, even if Pyongyang rejected it. With North Korea's real intentions—its preference for membership in the nuclear club over normalization of relations with the United States, South Korea and Japan—unambiguously exposed, it would be easier to muster the support, at home and abroad, that will be politically necessary to take the tougher steps, involving sanctions and perhaps even force, that may be necessary to solve the problem.

Instead of rejecting such a proposal out of hand, Pyongyang is more likely to retort that the offer does not go far enough, that what is really needed is a peace treaty to replace the armistice that has existed for the last forty years. With such a treaty, the United States would naturally be expected to withdraw its forces from South Korea. To be sure, the acceptance of such a demand in the absence of a phased and verifiable reduction in the armed strength of both Koreas, and the establishment of an acceptable balance of indigenous power in the Korean peninsula, is unthinkable. The likelihood, anyway, is that the North Koreans will not agree to all of our demands, even if we provide them with diplomatic recognition, security assurances and economic assistance.

What, then, will the North Koreans do? At the worst, they will begin to reprocess the extracted fuel rods when they cool off sometime in August, reload their now empty five megawatt reactor and continue to move forward on their nuclear project. At best, they will agree to terminate a future nuclear program, while insisting that we forgo any effort to make them relinquish the fissile material they have already produced, thereby enabling them to maintain a limited nuclear arsenal of at least one or two atom bombs. Each of these possible actions on the part of Pyongyang needs to be carefully analyzed, since each calls for a somewhat different reaction.

If North Korea once again repudiates its pledges and goes ahead with its nuclear project, we will have no choice but to impose sanctions. Yet we must recognize that sanctions are not likely to be effective in persuading Pyongyang to accept the proposal that would presumably still be on the table. North Korea already has the most autarchic economy in the world. And it is better positioned than Iraq and Cuba, which have resisted sanctions, for three years and thirty, to go it alone.

But the real problem with sanctions is that their effectiveness is almost wholly dependent on China, which provides Pyongyang with up to 80 percent of its oil, and is the only country with which North Korea has any significant economic relationship. Fearing that sanctions will be ineffectual at best and counterproductive at worst, Beijing does not want to risk either precipitating a collapse of the North Korean regime or alienating its only remaining Communist ally in Asia. Even if it abstained on a U.N. Security Council vote to impose sanctions, which is by no means certain, China is unlikely to close its border with North Korea.

In the event that diplomacy and sanctions fail, the only remaining recourse would be the use of force. Just as Israel destroyed the Iraqi nuclear reactor at Osirak in Iraq, such a scenario would require the United States to launch a surgical strike against the North Korean nuclear complex at Yongbyon. From a technical and military perspective, such an operation is feasible. We have the capacity, using a combination of cruise missiles and stealth bombers, to render North Korea's nuclear facilities inoperable. And if we were to launch an attack when its reactor and reprocessing facilities were empty, as they are now, the spread of radioactive materials beyond the Yongbyon complex could be greatly diminished, if not entirely eliminated.

Here is where the worst-case scenario starts getting spun. With more than 1 million men under arms just north of the demilitarized zone, and with its artillery batteries within easy range of Seoul, the continued quiescence of North Korea's frontline troops cannot be taken for granted. The use of force is likely to provoke a retaliatory response that could have catastrophic consequences. There is a real possibility that it could lead to another major military conflict on the Korean peninsula. The United States and South Korea would undoubtedly prevail, but the cost of victory in blood and treasure would be high. So high, in fact, that there are few people in the corridors of power in Washington, Tokyo or Seoul prepared to seriously consider the military option.

Yet this worst-case scenario may be deeply flawed. the North Korean regime is immoral and irresponsible, but it is not suicidal. Some kind of retaliation by Pyongyang for an attack on Yongbyon would probably be inevitable. Still, a full-scale attack against the South, or an artillery barrage against Seoul, is doubtful, given the likelihood that it would result in the destruction of the North and the collapse of its regime. More likely would be a Scud missile attack against one or more of the eleven nuclear reactors in South Korea, or acts of terrorism directed against the United States or Japan. But even here, the notorious inaccuracy of Scuds, and the presumptive protection of Patriot missiles, would almost certainly blunt such an attack. Terrorism would be harder to combat, but also less threatening.

The other possible, and more likely, response to a generous diplomatic offer in Geneva is that North Korea will agree to forgo the future production of fissile material in exchange for a comprehensive package of diplomatic, security and economic benefits. It will also insist that its past program is off-limits, thereby enabling it to keep weapons-grade material already produced. And this will present the United States with a tough choice. We will have to decide whether it is better to cut off North Korea's future production of fissile material at the price of permitting it to keep what is already has, or whether we should insist on total compliance with the NPT and the North-South agreement on the denuclearization of the Korean peninsula.

It is essential to understand that complete compliance with its obligations as a signatory of the NPT will not suffice: North Korea could continue to produce fissile material and to extract plutonium from it under the eyes of the inspectors. We must insist, therefore, on the implementation of the North-South Accord on the De-Nuclearization of the Korean Peninsula, which requires Pyongyang to dismantle its reprocessing facility. Our aim is that North Korea shuts it down and takes it apart. But the future of the North Korean program should concern us more than its past. Our stubbornness should not be misplaced. It would make little sense to let Pyongyang assemble a stockpile of nuclear weapons simply because it refuses to surrender the one or two weapons it already may possess; and in such circumstances it would be better to reach an understanding with Pyongyang in which it is permitted to keep the fissile material it already has in exchange for precluding it from accumulating any more. A single North Korean bomb will not threaten global nuclear stability. Many North Korean bombs will.

Forging a consensus among Washington, Tokyo and Seoul will not be easy. South Korea and Japan, understandably concerned about the possible use of nuclear weapons by North Korea against them, have a greater interest than the United States in preventing Pyongyang from being permitted to keep even one or two atomic bombs. The United States, on the other hand, has a greater interest than Japan or South Korea in preventing the proliferation of nuclear weapons around the world. Just as another conventional war on the Korean peninsula would be a worst-case scenario from the perspective of Seoul and Tokyo, the acquisition of nuclear weapons by rogue regimes and terrorist groups would be a worst-case scenario from the perspective of Washington. To honor these differing perspectives, the president should tell South Korea and Japan that we would be prepared to reject any North Korean proposal that would leave it with even a minimal atomic arsenal, should Seoul and Tokyo insist that we do so. In exchange, if Pyongyang refuses to abandon its nuclear project, Seoul and Tokyo should agree to the surgical strike that will be necessary to prevent North Korea from becoming a major and mischievous nuclear state. The chances are that the Japanese and the South Koreans will choose a negotiated settlement over a surgical strike, but choose they must.

Time is running out. In August the North Koreans may move their fuel rods and start to reprocess them. In such circumstances, sanctions, which will serve as a warning to other proliferators, will work too slowly to affect this proliferator. The crisis that Carter said was over will then be upon us. What will matter is the determination of the president. If the only way left to stop a nuclearizing North Korea is the use of force, the president should find the will, and the nerve, to order an attack. This will be a difficult decision to make; but if Clinton finds a way to stop North Korea from becoming a nuclear power, he will have established himself as the leader that the post-cold war world needs him to be. A decade from now, if Pyongyang has proceeded with its nuclear project, and sold atomic bombs to Libya, Iran, Syria and Iraq, not to mention terrorist groups and nationalist armies, historians will rightly describe our timidity as one of the greatest and grimmest failures in history.

JEWS AND THE CHRISTIAN RIGHT

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. DELAY. Mr. Speaker, I commend the following advertisement from the New York Times to my colleague's attention.

[From the New York Times, Aug. 2, 1994]

SHOULD JEWS FEAR THE "CHRISTIAN RIGHT"?

On June 9, 1994, the Anti-Defamation League (ADL) issued a report entitled "The Religious Right: The Assault on Tolerance & Pluralism in America." We are a group of Jews who wish to make it known that we reject the implications of this report and deplore its publication.

We do not question that it is the proper role of the Anti-Defamation League to identify the enemies of the Jewish community.

Jewish tradition, and indeed Jewish law, demand that the first concern of our communal organizations be the protection and survival of the community.

But the so-called "evidence" of a conservative Christian threat to Jewish security is derived from such discreditable techniques as insinuation and guilt by association. Thus the report uses the words and actions of a few marginal extremists to impeach individuals and groups whose only crime seems to be the seriousness with which they act on their Christian convictions.

It ill behooves an organization dedicated to fighting against defamation to engage in defamation of its own.

Insofar as the objections to the religious Right are honestly presented in the ADL report, they are mainly political ones: Christian conservation advocate positions that run counter to many people's beliefs about such issues as abortion, school prayer, homosexual rights, and the meaning of the First Amendment.

And not only do Christian conservatives advocate these positions, but in recent years they have begun to organize, publicize, and attempt to elect candidates sympathetic to their views. This is no different from what many other groups, including Christian liberals, have always done. By what proper definition of the term, then, does the political activity of Christian conservatives constitute an assault on pluralism?

The separation of church and state is not the same thing as the elimination of religious values and concepts from political discourse.

Moreover, Judaism is not, as the ADL seems to suggest, coextensive with liberalism. Nor, we wish to emphasize, does the Jewish community speak with one voice on the religious and moral—and political—issues of our time.

Above all, on the issue with which this community does speak in one voice namely, the survival of Israel, the Jews have no more stalwart friends than evangelical Christians. Judaism teaches the principle of Hakarat Hatov, that we have the duty to acknowledge the good done to us. In issuing The Religious Right the ADL has among other things seriously violated that principle.

For all these reasons, we call on our fellow Jews to reject this study. As a people whose history so vividly illustrates the bitter results of bigotry, we have a special obligation to guard against it, and all the more so when, as in the case of the ADL attack on our Christian fellow citizens, it emanates from within our own community.

Elliott Abrams, Hadley Arkes, Philip Aronoff, Robert Asher, Murray Baron, Matthew Berke, Herbert Berkowitz, Marshall Breger, Brian Camenker, Mona Charen, Daniel Cohen, Rabbi David Dalin, Midge Decter, Henry Delfiner, and Rabbi Samuel Dresner.

Shimon Erem, John Erthein, Rabbi Leonid Feldman, Suzanne Fields, Chester Finn, Harvey Friedman, Felice Friedson, Michael Friedson, Si Frumkin, Joseph Gelman, Richard Gilder, Douglas Glant, Al Grossberg, Roger Hertog, and Bruce Herschensohn.

Gertrude Himmelfarb, Milton Himmelfarb, David Horowitz, David Ifshin, Rael Jean Isaac, Erich Isaac, Binyamin Jolkovsky, Leo Kahn, Ruth King, Howard Klein, David Klinghoffer, Irving Kristol, Rabbi Daniel Lapin, Michael Ledeen, and Barbara Ledeen.

Esther Levens, Edward C. Levy, Jr., Rabbi Yamin Levy, Erich Licht, Hadassah Linfield, Elizabeth B. Lurie, Robert R. Mazer, Michael Medved, Adam Meyerson, Rabbi David Neiman, Rabbi Jacob Neusner, Rabbi David Novak, Gary Polland, Suzanne Peyser, and Dennis Prager.

Joyce Press, Morton Press, Lewis G. Regenstein, Henry Rosin, Jonathan D. Sarna, Ricky Silberman, Max Singer, Arnold Soloway, John Uhlmann, Rubert Unger, Joel M. Weingarten, Ruth Wisse, Fred Zeidman, Herbert Zweibon, and Fred Zeidman.

DIABETES RESEARCH

HON. DON JOHNSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today to urge my colleagues to support continued funding for diabetes research. Diabetes affects more than 13 million people in the United States, but the frightening thing is that more than half of those people are unaware that they have diabetes. Too often, they learn that they have the disease only when one of its symptoms—blindness, kidney disease, or heart disease—surfaces.

I speak from experience. My grandfather was diabetic; my father was diabetic; and I am diabetic. I live every day with the awareness that I must balance my diet, exercise, and medication to avoid the complications of diabetes.

Research into the treatment and potential cure for diabetes is an investment against future costs. Each year, diabetes costs this country over $90 billion in health-care expenses and the loss of productivity. Diabetics account for 5.8 percent of the total personal health-care expenditures in the United States while accounting for only 2.2 percent of the population.

Since 1987, the percentage of personal health-care expenditures for diabetes has more than doubled. The total economic cost of diabetes has quadrupled. Diabetes is more than a threat to the health of Americans—it is a threat to the economic health of this country. Vital research into the cure for this disease is being done, thanks to Federal funding. I urge my colleagues to support the continuation of this funding.

BARRE, MA, MOURNS LOSS

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. OLVER. Mr. Speaker, last week the town of Barre, MA, mourned the loss of Police Chief Michael J. Ryder.

Chief Ryder served his community for 23 years and, during that time, built a legacy of dedication to and compassion for the people of Barre. Having come to the police department in 1971 after earning a purple heart in Vietnam, Michael Ryder started as a short-term hire funded by a government grant and proceeded to rise to the rank of police chief by the youthful age of 25.

Known for his sense of humor and ability to communicate, Chief Ryder won a place in the hearts of fellow officers and town officials. He became a fixture in Barre, getting involved in activities ranging from helping out high school youths to leading the annual Memorial Day parade. He gave back to the community in which he grew up, and he will be sorely missed by the people he touched.

I join the citizens of Barre in lamenting the death of Chief Michael J. Ryder. My heart goes out to his family, friends, and associates, and to the people he served.

IN MEMORIAL: DR. JOHN B. BRITTON AND JAMES H. BARRETT

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. FILNER. Mr. Speaker, how long will the violence continue in front of women's health clinics? How long will we tolerate pure terrorism in the streets of America?

Last year in my hometown of San Diego, clinics were attacked with butyric acid—a dangerous toxic substance. In Florida, Dr. David Gunn was shot and killed for performing legal medical procedures. Across the Nation, clinics have been attacked, doctors and nurses have been attacked, and patients have been attacked. And now this latest tragedy in Florida, where Dr. John Britton and his escort, James Barrett, were murdered while Britton's injured wife, June, lay nearby.

When will the violence stop? Whether you call yourself pro-choice or pro-life—it doesn't matter. We must all be antiviolence. We must all be antiterrorism. We must all be antichaos. In a Nation such as ours, based on the rule of law, no one can place themselves above the law and commit acts of murder.

Last year, we were told that the FBI would look into these senseless acts. But talk is cheap and the violence continues. We must demand that the FBI do whatever is necessary to stop the continuing acts of terrorism taking place in front of clinics across this Nation. Sending out the U.S. Marshalls is a welcome step, but the only permanent solution is to prosecute and arrest those who advocate the use of violence against doctors. Let us not wait for another doctor to be slain. Those who incite this violence and those who commit this violence must finally be dealt with.

Nothing we do can bring back Dr. Gunn, or Dr. Britton, or Mr. Barrett. But they gave their lives to protect a woman's right to choose. Now we have to honor that commitment with determined action. For their sake, we must replace violence with justice, fear with confidence, and terrorism with freedom. Thank you.

TRIBUTE TO DR. WALTER GWENIGALE

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. MINGE. Mr. Speaker, I would like to take this opportunity to recognize the contributions of an outstanding individual, whose leadership and commitment toward his people in a

time of civil war should not go unnoticed. This person is Dr. Walter Gwenigale of Liberia.

Dr. Gwenigale grew up in a bush village in Liberia, attended the University of Puerto Rico Medical School, receiving a degree in 1967. In 1968, Dr. Gwenigale completed his internship in the United States and returned to Liberia to practice medicine.

In 1974, Dr. Gwenigale attained the position of medical director and chief surgeon of the Phebe Hospital, a 179-bed hospital, near Gbanga, Liberia. During his directorship, Liberia suffered through a 3½-year civil war. Dr. Gwenigale has carefully avoided being identified with the conflicting sides in this tragic war. Instead, Dr. Gwenigale and the hospital have been essential in treating the sick and the injured. The hospital was the only facility to consistently remain open throughout the conflict. In fact, the Phebe Hospital remained open even after it was damaged by a Nigerian fighter jet.

Dr. Gwenigale's leadership has been essential for the hospital to remain open. For example, he coordinated with many organizations in order to acquire moneys for the funding of the Phebe Hospital. These organizations include: the Lutheran, Methodist, and Catholic Churches, Christian Health Association of Liberia, and German and U.S. foreign aid. Also, Dr. Gwenigale is deeply respected for his continued commitment to provide for the health and welfare of the Liberian people. Dr. Gwenigale directs a 179-bed hospital with a staff of three doctors. Furthermore, even with a limited facility and staff, the Phebe Hospital is able to admit 7,000 patients a year and use an outpatient program to visit 70,000 more. Dr. Gwenigale has continued this mission at great personal risk. Tens of thousands have been killed or driven from their homes by parties in the conflict. At the same time he has not taken the easy path of emigrating to another area and practicing his profession in safety for far greater financial rewards. For these reasons, it seems fitting to bestow upon Dr. Gwenigale this body's sincerest appreciation for his work with the people of Liberia, and more broadly, his humanitarian work.

GEORGE SOROS' INSIGHT ON THE PROMISES AND PITFALLS OF BUILDING OPEN SOCIETIES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. LANTOS. Mr. Speaker, it is quite commonplace to observe today that the initial euphoria after the fall of the Communist regimes in Eastern Europe and the former Soviet Union has given way to widespread alienation, suspicion, and disenchantment as the peoples of these regions continue to see their expectations for a better material life unfulfilled, while crime, corruption, and unemployment mount daily. While there appears to be little reason to fear a return to the totalitarian regimes of the past, there is no certainty that stable democratic, market-oriented regimes will develop either.

Instead, some scholars, like Philippe Schmitter at Stanford, have noted the possibility of ad hoc democracies that muddle through but never really take root and gain legitimacy. They continue almost by default, but as time goes by they are beset by an ever increasing number of internal and sometime external threats to their survival. Obviously, that situation provides fertile ground for extremists who seek to advance their narrow, sectarian interests at the cost of the general good. They are more than happy to attack the institutions of pluralistic society, why they perceive as inimical to their goals. Of course, it has happened before in that part of the world and could happen again if these peoples are not vigilant in promoting and protecting their newly won liberties, and if they do not receive much greater material support from the West.

My good friend, George Soros, explained the problems and pitfalls and possibilities most eloquently in a statement he made yesterday at a hearing of the Subcommittee on International Security, International Organizations and Human Rights, which I have the honor to chair. George Soros does not paint an optimistic picture, and unfortunately I share his concerns.

Gerge Soros needs no introduction here in the Congress, but I will do it anyway. Not since John Maynard Keynes have we had an individual like George Soros who combines both great practical financial acumen and an intellectual understanding of the subtleties of international affairs. It is an intellectually stimulating treat to spend and hour with George to discuss these issues.

George Soros, who has born in Hungary and has extensive experience in the former Soviet Union and Central and Eastern Europe, is president of Soros Fund Management and Chief Investment Advisor to Quantum Fund, N.V., a $12 billion international investment fund, which is generally recognized as having had the best performance record in the world during its 25-year history.

In addition to his business interests, Mr. Soros founded the Open Society Fund in 1979, and he has established a network of foundations operating in 24 countries throughout Central and Eastern Europe and the former Soviet Union, as well as South Africa and the United States. These foundations are focused on helping to build open and democratic societies. The Soros foundations have contributed some $300 million to assist the new Republics of the former Soviet Union and the countries of Central and Eastern Europe in their transition to democracy. I wish, Mr. Speaker, that other governments including our own were as generous.

In his appearance before our subcommittee yesterday, George Soros gave a particularly insightful and thoughtful presentation regarding the problems of building open, pluralistic, and democratic societies since the fall of the Soviet Union. Mr. Speaker, it will be several weeks before the full transcript of that committee hearing will be available to Members of Congress. I ask that Mr. Soros' prepared statement from that hearing be placed in the RECORD, and I ask that my colleagues give it serious and careful attention.

TESTIMONY OF GEORGE SOROS

I welcome this opportunity to testify before your committee on the dangers of the post-communist world. I feel reasonably well qualified to speak on the subject and I have a great deal to say—perhaps too much for this hearing.

I have devoted much of my time, energy, and money to Central and Eastern Europe and the former Soviet Union in the last five years because I believed that the collapse of the Soviet system was a historic, revolutionary event and that the outcome would shape the course of history.

I have established a network of foundations whose aim is to help and promote the transition from a closed to an open society. Actually, I set up the foundation in 1979 and started the first local operation in my native Hungary in 1984, but my involvement increased as the collapse of the Soviet system accelerated. There are now foundations operating in 23 different countries and my annual contributions have risen from three million dollars in 1979 to 300 million dollars in 1993—but the amount of dollars spent is not the best indication of the efficacy of the operation because some of the best projects take the least money.

At the time I became involved, communist dogma had given rise to a closed society in which the state was dominated by the party and society was dominated by the state. The individual was at the mercy of the party-state apparatus.

Communist dogma was false exactly because it was a dogma that claimed to incorporate the ultimate truth. It could be enforced only by doing a great deal of violence to reality and, even then, it could not be sustained indefinitely. The gap between dogma and reality became ever more evident—the sway of dogma over people's minds ever more tenuous—until, eventually, the regime collapsed in a rapidly accelerating fashion that amounted to a revolution.

There was a moment of euphoria, in 1989, when people felt liberated from an oppressive regime and that moment could have been used to set into motion the transition to an open society. That was the opportunity I saw which induced me to throw all my energies into the process. But I must now admit that the moment has passed and the opportunity has been missed.

The breakdown of a closed society does not automatically lead to an open society, because open society is a more advanced, more sophisticated form of organization than a closed one. Freedom is not merely the absence of repression. A society in which people are free requires institutions which protect freedom and, above all, it requires people who believe in those institutions. The institutions themselves need to be much more sophisticated because they must allow for the expression of different view and interests, whereas a closed society recognizes only one point of view, the ruling one. In short, the transition from a closed to an open society is a step forward and upward and it cannot be accomplished in one leap without a helping hand from the outside. That was my motivation for getting so involved. But the open societies of the free world were not similarly motivated. There was a lot of good will toward Eastern Europe at the time, but somehow it was not translated into effective action. Government policy, both in Europe and in the United States, were characterized by a singular lack of comprehension and lack of vision.

Compare the reaction to the collapse of the Soviet empire with the collapse of the Nazi empire. Then, the United States still had the vision, and the generosity, to engage in the Marshall Plan, and the Marshall Plan worked wonders. It did not merely provide

assistance, it provided a framework for the countries of Europe to cooperate. It did not merely send technical experts to impart their wisdom, it brought large numbers of Europeans to the United States and allowed them to form their own agenda. We seem to have forgotten all these positive experiences. By the time the Soviet empire collapsed, there was no political support for any kind of large-scale assistance and the Marshall Plan had become a dirty word.

In the absence of Western leadership, the collapse of the Soviet system did not lead to the emergence of open societies. Moreover, there can be no assurance that what was not accomplished in the heat of the revolutionary moment would be attained by a slower, more laborious process. On the contrary, insofar as a pattern is emerging, it is pointing in the opposite direction.

The breakdown of a closed society based on the universal dogma of communism has led to a widespread rejection of all universal ideas, and the countries which used to constitute the Soviet empire are trying to find an organizing principle in their own particular history. There are, of course, exceptions to the rule. But the dominant theme which seems to be emerging is national or ethnic identity rather than any universal concept such as democracy or human rights or the rule of law or open society.

This creates a very dangerous situation because national grievances can be exploited to form more or less closed societies, and that is a recipe for conflict. In order to mobilize society behind the state, you need an enemy and, if you do not have one, you have to invent one. That is what Hitler did when he identified Jews as the enemies of the German Volk, and he has many imitators in the post-communist world. Unfortunately, there is no shortage of grievances, because communist regimes used to suppress all national or ethnic aspirations which did not suit their purposes.

Although some of the nationalist leaders are former dissidents, former communists are usually more adept at exploiting national sentiment because they understand better how to operate the levers of power. They can forge greater national consensus than democratic leaders striving for an open society. Look at Milosevic in Yugoslavia, Tudjman in Croatia, Meciar in Slovakia, and Kravchuk in Ukraine, and compare the kind of majorities they could muster at the height of their popularity with the narrow political base that pro-Western democratic governments have had to contend with in countries like Russia, Poland, Bulgaria, or Macedonia.

In the context, I do not find the recent electoral victories of former communist parties in countries like Hungary, Poland or Lithuania disturbing at all. These are reform communists who want to get away from communism as far as possible. Their re-emergence constitutes a welcome extension of the democratic spectrum. I am particularly pleased with the outcome of the recent elections in Hungary. The nationalist line was rejected by the electorate, and the fact that the Socialist party entered into a coalition with the Free Democrats on the basis of a well-conceived and well-articulated reform program augurs well for the future. In the case of Poland, the changeover is less fortunate because the radical and painful reforms undertaken in 1990 had just begun to bear fruit and the government had just begun to function properly when it was defeated. But the course of reform is irreversible and Poland is probably the most dynamic country in Europe today, both in terms of its economy and its spirit. The worst that can happen is that it loses some momentum.

All in all, I see hardly any chance of a reversal to communism. Communism as a dogma is well and truly dead. The real danger is the emergence of would-be nationalist dictators—I call them "NADIs" for short. They are playing in a field that is definitely tilted in their favor. It is much easier to mobilize society behind a real or imagined national injury than behind an abstract idea like democracy or open society. Building the open society is essentially a constructive process, and it is only too easy to use ethnic conflict to undermine its foundations.

Take the case of Yugoslavia, a relatively prosperous country which had been open to the West for twenty years and had developed the intellectual resources which are needed for an open society. I remember 1990, when monetary reform was introduced in Yugoslavia and Poland at the same time. Yugoslavia was much better prepared to carry it out. It had a group of people who had been trained by the IMF and the World Bank, and the reform was, in fact, much more successful than in Poland. That was in May 1990. Then Milosevic raided the treasury in the course of his electoral campaign and destroyed monetary stability. That was the end of the attempt to transform Yugoslavia into an open society.

And now we have an even more striking example: Greece. Here is a country that is a member of the European Union, of NATO, fully integrated into the international community. Yet it has been possible to whip up national sentiment to a frenzy over the name "Macedonia." A small and weak neighbor to the north is blown up into a threat to the territorial integrity of Greece. Admittedly, there is a minority in Macedonia which harbors irredentist dreams based on ethnic injuries suffered in the past. But the government of Macedonia is genuinely devoted to the creation of a multi-ethnic, democratic state. It is ready to make every concession short of giving up its own identity. But Greek public opinion resonates to the Macedonian extremists, not to the Macedonian government, and the issue has been exploited for domestic political purposes in Greece.

In the meantime, the Macedonian economy, already severely damaged by the sanctions against Serbia, is collapsing under the weight of the Greek embargo. The railroad connections run north and south, and Macedonia is cut off on both sides. As a result heavy industry, which relies on rail transportation, has been brought to a standstill. The economic crisis has endangered political stability. The multi-ethnic, democratic coalition is threatened by extremists on both the Slavic-Macedonian and the Albanian sides. It may easily fall apart in the next elections and, if Macedonia falls apart, we have a third Balkan war.

As you can see, there is plenty to worry about in Eastern Europe. When I embarked on my project, I was planning on a short-term campaign to seize the revolutionary moment and to provide an example that would be followed by the more slowly moving, more cumbersome institutions of our open societies. But I was sadly mistaken. Now I must think in biblical terms—forty years in the wilderness. The battle for open society is not lost, as the examples of Poland and Hungary demonstrate, but it will take a long time and a lot of help from the outside and that is what I am worried about.

I have always been aware of a fatal weakness in the concept of open society. The weakness is that people living in an open society do not even recognize that they are living in an open society, let alone treat open society as a desirable goal for which it is worth striving and making sacrifices. In one way, freedom is like the air: people struggle for it only when they are deprived of it. When it is there, they take if for granted. But, in another way, freedom is very different; if you do not care for it, and do not protect it, it has a tendency to disappear.

If there is any lesson to be learned from the revolutionary events we have witnessed in Eastern Europe since 1989, it is that freedom is not merely the absence of repression, and the collapse of a closed society does not automatically lead to an open society.

The trouble is that this lesson has not been learned. When the Soviet empire collapsed, we had no hesitation in declaring it a victory for the free world. But, equally, we had no inclination to make any sacrifices for the sake of establishing free and open societies in that part of the world. The consequences are now painfully obvious, but we have not even started to recognize them.

What has gone wrong? I believe our concept of freedom has changed. In the Second World War, it was promoted into an idea that we were ready to fight for and to sacrifice for. And the idea as it was then conceived involved freedom not only in our own country, but also in the countries which were the victims of a totalitarian regime. This conception carried over into the post-war period. It was responsible for the dismantling of colonial regimes and the forging of an anti-communist alliance.

But gradually the idea faded and another idea emerged which explicitly rejected the pursuit of freedom as a valid objective for foreign policy. That idea was "geopolitics" which maintained that states ought to pursue their own self-interest as determined by their geopolitical situation, and moral or ethical considerations have only a secondary role to play. They can be useful for propaganda purposes—mobilizing public opinion at home or abroad—but you can get into a lot of trouble if you actually believe your own propaganda.

The companion piece to geopolitics in international relations was the concept of laissez-faire in economics, which enjoyed a miraculous revival in the 1980s. As you know, it holds that the unhampered pursuit of self-interest leads to the best allocation of resources. These have been the two main concepts which have guided us in our response to the collapse of the Soviet system and which continue to guide us today. I find that they are woefully inadequate for the situation at hand.

As long as we were locked in deadly combat with the Evil Empire we lived in a stable world order and we had a clear view of our own place in the world. The world order was stable because both sides had the capacity to destroy each other and therefore neither side could risk all-out war. And we could define ourselves in terms of our enemy: we were the leaders of the free world. But the stability of the world order has been destroyed by the internal disintegration of the Soviet empire and, what is worse, we have lost our sense of identity. We still want to be a superpower and leader of the free world but we do not know what these terms mean. We do not know what the free world stands for and, what is worse, we don't know whether we should stand for the free world because we have come to believe that our way of life is based on the pursuit of self-interest, as exemplified by the doctrines of geopolitics and laissez-faire.

In some ways the present situation is unprecedented. In the past, peace and stability have been maintained either by an imperial power or by a balance of powers or by a combination of the two. Right now, we do not have either. The United States does not have the capacity, or the interest, to dominate the world the way Britain did in the 19th century. Britain derived enough benefit from free trade to justify maintaining a fleet in being; but the United States is no longer the main beneficiary of free trade and it cannot afford to be the policeman of the world. We must depend on collective action but we have no clear idea what the collective interest is.

The result is a dangerous power vacuum. There was some hope that it would be filled by the United Nations, but the United Nations is no better than the states that constitute it. Indeed, it is worse, because the member states generally pursue their own national self-interest, to the detriment of the collective interest, and the U.N. is managed by a bureaucracy that is more interested in its own survival than in the survival of our civilization. There has been no instance in history when peace was maintained by an international institution and there is no reason to believe that the current situation will be any different.

What is to be done? I don't have all the answers, but I have a suggestion which may help. I propose that we should declare the creation and preservation of open societies as one of the objectives of foreign policy, and in the case of the former Soviet sphere we should declare it as the main objective. I draw a distinction between the former Soviet sphere and the rest of the world because the Soviet system has irretrievably broken down; what system takes its place will have a profound influence on the course of history and therefore on our own future. In the rest of the world, the promotion of open societies is one of many competing objectives, but in the former Soviet sphere it is of paramount importance. In my opinion even the nuclear issue ought to be subordinated to it.

When I speak of open society, I mean a form of organization that can be loosely described as democracy. But the concept of open society is more comprehensive. It means not only a democratically elected government but also a society that is not dominated by the state; that means a strong civil society and the rule of law. And it is not enough for the government to be elected by a majority; it must also respect minorities and minority opinions. In other words, I propose substituting the framework of open and closed societies for the old framework of communism versus the free world. The old framework was highly suspect even when it was relevant, because anti-communism could be used to justify actions which were incompatible with the behavior of an open society. The new framework allows us to define ourselves in terms of what we stand for rather than in terms of our enemies. It provides a perspective which is woefully lacking at present. For one thing, it tells us that nationalist dictatorships are as much of a threat today as communism used to be.

How can this perspective be translated into policy recommendations? First, we need a strong European Union capable of taking foreign policy decisions. This is missing today, as the quagmire in Bosnia has so sadly demonstrated. Second, the European Union needs to become more open, especially towards the East, and not turn into a fortress protecting itself against the turmoil outside its walls. The countries of East Central Europe need the clear prospect of being able to join the European Union in order to complete the transition to open societies. They need private investment more than they need government aid, and the prospect of membership is the best recipe for attracting private investment. I believe that the United States and Germany, if not all the other members of the European Union, would agree on this point.

Third, NATO—which is essentially an alliance between North America and Europe—ought to serve as a mainstay of the new world order. Whether a direct link is needed between NATO and our Asian allies like Japan and Korea is an open question. But one thing is certain: NATO cannot fill the power vacuum that has been created by the collapse of the Soviet empire; there needs to be an alliance between NATO on the one hand and Russia and the other successor states on the other. NATO can be extended to include the Central European states which are candidates for membership in the European Union but, if it also included Russia, it would be so diluted as to become meaningless. That is the origin of the Partnership For Peace but, in its present form, it does not even begin to fulfill the function for which it was designed. It is not much more than an empty gesture. It is a worthy successor of the vacuous and dilatory policies of the Bush Administration, and it is perceived as such in Russian. Here is the point where a fresh perspective could come in useful.

I have argued that Russia and the other successor states are in need of outside assistance in order to make headway with their internal transformation. They do not perceive issues of external security as a threat; rather, they see them as opportunities to divert attention from their economic failure and to mobilize political support. In these circumstances a Partnership For Peace, on its own, is bound to remain an empty gesture. It needs to be accompanied by a "Partnership For Prosperity," a latter-day version of the Marshall Plan, to give it substance.

The idea is not a preposterous as we have conditioned ourselves to believe. It could be financed by the IMF with an issue of Special Drawing Rights and, if successful, it could be repaid in full. It would solve the most burning issue of the region: how to create a common economic space without total political domination by Russia. In this context, the recent presidential elections in Ukraine which produced a president who is genuinely interested in economic reform offers an opportunity which I hope we shall not miss. A genuine Partnership For Peace, coupled with a Partnership For Prosperity, would provide a firm foundation for a new world order. In its absence, we are going to have world disorder.

Let me end with Macedonia. This is a clear case where an ounce of prevention can save us tons of troubles. We ought to make it a matter of priority to come to the aid of this tiny country with a democratic, multi-ethnic government, which is on the verge of economic collapse for reasons which are beyond its control.