

SENATE—Tuesday, September 27, 1994

(Legislative day of Monday, September 12, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

Commit thy way unto the Lord; trust also in him; and he shall bring it to pass.—Psalm 37:5.

Gracious Lord, deliver us from the futility of lost causes and bankrupt ideas. Save us from thinking we are thinking, when all we are doing is rearranging our prejudices.

Help us think originally, creatively, constructively.

Lord God, let Thy will be done in our hearts and homes and offices.

We pray in the name of Him whose human perfection lay in obedience to Thee. 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, September 27, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President Pro tempore.

Mr. FEINGOLD 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.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from North Dakota [Mr. DORGAN] is recognized to speak for up to 15 minutes.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, I wanted to take some time to discuss two issues today. First, very briefly, mercifully, probably in the minds of some, today the Federal Reserve Board will again meet here in Washington, DC. They will likely close their doors in secret to make important decisions about the interest rates we will pay. The decisions very much affect this country's economic future.

Five times in the last 7 months they have done that, and they have increased interest rates five times with no public debate, no fresh air of public thought intermingled with their private discussions. They decided at least in their minds that the fear of inflation was so significant that they should put the brakes on the American economy.

Of course, there is no credible evidence of inflation. Inflation has been down 3 years in a row, and neither is there any credible evidence of inflation on the horizon. But the Federal Reserve Board, nonetheless, seems intent on putting the brakes on the American economy by increasing interest rates.

Today they will make another decision. They have decided in the last 7 months to increase the cost of public borrowing by more than \$100 billion in the coming 5 years. In other words, after all of the wrenching debate last year to reduce the Federal deficit, done in public with great public debate, we came up with a \$500 billion deficit reduction plan. In 5 years the Federal Reserve Board, with no public debate and in secret, has taken action on five occasions to increase interest rates, which increased the cost of borrowing for the Government by over \$100 billion. They have, with no public discussion, taken back one-fifth of all of the deficit reduction package that we enacted last year.

I urge the Federal Reserve Board today to begin paying attention to the needs of this Nation. Do not just fear inflation. Yes, inflation is to be feared. But there is no credible evidence that inflation is on the rise. Fear recession; fear unemployment as well. Let us have a balanced policy of not only stable prices, but economic growth.

THE GENERAL AGREEMENT ON TARIFFS AND TRADE

Mr. DORGAN. Mr. President, I came to the floor today primarily to talk briefly about GATT, the General Agreement on Tariffs and Trade. It does not mean very much to most people in this country. Yet GATT, or the General Agreement on Tariffs and Trade, the trade agreement that will come to the Senate and the House for approval, is one of the most significant pieces of economic policy and trade policy we will confront in a quarter of a century.

It will be done, if some have their way, in a matter of a day, or a couple of days, or a week, sliding through the House and the Senate under a procedure called fast track.

Fast track is just what it sounds like. In basketball they call it fast break. In trade they call it fast track. It means they are running down the court as fast as they can to get to the other end before anybody else gets set up for defense.

Fast track on trade policies means that when a trade bill comes to the floor of the Senate there are no opportunities for amendment. You will approve it as is.

GATT, a trade agreement with many, many nations around the world, will now be brought to us under a procedure called fast track. It will, in my judgment, disserve this country's economic interests if we decide to try to push GATT through the keyhole in the next week or 2 weeks under fast track without a thoughtful national public debate about what our trade policy ought to be.

The fact is our trade policies are in disarray and have been for a long, long time. We are heading this year to the second largest trade deficit in the history of this country. If the pattern holds true, this year's trade deficit—that is, what we purchase versus what we export—will be around \$145 billion. This is not a deficit we owe to ourselves. It is one we have to pay at some point. And we will pay that with a decreased standard of living in this country.

Fortunately, this administration has pursued better trade policies than the two previous administrations. Nonetheless, our trade policies are still out of kilter. Our trade deficit with Japan is about \$60 billion; with China, \$24 billion. Those are just examples.

GATT, although it will not be discussed in the bars and the barber shops

and cafes around the country, represents the rules by which we trade with each other in this world.

When I studied and taught economics, we taught about the doctrine of comparative advantage in which under a perfect world order each country would do what it does best and then trade with the other. That would be the most efficient world order. The assumption by those who preached free trade and a free market system—Adam Smith and Ricardo and the others—was first of all that capital is not mobile. Today it is mobile in an instant.

Second, back in the good old days you not only had capital that was not mobile, but you had nations rather than corporations.

Today, capital is mobile instantaneously to move any place in the world; and, second, today we have corporations rather than nations. Corporations encircle the globe as world citizens and decide here is what we want to do, here is how we want to produce, and here is how we want to access markets.

The big corporate interests are saying is we want to produce where it is cheap to produce and sell in the established markets. We, as a country, have decided it is just fine with us if all of that happens because our consumers are advantaged by cheaper goods.

The problem is our consumers used to have jobs in which to pay for those cheaper goods and, of course, when the production moved away the jobs also left. So now this country has a lower standard of living with lower wages than we had on average—adjusted for inflation—a decade ago, and more and more production jobs moving elsewhere. And most of the new jobs in this country are jobs that pay less.

What does all of this mean? It means that we are heading toward what is called the British disease if we keep believing this kind of trade policy represents our economic interests. If we decide, as a country, that we should continue to measure our economic health based on what we consume rather than what we produce, we inevitably, as a country, will face a future in which our economy is atrophied.

Put yourself in the shoes of a corporate enterprise that is a world citizen doing business all around the world. Its interest is to its stockholders. How does it make maximum profits with the resources it has under its command? Let us assume that this corporation produces shoes.

In fact, let me cite just for a moment a piece that I think was in *Business Week*, that I read about a corporation employing someone who produces shoes. A corporation employs a woman outside of small town in Indonesia to work in a manufacturing plant for about 14 cents an hour. She works 10½ hours a day, 6 days a week, and makes about \$35 or \$37 a month. There is

about 1¼ hour labor in the pair of shoes that she makes. So, the pair of shoes, which is sent back to our market to sell for \$80, has about 20 cents labor in their construction.

A corporation that decides, I am going to make a pair of shoes or a jacket or shirt or whatever, has an opportunity to look at various approaches around the world on how it wants to produce. And for the same money, it has this opportunity—for the same manufacturing wage it can decide to do the following: It can hire 1 American, or it can hire 23 Filipinos instead. It can decide to hire 42 workers in India as opposed to the 1 American. Or it can decide to employ 80 people in China as opposed to 1 American.

Let me rephrase that, because I think it is important to understand what GATT is about. GATT says let us have free trade. It does not talk about standards, or wages, or livable conditions, at least in a way that is enforceable.

We have minimum wages in this country. We have worker safety standards. We say you cannot employ kids except under certain circumstances and restrictions. We are not going to have 10-year-olds working in coal mines anymore because we have certain child worker standards.

So my point is, we have decided the rules in our country so that those who work are able to get some sort of livable income. But GATT says let us begin trading and competing with other countries, many of whom have no similar kinds of rules.

So we are saying, all right, if you want to produce something, you take a jet, you circle the globe and look for the opportunity to produce at the least cost. American workers, you compete. We are now a team. We have the U.S.A. jersey on. We are a competitive team to produce shoes or shirts or refrigerators. And this team of ours, with our average manufacturing wage in this country of about \$15.50 or \$16 an hour, is competing. For an hour of labor you have the opportunity as producers, as a corporate producer, to hire 1 American, to hire 23 residents in the Philippines for the same wage for the same hour of work, or to hire 42 people from India, or to hire 82 Chinese.

What do you decide to do? You decide increasingly the production of a good many items will be done in areas where you can hire 80 people for the price of 1, as long as there is no price to access the marketplace back here in America.

We tell corporations they can go hire those 80 people for the price that you pay for 1 American, and the product of that you can ship back into our marketplace without any problem at all because our marketplace is open and there is no access charge. You can just have free access. It does not matter.

I am saying that makes no sense for us. Yes. We should have a trade agree-

ment with the other countries whose economies are similar to ours.

But does the new GATT make sense?

Let me just show a chart of some of the wage rates of some of the countries involved in GATT. These are just a few because we are talking well over 100 countries. You have industrialized countries: the United States, Canada, Germany, France. As you see, Germany pays the highest average manufacturing wage of \$25. The United States is about \$16. Spain, Britain, and then what do you see? You see other countries. I could tail off on this map well down with Bangladesh, Sri Lanka and so on. You see China, Thailand; you see India, the Philippines.

The question is do you have a circumstance of fair competition where you say to those who are producing, go ahead and produce where it is cheapest, and then access our marketplace?

The American people have to understand we simply must not embrace trade rules that say it does not matter where you do business because we measure economic health based on consumers. If we continue with such mistaken policy, we consign ourselves to a future that is very, very dismal.

We should want to compete, and we should not have to compete, for 14 cents an hour wages. We should not want to, nor have to, compete for \$1 an hour wages. We have fought far too long in this country to bring up the standard of living so that families can work and care for themselves and improve their lives and educate their kids and provide opportunity for the future.

It makes no sense for Americans to believe in this notion of so-called free trade when we are talking about trade with countries who have no requirement that you must pay a living wage for work performed, or with countries who have no requirement on the kind of work or safety standards we believe to be imperative.

I think it will not be in the best interest of the Senate, the Congress, or the American people if we decide in the next 2 weeks, let us take this giant piece of trade policy and shove it through the keyhole under fast track so that nobody gets a chance to catch their breath and ask what are we really doing here.

I very much hope that the leaders of the Congress, the American people, and others, will decide this is far too important a policy for our country to push through Congress in a couple of weeks. We should do this next February, March, or April in the new Congress with a substantial national debate about what our trade policy ought to be.

Is there a price for accessing the American marketplace? Is that price the requirement that you invest here, create jobs here, or at least that over there in the production sector you pay some notion of a living wage? Are there

any requirements at all, or have we become slaves to this notions and slogans or so-called free trade?

By speaking here today I know that I risk incurring the wrath of all the editorial writers, the business writers, and many others in New York and Washington, who decide that if you are not for free trade, for GATT, you are a xenophobic isolationist boob. That is the way they portray those who do not join the free-trade chants. What a bunch of nonsense.

GATT is about jobs, about economic health, about American economic growth in the years ahead. If we cannot have a thoughtful discussion about GATT and our trade policy and do it not on fast track, but in a manner that serves this country's best interests, then I fear that the Congress, which ought to be the great debating place in our country, is not going to serve its constituents well.

Along with several others in this Chamber, including the Senator now presiding, I have asked the leadership to give us an opportunity to have a straight up-or-down vote first on the question of waiving this body's budget rules in order to pass GATT. Implementing GATT is going to cost some money—an estimated \$40 billion in 10 years—and increase the deficit. That is, the deficit will be increased if we pass this GATT agreement.

Well, are we going to waive the budget rules? Are we unwilling to waive the budget rules on a whole range of things people need in this country, things that invest in human potential, human needs? Of course, we are unwilling to do that, because we have the discipline and we have decided there is a certain way to do things, and we ought not increase the deficit.

Are we going to come to the floor and roll into fast track a budget waiver that says that for all the other things in this country that we felt were important, we were not going to waive the budget rules, but for GATT, that is just fine?

It is not fine with me. We ought not waive the budget rules, and in my judgment, we ought not consider GATT under fast track this fall. This is a decision the American people ought to help make after the turn of the year.

I yield the floor.

Mr. KERREY addressed the Chair.

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

HEALTH CARE REFORM

Mr. KERREY. Mr. President, yesterday, Senator MITCHELL announced that the Senate would stop its work on health care reform this session. This news represents a victory for the politics of the status quo and a disappointing defeat for Americans.

The debate on health care reform has long since dwindled into confusion and

confrontation. Many Americans became opposed to our health care reform efforts. A majority of Nebraskans opposed most of the health care proposals considered by the Congress. They have listened to ads warning against a big Government takeover, or of restriction of choice, or of long waiting lines, and the majority has begun to say maybe it is good that we wait to change our laws.

That is understandable, since in any year the majority will be secure and will not get seriously ill. The majority does not face an immediate problem.

It is the minority that has an immediate problem. This year less than a fifth of us will need to enter a hospital as a patient. Only one in five Nebraskans each year learns about the complexity and cost of our existing system of payment and delivery.

Only a fraction of those will learn what it means to have a stranger in Washington or a stranger in an insurance company tell their doctor: We will not pay for that procedure. Only a few of us each year face the prospect of not being able to afford the treatment our doctor tells us might save our lives.

In our hearts we know that the problem faced by our neighbor this year is a problem we may face next. Next year it may be our job that is lost in an act of corporate downsizing. Next year it may be our family that faces a serious illness or accident that forever brands our forehead with the scarlet letters: "preexisting condition."

In our heads we know that cost of health care is bankrupting America. This year \$318 billion of our Federal taxes will be used to provide health care to elderly Americans, poor Americans, disabled Americans, American veterans, and Americans who work for the Federal Government. And we will provide \$90 billion in Federal tax subsidies to encourage Americans to buy private health insurance.

The year to year increase in Federal taxes to pay health care bills is \$38 billion. That is almost \$400 in new Federal taxes paid by each American household just to pay for the increase. That is on top of \$4,000 in direct and indirect tax spending per household.

In our hearts, where we are able to understand the need for health care security, and our heads, where the numbers are calculated, we know that the status quo is not acceptable.

We know that change is needed.

We will fail again next year if we begin by dividing ourselves into Democrats and Republicans, insured and uninsured, rich and poor, urban and rural. We will fail if we insist on accentuating our differences.

Unity does not mean we must paper over our differences. Differences honestly expressed typically allow us to discover win-win solutions. That is what the mainstream coalition attempted to do in the Senate this year and will continue to do next year.

The most difficult barrier to changing our Federal laws is the realization that each of us must change our old habits and ways. As long as we can blame someone else change is easy. As long as we can ask everyone to change but ourselves the job looks simple. The minute it occurs we are going to have to do things differently, too, the fun goes out the window, the air goes out of our tires.

And change we must:

If we want to continue to have best health care in the world; if we want all Americans to know with certainty they will get the health care their doctor prescribes; if we want all Americans to accept personal responsibility for taking care of themselves at the same time we provide a safety net for those who cannot; if we want to bring costs in line with our expectation and capacity to pay; if we want to get healthier.

The mainstream proposal was not a free lunch. It asked Americans to change their behavior as consumers of health care services, as citizens who decide how our State and Federal programs will operate, and as human beings who must face difficult moral and ethical health care choices.

As consumers of health care we must change. Over the past 40 years we have erected a wall of third party reimbursement which now stands between us and the providers of services. Typically neither the buyer nor the seller knows the price anymore. To make the market work—in contrast to a Government run system—Americans must make a greater effort to learn about the price and quality of health care services.

I believe the market will work if consumers are given more information about providers and payers. To do this our laws must be changed so that Americans are not prevented from getting information about their providers. I believe laws that prevent or discourage buyers and sellers from learning about each other must be discarded. And, I believe that tax laws which encourage Americans to buy expensive plans need to be changed so that all of us face the true cost of health care.

As citizens we must also change. The mainstream proposal asked Americans to change by giving every taxpayer honest and complete information which includes how much of their taxes are used to pay for Federal subsidies, who is being subsidized by whom, and most importantly what needs to be done to achieve universal coverage. I believe the American people cannot be expected to make good decisions about financing health care unless and until they are given the truth about what we are doing now.

Finally—and perhaps most difficult—we must change as individuals. Many of the health problems that cost us a lot of money are the result of smoking, alcohol and drug abuse, lousy nutrition, and other irresponsible behavior.

If personal responsibility is to be a guiding principle for making payments it must also guide us in making the personal decisions which often determine how healthy we are.

Further, we cannot expect too much of our doctors and hospitals. Not only do we need to rein in the movement to sue every time something does wrong, but we need to face this terrible truth: The system cannot give us eternal life. The most difficult decision is not a medical or an economic decision, it is a moral and ethical decision.

I am an advocate of moving the power to make these decisions away from Washington out to the States and local level. That is the good news. The bad news is that we will have to decide and will have no one to blame but ourselves when we are wrong.

The mainstream proposal asked Americans to consider that all Americans deserve the security of high-quality care. While we did not start off with universal coverage, we attempted to get there as soon as possible.

To be clear about universal coverage I would prefer to start with a clean slate. I would prefer to begin with a simple though radical change in the way we become eligible for health care. Eligibility should occur if you satisfy one of two tests. You are an American or a legal resident. However, to participate you would have to agree to accept responsibility to make payment according to your capacity to pay and to participate personally in the job of controlling costs.

High-quality health care is never going to be cheap. It is always going to be difficult to say no. The mainstream group believed we cannot and should not make promises we cannot keep. We cannot afford a new unfunded, non-means tested entitlement. We cannot afford to promise subsidies which removes the important personal incentive to save for the rainy day.

The mainstream coalition intends to work toward these objectives again next year. Although the process has understandably made Americans suspicious, we must begin again next year in a bipartisan and less political environment.

We cannot afford to sit smugly in the knowledge that we are in the majority who are temporarily secure. Today, the bell of health care insecurity tolls for someone else. Tomorrow, it may toll for us.

Mr. President, I yield the floor and I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, is this time in morning business?

The ACTING PRESIDENT pro tempore. The Senator is permitted to speak for up to 5 minutes.

Mr. DOMENICI. Thank you.

Mr. President, I ask unanimous consent that I be allowed to speak for an additional 5 minutes.

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

SECTION 8 HOUSING

Mr. DOMENICI. Mr. President, the appropriations bill on VA-HUD appropriations raises a serious question about truth in budgeting. For years, we have anticipated the high cost associated with the renewal of section 8 housing contracts and for years we have procrastinated facing some very difficult policy choices.

Section 8 housing is the privately financed housing for the poor in the United States which we handle by subsidizing their rental contracts with those who build section 8 housing. It is the most significant program for low-income housing; 2.8 million of the low-income households that we help with as a nation are section 8 housing.

This assistance program, I repeat, subsidizes 2.8 million low-income households through contracts with local housing agencies, State housing finance agencies, and private owners.

Congress must provide discretionary budget authority at one time to cover the anticipated cost for the life of a section 8 contract. Before 1989, section 8 contracts ranged in length from 5 to 40 years. Beginning in 1989, HUD began issuing 5-year contracts. However, as budgetary pressures increased, HUD has increasingly renewed section 8 housing for less than 5 years with unknown consequences to the program and the effect of postponing the inevitable need to pay the true cost of these renewals.

In August 1993, using HUD data, the General Accounting Office estimated that total section 8 renewal costs for the years 1994 through 1998 would be \$59 billion. That means, Mr. President, if we are to continue the same level of units and the same subsidy program, which I think we are saying almost uniformly is probably the best program we have for low-income housing, if we were going to continue it at the same pace, we would need \$59 billion as the cost of contracts for years 1994 through 1998 with each year's renewal costs subject to the cap on discretionary spending and in competition with other discretionary programs.

Let me repeat. That \$59 billion in additional new budget authority to continue this level of housing will be competing with all of the other discretionary program funding for the United States. And we now have severe caps

imposed on discretionary spending. In fact, the General Accounting Office predicted the largest increase in renewal costs would occur between 1995 and 1998 when costs are expected to double to an estimated \$14 billion in 1996.

This appropriation bill again defers action on the cost of section 8 renewals. While the General Accounting Office has estimated the 1995 section 8 renewal costs to be \$7 billion, and the CBO baseline, the Congressional Budget Office starting point, has \$6.5 billion in renewals for 1995, this bill provides a nominal \$2.5 billion in budget authority.

The significance of that is that we have no way of knowing what this is going to do to the section 8 housing that we have committed to. We only put \$2.5 billion in this budget in this appropriation bill where both expert agencies say we should have between \$6.5 and \$7 billion in budget authority to keep the program intact.

For several years, administration budget requests have fallen short of actual section 8 renewal costs, in part because of HUD's inability to accurately track expiring contracts, but also because of what appears to be an attempt to obscure the true cost of the program. For example, the administration requested \$4.3 billion for section 8 renewals for 1995, assuming 5-year contracts. Using HUD data, GAO estimated the 1995 renewals should be closer to \$7 billion. However, to ensure that funds would be adequate to renew all expiring contracts, the administration requested authority to transfer funds as needed from the annual contributions to assisted housing and allowed for contracts of less than 5 years in order to temporarily save budget authority. That is program authority.

Mr. President, this also has become a shell game. How much longer can we avoid facing the costs of this program? Just look ahead to 1996, when renewal costs are expected to more than double in 1 year. The Congressional Budget Office estimates the 1996 renewal costs to exceed \$12 billion. To keep the program intact, to fund the renewals in an ordinary way that assures that we are providing this, it will cost in excess of \$12 billion in 1996.

With the discretionary spending cap imposing extraordinary limitations over the next few years, that is 4 to be exact, how likely does it appear that Congress will increase funding for section 8 renewals by some \$10 billion in 1 year, effectively raising total HUD spending by 40 percent from 1995 to 1996?

The administration's housing reauthorization bill was silent on this question. I appreciate that in the Senate-reported authorization bill, we have attempted to impose some measure of cost control over the process of

project-based section 8 renewals. However, we must recognize that it represents only the beginning steps of addressing this serious funding shortfall. There will be no painless way to fix this problem.

I intend to offer an amendment to the housing reauthorization bill, which I believe will be accepted on both sides, to impose much stricter reporting requirements on HUD in terms of illustrating the costs of section 8 renewals. My amendment requires HUD to provide to both the Senate Banking and Budget Committees, in conjunction with the President's annual budget submission, a detailed analysis of section 8 costs for the coming year and the subsequent 5 years, an analysis of the programmatic effects of shorter-term contracts. We still do not even have any idea of what these shorter-term contracts are going to be to the supply and to the liability to the entire program for low-income housing, and recommendations should be included for meeting projected renewal costs. That will be part of the amendment which I intend to offer. I do not think the Senate can turn it down.

Clearly, we are walking some kind of very, very tight tightrope in terms of whether we are going to be able to continue this program, and if not, it is obvious that we ought to know the results. If we are to continue, it is going to require larger injections of program authority into a tight budget, and we have put ourselves in that bind.

Shortening the length of contracts and granting broad authority to divert funds from other housing programs, in my opinion, will not be adequate to address the renewal costs in 1996 and beyond. Members of Congress and the public need to clearly see the cost of section 8 renewals if we are to ultimately reach consensus on modifications to the program, and it may very well be that we should approach modifications, but we should do that with full understanding of how we got where we are and where we want to end up.

Mr. President, I yield the floor and I thank the Senate for yielding me 5 minutes.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to proceed for up to 10 minutes as in morning business.

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

HUD-VA CONFERENCE REPORT

Mr. BINGAMAN. Mr. President, I rise in opposition to the amendments that were offered by my colleagues from Arizona and New Hampshire against the water infrastructure projects in the HUD-VA conference report.

Let me begin by commending the Senator from Maryland for taking the initiative to fund these very needed projects which have been awaiting authorizing legislation. I personally introduced authorizing legislation for the two worthy and important projects in New Mexico, which are due to receive funding in this bill. Unfortunately, the appropriate legislative vehicle which I hoped would be completed this year—that is the Clean Water Act—is not scheduled to reach the Senate floor before the end of this Congress.

For this reason, I am very pleased that the Senator from Maryland has identified the importance of these issues and has provided funding in this HUD-VA bill. The first is funding for the colonias along the United States-Mexico border. For those who may believe this is not a worthy project, I want to bring to your attention and to their attention the plight of these poor communities. Residents are generally poor and live in substandard housing with inadequate plumbing and drinking water. Housing lots are extremely small in size and packed together, frequently creating a high density of cesspools and inadequate septic tanks. The population in these areas is growing in size daily and compounds the existing problems.

If by chance any Member of the Senate were to visit these colonias, they would only be struck by the primitive conditions in which the residents live. You would walk away in disbelief that over 350,000 American citizens and legal, permanent residents are subject to what most of us would call developing countries' living conditions.

The other area that I am very pleased the Senator from Maryland was able to provide some funding for is related to the South Valley in Bernalillo County in New Mexico, a small, unincorporated community outside of Albuquerque along the Rio Grande. For over 30 years, this community has suffered the health hazards of inadequate sewer and water facilities. The South Valley is more than 50 percent Hispanic and qualifies as one of the poorest communities in our country. Most of the 12,000 residents rely on septic tanks. Their drinking water comes from wells on their property. Heavily concentrated septic tanks, a shallow water table and tight soils resulting in poorly drained septic tanks are contaminating the ground water. This problem continues to escalate as the population increases.

State and local governments have already contributed significant funds to address the problem, but additional funding is needed. If this funding were

to come through revenue bonds, residents in the area would have to pay four to six times as much as other New Mexico residents for monthly water and sewer service. These citizens cannot afford such rates.

Congress provided a \$500 million reserve in fiscal year 1994 to support projects in hardship communities such as the colonias and the South Valley pending enactment of authorizing legislation. The Senator from Maryland, recognizing that authorizing legislation had not been completed, seized the opportunity to provide desperately needed funding to these and other needy communities.

Let me clarify that the grants for these and other projects are to be made available only upon enactment of clean water authorizing legislation, but if no such legislation is enacted by November 1, 1994, the funds will immediately be made available. I believe that the Senator from Maryland has provided the opportunity for authorizing legislation to be enacted. There is no doubt that this funding in this conference report is critical in assuring that these communities have access to clean and safe water and I urge my colleagues to oppose the amendments offered by the Senators from Arizona and New Hampshire.

Mr. President, I thank the Chair. I yield the floor.

ALL AMERICAN IRONKIDS TEAM

Mr. GRASSLEY. Mr. President, I would like to take a moment to honor the first ever All-American Ironkids Team, a group of 10 young people who are in Washington this week for a special visit. These youngsters, aged 7 to 14, come from all over the country—including Iowa—and represent the American ideal by leading positive, healthy and well-rounded lifestyles.

It gives me great pleasure to recognize the two Iowans on the team, Johnny Galloway, age 10, from Waterloo, and Brielle Bovee, age 11, from Spencer. I would like to read two short excerpts from the winning essays written by these kids.

Johnny writes,

I'm in excellent health for a ten year old, not for the reason that I play a lot of different sports, but for the reasons that I think staying healthy helps your body and mind work as a perfect unit. Also, God gave me this body to take care of and it's the only one I got.

Brielle also enjoys athletics, and competes in triathlons. She writes,

1992 changed my life. That was the year I placed third in my first triathlon *** reaching for my personal best has helped me take on new challenges.

Both Johnny and Brielle, and the rest of the Ironkids, helped draft a special resolution which I am proud to submit for the RECORD. This 1994 resolution is entitled "All-American

Ironkids Rise and Shine Resolution To Promote Positive, Healthy Lifestyles Among America's Youth."

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

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

THE RISE AND SHINE RESOLUTION TO PROMOTE POSITIVE, HEALTHY LIFESTYLES AMONG AMERICA'S YOUTH

I. We, the All-American IronKids Team, have gathered to address the promotion of positive, healthy lifestyles among America's youth.

II. We submit these ideas in the hope that positive, healthy lifestyles for kids will become a national priority because all kids should have the opportunity to be the best they can be.

III. We hereby present the following recommendations to America, because the healthy kids of today will be the healthy leaders of tomorrow.

A. In the area of physical fitness and nutrition, we promote: (1) daily aerobic exercise in school with family and friends, (2) exercise can be fun and make you feel good about yourself, (3) three healthy, well-balanced meals a day at home or in school.

B. In the area of academics, we recommend: (1) studying first and playing second, (2) developing good daily study habits, which means being organized and responsible, concentrating, and getting proper rest, (3) being a self-motivator, working hard, being the best you can be and committed to your goals, (4) an improved school curriculum in which parents, teachers and kids are included.

C. In the area of extra-curricular activities, we promote: (1) grass roots programs, community and family involvement, (2) funding for after school activities, both physical and academic, with qualified leaders, (3) sharing of community resources, services and volunteers.

We sincerely believe these recommendations to be crucial to the promotion of positive, healthy lifestyles among America's youth and we resolve to deliver this message to members of Congress and to our communities.

HAPPY BIRTHDAY TO MARGARET BRUNNER LOMPREY

Mr. REID. Mr. President, the celebration of Margaret Brunner Lompfrey's 80th birthday on October 1 has prompted me to share with my colleagues the respect and admiration I have for her. Margaret Brunner Lompfrey has followed her love for politics to the public arena where she has served her community of Henderson and the State of Nevada with distinction. In this time when the public is often justifiably skeptical of public officials, it is important to recognize and emulate the honest and enthusiastic ways Margaret has served the public.

Margaret's political career began at the grassroots level, campaigning for Nevada statesmen like Governors Mike O'Callaghan and Grant Sawyer, Senators Howard Cannon and Alan Bible, and Nevada Supreme Court Justice Bob Rose. She went on to serve as treasurer

of the Nevada Democratic Party in 1974 and council woman for the city of Henderson in 1976. These are just two of her many accomplishments.

I first met Margaret and her husband Ernie while playing high school football with the late Ernie Jr., and Lorne, two of their six children. I have a fond recollection and appreciation for Ernie, who as a young man, followed his love for music to the top by playing the trumpet in the Marine Corps Jazz Band. In fact, Ernie became a member of the President's Band, the most elite military musical group in the world.

As I said at Ernie's funeral, even today, I can hear the sweet notes of his trumpet.

I also developed friendships over the years with Lorne, Becky, and Jimmy.

Margaret has passed along her tradition of integrity in politics to her children, teaching them to participate, which makes participatory democracy more meaningful for us all. She has shown them, and everyone around her, how to honestly and admirably serve the public.

Margaret's participation with her family in politics represents what is good about America. Our country would be much better if there were more Margaret Lompfrey's.

I wish Margaret Brunner Lompfrey a very happy 80th birthday.

CONGRATULATIONS TO DR. DONALD C. HINES, PRESIDENT OF LIVINGSTON UNIVERSITY

Mr. HEFLIN. Mr. President, I am pleased to congratulate Dr. Donald C. Hines, the new president of Alabama's Livingston University. A native of Ripley, MS, Dr. Hines earned both his bachelor of science and master of science degrees from Mississippi State University in agricultural economics and economic theory and the doctor of philosophy degree from Kansas State University in general economics with a specialization in regional economics, public finance, and agricultural economics.

After the completion of his doctorate, Dr. Hines returned to the South and began his career in both education and public service. In 1973, he joined the faculty of Troy State University's School of Business as an assistant professor. He let Troy in 1981 as the assistant dean and coordinator of graduate studies to come to Livingston University as dean of the College of Business and Commerce, where he remained until 1987.

From 1987 to 1993, he was the chief of planning and economic development and assistant director of the Alabama Department of Economic and Community Affairs [ADECA]. During this time, Dr. Hines worked on projects such as coastal zone management, community development block grants, and land and water conservation grants.

His administrative talents have led him to serve on the board of directors of the Tennessee-Tombigbee Waterways Development Council, Tennessee-Cumberland Waterways Council, and the Southern Business Administration Association.

Dr. Hines has been honored as an outstanding faculty member at both Troy State and Livingston Universities. He has also been recognized in the "Who's Who in Computer Sciences", "Who's Who in the South", "Who's Who in the Southwest", and "International Businessmen."

I congratulate Dr. Donald C. Hines on his appointment as president of Livingston University and wish him all the best for a most productive and successful tenure.

TRIBUTE TO THE DOBRO

Mr. SASSER. Mr. President, I rise today to pay tribute to a unique musical instrument and to honor its contribution to American music, most particularly country and bluegrass.

First, let me explain that many have heard the soulful sound of the dobro guitar without, perhaps, knowing exactly what instrument it was that made the sound. The dobro is shaped like that of the guitar. On its inside, however, is placed a resonator, usually made of aluminum. The dobro is placed like the lap or pedal steel guitar, through the use of a metal bar against the strings, and is plucked or strummed.

Mr. President, if I could, I would like to quote from the liner notes from a recently released album, "The Great Dobro Sessions," which features some of the legends of the dobro guitar.

The dobro itself has a long, if enigmatic place in country music history. By the turn of the century, Hawaiian music was firmly established in American popular music. In the latter half of the 1920s, the Dopyera brothers, marketed an adaptation of the Hawaiian steel guitar they called the dobro. In fields where players of other instruments grow wild there had been relatively few great dobro players, a fact which makes the present collection all the more remarkable. From the onset of The Depression in 1929, until Buck "Uncle Josh" Graves joined Flatt & Scruggs in 1955, only two dobro players—Pete "Brother Oswald" Kirby and the late Cliff Carlisle—achieved enduring national prominence. The dobro is the only acoustic instrument this side of oldtime music to be played horizontally, and the only one where noting fingers do not press upon a fingerboard. It is also the only one of today's conventional bluegrass instruments Bill Monroe excluded from his original full-band bluegrass instrumental make up. Thus, the dobro remained something of a musical stepchild through the years—that is, until Jerry Douglas took it to a wide variety of musical genres.

Mr. President, the dobro is not just linked to country and bluegrass music. The metal-bodied resonator guitar was first developed as a way for guitarists to develop a louder sound in the days

prior to electrified guitars. Thus, the blues genre—particularly the Delta blues style of guitar—is also closely aligned with the first resonator guitars.

But, it is with country and bluegrass music that the dobro found its home. The great legend, Jimmie Rodgers was known to have used the dobro in some of his recordings in the 1920's. And, by the mid-1930's, Roy Acuff, star of the Grand Ole Opry, was regularly using the dobro playing of Brother Oswald Kirby.

It is a source of great pride to me that many of today's great dobro players reside in my home State of Tennessee.

Dobro players like Tut Taylor, Jerry Douglas, Gene Wooten, Josh Graves, Rob Ickes, and Oswald Kirby.

And though the dobro was invented by a Czechoslovakian immigrant, John Dopyera, its sound is all-American.

I am particularly pleased that the equally famous Gibson Guitar Co. has purchased the Original Music Co. (Dobro). The contribution of Gibson guitars to American music is a well-known and often-told story. I expect this marriage of two music legends will continue in the long traditions of their separate pasts.

Mr. President, I pay homage to the dobro and its relationship to the music scene and recognize the contribution of the Dopyera brothers.

To quote, once again from the liner notes of "The Great Dobro Sessions," I would close with remarks from Jerry Douglas, who said:

Why does anyone play a dobro? Every dobro player tells me the same thing. It's the haunting, lonesome, vocal-like quality of the instrument that drives into your chest, takes your breath and never lets you go.

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 September 20, 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. 287), show that current level spending is below the budget resolution by \$1.9 billion in budget authority and \$0.7 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 \$312.1 billion, \$0.7 billion below the maximum deficit amount for 1994 of \$312.8 billion.

Since the last report, dated August 16, 1994, Congress has cleared for the President's signature the Interstate Banking and Branching Efficiency Act of 1994 (H.R. 3841). This action changed the current level of budget authority and outlays.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 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 September 23, 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 September 19, 1994, Congress has cleared for the President's signature the Interstate Banking and Branching Efficiency Act of 1994 (H.R. 3841). This action changed the current level of budget authority and outlays.

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 SEPTEMBER 23, 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	1,221.3	-1.9
Outlays	1,218.1	1,217.5	-0.7
Revenues:			
1994	905.3	905.4	0.1
1994-1998	5,153.1	5,122.8	-30.3
Maximum Deficit Amount	312.8	312.1	-0.7
Debt Subject to Limit	4,731.9	4,578.8	-153.1
Off-Budget:			
Social Security Outlays:			
1994	274.8	274.8	(⁴)
1994-1998 ³	1,486.5	1,486.7	0.2
Social Security Revenues:			
1994	336.3	335.2	-1.1
1994-1998 ³	1,872.0	1,871.3	-0.7

¹ Reflects revised allocation under section 9(g) of H. Con. Res. 64 for 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 Includes effects, beginning in fiscal year 1995, of the Social Security Independence Act of 1994, P.L. 103-296.

⁴ 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 SEPTEMBER 23, 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	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Appropriation Bills:			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103-211)	(2,286)	(248)	
Foreign Operations (P.L. 103-306)	99	99	
Commerce, Justice, State (P.L. 103-317)	670	335	
Authorizing Bills:			
Federal Workforce Restructuring Act (P.L. 103-226)	48	48	
Offsetting receipts (38)	(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)	(⁴)	(²)	
Social Security Independence Act of 1994 (P.L. 103-296) ⁴			
Aviation Infrastructure Investment (P.L. 103-305)	2,170		
Total enacted this session	192	(211)	
PENDING SIGNATURE			
Interstate Banking Act (H.R. 3841)	6	6	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(5,562)	1,326	
Total Current Level ^{2,3}	1,221,340	1,217,494	905,429
Total Budget Resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under Budget Resolution	1,909	655	
Over Budget Resolution			80

¹ Includes Budget Committee estimate of \$2.4 billion in outlay savings for FCC spectrum license fees.

² In accordance with the Budget Enforcement Act, the total does not include \$14,735 million in budget authority and \$9,215 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and \$800 million in budget authority and \$285 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.

³ At the request of Budget Committee staff, current level does not include scoring of section 601 of P.L. 102-391.

⁴ The effects of this Act begin in fiscal year 1995.

⁵ Less than \$500 thousand.

Note.—Numbers in parentheses are negative. Detail may not add due to rounding.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. Mr. President, I rise, as has been my practice each week in this session of the 103d Congress, to announce to the Senate that during the last week, 15 people were killed in New York City by gunshot, bringing this year's total to 728.

Recently, I received a note from Mr. and Mrs. Jacob M. Locicero, a couple from Hawthorne, NJ. Last December, the Lociceros' 27-year-old daughter, Amy Locicero Federici, was killed on

the Long Island Railroad, when an obviously deranged gunman with a 9-milimeter semiautomatic pistol opened fire on a crowd of unsuspecting commuters. The note from the Locicero family read simply:

On behalf of our murdered daughter, we thank you for your courage in taking a strong stand to ban assault weapons.

In truth, no one could be more courageous than the Lociceros, who, despite their grievous loss, maintain a commitment to preventing tragedies—like the one that took their daughter's life—from befalling others.

Mr. President, we passed the ban on assault weapons last month when the House and Senate finally agreed to the crime bill. That was a step in the right direction, but as we all know, it will not end the epidemic of gun violence in this country. Nevertheless, by making the most pernicious types of weapons—and bullets, as I have proposed—harder to obtain, we can prevent many deaths like those that occurred last year on the Long Island Railroad.

CAMPAIGN FINANCE REFORM

Mr. MATHEWS. Mr. President, one of the votes scheduled today involves invoking cloture on debate on the campaign finance reform bill. I want to state to my colleagues that it is my intention to vote against invoking cloture on this measure. I would like to share with this body the reasons for my vote.

I have followed with considerable preoccupation the issues and the arguments surrounding campaign finance reform. If I am hearing my colleagues correctly, the core of the matter is, to put it unpleasantly—the perception that Senators' votes are influenced by sizable contributions to their campaigns.

Mr. President, I react to this measure as I reacted to its cousin, the ban on meals and theaters and sports tickets from lobbyists. Namely, I question its intent, its assumptions, and its effect.

The intent is clear enough. The House and Senate bills seek to thwart an alleged concentration of influence by limiting the amount of single-source campaign funds. In pursuing that intent. Mr. President, this measure paradoxically tries to defeat a perception by caving in to it. It assumes that the interests of political action committees are suspect, self-serving, and contrary to the public good.

This assumption disregards that your constituents often start those organizations, comprise their membership, and provide their resources. It ignores the possibility that constituents speaking through corporations or unions and associations share a candidate's ideas about jobs, education, or any issue. It refuses to consider that constituents may agree with the views of a PAC

even if it is out-of-state. None of this matters: Their financial support will be abridged under the blind assumption that it defies public interest.

The House and Senate measures hope to encourage campaign spending restraint by mandating slashed advertising rates, lower postage rates, and various kinds of vouchers. However, if voluntary restraints are not honored by every candidate in a contest, of if one candidate has limitless personal funds, a Perot provision kicks in: The disadvantaged candidate receives money from the ultimate fountain of nameless and faceless funding—the taxpayer.

The American taxpayer is already upset about our salary, benefits, and office expenses. I can scarcely imagine what they would say about paying to get us elected, too.

Actually, we know what Americans think about taxpayer-funded campaigns: In 1977, 27.5 percent of Federal tax returns designated a dollar or more toward the Presidential election campaign fund; in 1992, the figure was 17.7 percent.

Mr. President, I am reminded of the reservations our colleagues have already expressed: How this measure invites first amendment challenges, the inconsistency between reducing the deficit and creating bounteous new spending, how this rightly is called an entitlement program for politicians.

And with those reservations in mind, I believe the real question is "what standards do people expect us to meet?"

I believe the people of Tennessee are not outraged when Tennessee businesses and unions and associations support candidates that share their concerns. I believe they expect me to set standards of decorum and propriety in soliciting funds and spending them. Most of all, I believe their biggest concern is knowing who I am dealing with, who contributes to my campaign, and whether my votes and my advocacy have been influenced.

If I tell the people of Tennessee where I am getting my campaign contributions, they can compare my voting record to those sources of funds and decide for themselves whether my vote advances the public interest or narrower private interests.

In short, Mr. President, I believe our efforts should lie in disclosing the source of campaign funding, not in limiting the legitimate expression of voter preference through financial support. I repeat: The effort we should address—as I said when we passed lobbying reform—is disclosure, not the attempt to legislate propriety.

The way to avoid impropriety is to exercise individual judgment about what is proper—and to face the consequences if voters believe it is not. The way to earn the regard of the American people is for us to act with regard to their needs and their future.

And the way to reaffirm the purpose we bring to public office is to resist the public cynicism this measure reacts to.

NOMINATION OF LT. GEN. BUSTER GLOSSON, U.S. AIR FORCE, TO RETIRE IN GRADE

Mr. NUNN. Mr. President, the Committee on Armed Services today favorably reported the nomination of Lt. Gen. Buster Glosson, U.S. Air Force, to retire in grade. Lieutenant General Glosson's distinguished 29-year career includes: His service as an F-4 pilot in Vietnam for which he was awarded the Distinguished Flying Cross for 139 combat missions. Primary responsibility for planning and implementing the air campaign in Operation Desert Storm. Service as the Air Force Deputy Chief of Staff for Plans and Operations.

The committee has filed a report on the nomination, which should be available in the next day or two from the Senate Document Room. When the report is available, the committee will also place in S-407, for review by Senators, a number of documents related to this nomination, including the report of a special review panel, materials prepared by the inspector general of the Department of Defense, and other documents submitted to the committee by the Department of Defense which contain information which the committee has treated as confidential. At that time, the committee will also provide to Senators, upon request, redacted versions of the panel report and the inspector general materials.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. DORGAN). Morning business is now closed.

VA, HUD, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The PRESIDING OFFICER. The Senate will now resume consideration of the conference report accompanying H.R. 4624, which the clerk will report.

The bill clerk read as follows:

Conference report to accompany H.R. 4624, an act making appropriations for the Department 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.

The Senate resumed consideration of the conference report.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Chair would advise the Senators that the time for debate on the conference report and remaining amendments in disagreement shall be limited to 90 minutes to be equally divided and controlled in the usual form.

The Chair recognizes the Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. President.

Mr. President, yesterday we had concluded a substantial amount of our debate on the VA-HUD conference report. The other side of the aisle asked for 90 minutes to be equally divided of the additional debate on the issues related to the VA-HUD conference report.

I note that no one is here. I am prepared to either additionally debate the amendments to the conference report that are pending for votes this afternoon, and I am prepared to debate any issue related to the VA-HUD conference report. Not only am I willing to debate it, but I am also willing to discuss it. However, I do not wish to discuss it with myself.

So, Mr. President, I would really ask that all who wish to further comment, question, agree with the conference report on VA-HUD join us on the floor. And in the meantime, I would like to just advise the Senate that we completed our conference report. There are amendments pending that I know will be discussed later.

I must say this is a very important conference report. Why? Because the subcommittee which I have the honor of chairing is like no other subcommittee on appropriations. It was originally historically the subcommittee that funds independent agencies. The small, micro, independent agencies have now grown to either Cabinet or Cabinet level. The subcommittee that I chair funds all of VA, all of HUD, all of EPA, all of the National Science Foundation, the National Service Corps, and Federal Emergency Management. We range in far-ranging activity from funding the President's science office to looking out for what we need to do to preserve battle monuments around the world as well as Arlington Cemetery. Our subcommittee is the most complex of any subcommittee in appropriations. In terms of its overall expenditures, it ranks with Defense and Labor-HHS. When I say it is most complex, all appropriations are complex. But Labor-HHS, Defense, and VA-HUD and over 30 other independent agencies are enormously complex.

So in the subcommittee which I chair there is also something to fuss budget about. It is impossible to have 30 agencies and not fuss budget about at least one of them. While people want to "fuss budget," I can tell you that I feel very comfortable that the budget and the appropriation that we have brought to the Senate meet compelling human need, strategic goals of both parties in the area of science and technology, and makes sure that promises made are promises kept to America's veterans. So I hope that we can speak to the amendments and defeat the amendments. I hope that we can pass the conference report and look forward to further conversation on this bill.

I now note that we have been joined by the ranking minority of the subcommittee, the Senator from Texas, with whom I must say this subcommittee enjoys a very cooperative way of operating. It is an excellent relationship, and it is something that I particularly enjoy.

So, Mr. President, I yield the floor.
The PRESIDING OFFICER. Who seeks recognition?

Mr. GRAMM addressed the Chair.
The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, I want to thank the chairman of our committee, the Senator from Maryland.

Mr. President, anytime you are writing a bill that is as big and complicated as the VA, HUD, and independent agencies appropriations, you always have numerous compromises that first occurred in the Senate, and then in the House and then in bringing together the two.

I think what I am most supportive of in this bill is the funding level that we have for science, for the space program, for the development of new technology that goes ultimately to the benefit of free enterprise which is the foundation of the American economy. I have been alarmed over the last quarter century as I have watched funding for basic research cut. I think it is an interesting commentary on American Government that at the same moment that Government spending has been exploding that our basic investment in science, in technology, and in the future has been declining. A quarter of a century ago 5 percent of the Federal budget was spent on civilian research and development of new technology, on developing new science that ultimately produces in America competitive production technology and that helps the private sector produce the new products on which the future of the American economy will be based.

I think it is very revealing about Congress and about the priorities of our Government that in the last quarter century, while Federal Government spending in the aggregate has grown very rapidly, our investment in science and technology for the future has declined from 5 percent of the budget to less than 2 percent of the budget.

One of the things that I am proud of in this bill is that we have a solid investment in the space program. We have gone through the space program and forced NASA to make tough decisions. We have I think been successful in bringing Russia into the space station so that we now have an international cooperative effort that includes the Europeans, the Japanese, the Canadians, and the Russians. We have a solid level of funding for the National Science Foundation and for investment in the future.

So anytime you are writing an appropriations bill in this Congress, you are

always torn between investing in programs that have big constituencies, constituencies that can be activated in the next election, versus investing in future generations where investments often take a long time to bear fruit but where the fruit that is borne represents an investment in the future of the country.

Too often, Congress has invested in the next election and not in the next generation. I am proud of the fact that in this bill, despite the fact that we have had tremendous demands on funding levels, that we have provided adequate funding for the space program, for the National Science Foundation, and for the kind of long-term investment that does not create great political excitement but that I think represents an investment in the future of the country.

So I want to commend our chairman. I want to thank her for all of her leadership on this bill. I intend to support this bill. It has been very difficult to write. It embodies compromises. If I were writing the appropriations bill by myself or if the Senator from Maryland and I could have written it without the inconvenience of having to deal with the House, we would have written a different bill. But I think given the Congress that we had to work with, given the competing priorities that we faced, that this represents as good a job as we could do. As I said earlier, I am especially proud of the fact that despite the clamoring of numerous political constituencies for their share of the funding in this bill, we were able to resist the siren song of investing in programs with big constituencies and that create instant gratification by spending the taxpayers' money on things that have effect immediately. Instead, I think we have made a sound investment in science and research, in technology, and in the future.

In conclusion, let me say that I think there have been two hallmarks of American success economically. One has been free enterprise, where ordinary people with ordinary ability have had more opportunity and more freedom than any other people have ever had, and with that opportunity and with that freedom ordinary people have been able to do extraordinary things.

The second has been that no society in history has ever been able to assimilate new technology the way the American system has. We have viewed science as the answer. We have viewed technology as the potential solution to our problems. We have been the most science-friendly society in the history of the world.

I would have to say I believe that is beginning to change. And I am alarmed about it. But this appropriations bill does not represent such a change. This appropriations bill, despite financial difficulties of the Government, represents a strong commitment and a

very strong investment in science and technology in the future. I am proud of that investment.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana. Who yields time to the Senator from Montana?

The Chair would advise the Senator from Texas that the Senator from Texas controls time on that side. Does the Senator yield time to the Senator from Montana?

Mr. GRAMM. I thank the Presiding Officer. I am very happy to yield to the Senator from Montana whatever time he might consume.

Mr. BURNS. I thank my ranking member.

Mr. President, I want to thank the chairman of this subcommittee for her hard work on this appropriations. It has not been an easy one. I would want to associate myself with not only her words but my ranking member as we try to put together an appropriations that I think reflects the thrust of the American people and where they want the priorities to go.

It contains funding for many important projects and new ones. Of course, those projects are going to be felt across the country. It funds the Veterans Administration, the Department of Housing and Urban Development, and independent agencies such as EPA, the NASA, and the National Science Foundation.

I think there is nobody that has been further out front, as far as the appropriations is concerned, as our chairman. I serve on the authorizing committee of science and technology and NASA. It is truly a cooperation between the authorizing part of this bill and then the thrust of appropriating the money and putting it in the right place.

Under the NASA budget, we are starting to take a look at hypersonic wind tunnel development research. \$1.5 million is for research for wind tunnels. There are basic tools of obtaining technical and design information needed for hypersonic and supersonic aircraft. The United States, unlike its principal foreign competitors, does not have a wind tunnel capable of simulating these conditions. As we look at new technologies, especially in the aerospace industry, of new composites, new materials, we are taking a look at engines that will fly our supersonic airplane without any metal in them. They are looking at ceramics. We are looking at a whole array of new technologies that will be developed in this area. With the proper investment in this infrastructure, we have a great opportunity to maintain our lead and the cutting edge in aerospace.

As you know, in my State alone we are converting from the old MDH programs in these programs, and we have

the infrastructure set in my State in order to take advantage of some of that.

In addition, we also are taking a look at working with the new technologies with EPA in other areas, especially in the areas of technologies of environmental cleanup as a result of closing military bases across this country.

If there is one thing we are finding out in base closures, it is much more expensive to close these bases than once we had thought because of the environmental cleanup. New technologies located in my State of Montana are uniquely qualified to do that technology. They are working on it now.

The National Science Foundation funding is something that we have worked on. I say to my friend in the chair that something that we worked on is telecommunications infrastructure among the tribal reservations in the Western and high plains of this country, not only in the State of Montana, but in North Dakota.

We are working together community colleges to interact between those colleges and in our areas of higher learning, such as Montana State University and North Dakota State University at Fargo.

These are areas where, yes, the native Americans feel like they have something to offer through their culture to the education system of America. To two-way interact is very important if we hook these community colleges together. If you can see what is happening on our reservations across America, it is that they just do not have that outlet in order to present their way of life, their culture, and add something to this great thing we call America, a country of many peoples.

We have seven reservations in Montana. Each one of those, except one or two of them, I think, all have 2-year community colleges. We think this is going to close the gap, the cultural gap, with our major universities and colleges in the State, plus give those young people a sense of being and a sense to go on with their education.

Also in the HUD budget is funding for research centers across the country that are particularly tuned in to women's health problems. We have a center in Billings, MT, that has been doing much research basically on women and the natural functions of aging, osteoporosis being one of those. Because the population in Montana is so static and people that are born there, live there, and they die there, the medical history of those people provides a great data base for research on those diseases. Of course, that area serves Montana, the northern half of Wyoming, as well as western regions of both North and South Dakota in that work.

So in this area there are some new things that are providing a new direction as far as this appropriation is con-

cerned. Women's opportunity and resource development programs are also funded in this, because we are seeing women coming into the marketplace. Some of them are young, single parents. They need help, and they are funded through this organization, through this appropriation, especially in the western part of the State of Montana.

The VA-HUD and independent agencies appropriations bill also contains vital funding for research being done across the country. Three agencies within the bill have programs called EPSCOR. Within the EPA, NASA, and the National Science Foundation is a program vital to the academic research being conducted in our smaller colleges across the country.

These competitive based programs allow for smaller universities to conduct research and provide better educational opportunities for students. Five States in our country receive 44 percent of the university-based Federal research dollars. On the other hand, the 19 EPSCOR States, including Montana, receive only about 6 percent support.

So we are trying to take care of some of these areas and the smaller schools which have very fine research and development organizations within those schools of higher learning.

It is for this reason that EPSCOR is vital in providing those research dollars to rural areas. These programs help the less competitive States, predominantly rural, meet the challenges of competing for research dollars. In order to ensure that we can continue to support nationally competitive academic research, maintaining the funding for EPSCOR is very critical, and this particular appropriation does that. I will be supporting this bill.

Again, I want to congratulate my chairman and distinguished colleague from Maryland, and the ranking member, because this appropriations bill, since I have been in the U.S. Senate, probably shows more foresight of where the thrust should be going in this country, and that, of course, is through the new technologies and also in research and development. We keep hearing that we are getting beat on the competitive global market. We can "out-tech" anybody. Our problem is getting those new technologies into the hands of the people that use them in everyday life, and we also take care of that through this appropriation.

So I thank my chairman and the ranking member for their foresight in this bill. I shall be supporting it, and I congratulate them.

I yield the floor.

Mr. DOMENICI. Mr. President, I rise in support of the conference report on H.R. 4624, the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies appropriations bill for fiscal year 1995.

This bill provides new budget authority of \$89.8 billion and new outlays of \$48.4 billion to finance operations of the Departments of Veterans Affairs and Housing and Urban Development, the Environmental Protection Agency, the Federal Emergency Management Agency, the National Aeronautics and Space Administration, the National Science Foundation, and other independent agencies.

Mr. President, the committee bill is within the subcommittee's 602(b) allocation. When outlays from prior-year appropriations and other adjustments are taken into account, the bill totals \$90.3 billion in budget authority and \$92.4 billion in outlays. The total bill is under the Senate subcommittee's 602(b) allocation by \$1 billion in budget authority and outlays.

This was not an easy task. The subcommittee has deferred funding for new housing initiatives that have not yet been enacted, and it has sought savings in some of the housing programs funded in the bill.

However, the subcommittee also adopted several provisions that minimize near-term outlays; specifically, delaying the obligation of some funding in the bill until very late in the fiscal year.

The subcommittee started with the President's request for a \$771 million obligational delay in VA medical care. They then added a \$386 million delay in the National Service account, a \$132 million delay in NSF academic research infrastructure grants, and a delay of the entire \$400 million for NASA aeronautic wind tunnel facilities. These actions push approximately \$650 million in outlays into fiscal year 1996.

I do not have to remind my colleagues that the Exon-Grassley amendment to the fiscal year 1995 budget resolution mandates a reduction in the fiscal year 1996 discretionary cap of \$4.0 billion in budget authority and \$5.4 billion in outlays.

My colleagues on the subcommittee are well aware of this upcoming reduction. That is why they included an automatic rescission feature along with the delays in NASA and NSF, if the President did not choose to fund these initiatives next year.

With these actions and some tough decisions, this subcommittee has provided the largest percentage of funding for the President's proposed investment initiatives. According to the most recent report from the Office of Management and Budget, the President's investment initiatives are almost completely funded in this bill. Apparently the administration is not overly concerned that 67 percent of the funding for their National Service initiative will not be available until 1 month before the end of the fiscal year.

I especially appreciate the consideration given by the distinguished chair

of the subcommittee to my request for assistance in meeting the severe wastewater treatment needs of the South Valley in Bernalillo County, NM.

I thank Senator MIKULSKI for the inclusion of \$15.5 million in the bill through EPA's water infrastructure/State loan revolving loan program to meet the longstanding need of this community for adequate wastewater treatment facilities.

The conferees retained the \$12 million approved by the Senate for the South Valley project in New Mexico. An additional \$3.5 million was provided for the South Valley project as part of the final bill, which is directed to Bernalillo County.

This is an extremely serious situation in the South Valley and these funds will significantly resolve this longstanding problem.

I thank my good friend from Texas and the ranking Republican member of the subcommittee, Senator GRAMM, for his support for this important funding.

I also want to thank the subcommittee for providing full funding for construction of the second ground terminal for NASA's Tracking Data Relay Satellite System [TDRSS] to complete this important link in NASA's space communications system.

Mr. President, I urge the adoption of the pending bill.

SOUTH VALLEY WATER PROBLEM

Mr. DOMENICI. Mr. President, I am pleased this bill included \$12 million funding for the South Valley of Bernalillo County, NM. In addition to the conference report includes another \$3.5 million for Bernalillo County. This funding should help solve one of the most serious waste water problems in New Mexico. By removing many of the septic tanks and hooking homes up to central sewer or other waste disposal systems, the quality of the drinking water should also improve.

This area has been settled since the 1700's and includes the three historic villages of Atrisco established in 1692, Los Padillas established in 1703, and Pajarito established in 1699. The South Valley is home to 12,000 people. The vast majority are Hispanic and many are poor. More than half of the children attending the area's two main elementary schools were eligible for free lunches through the Federal School Lunch Program, indicating household incomes under 130 percent of the poverty level.

For almost 30 years the South Valley community has suffered the health hazard of inadequate sewer and water facilities. Drinking water wells and septic tank leach fields are practically on top of each other. I am sure you can appreciate the tremendous health hazard this represents.

The septic tanks in the South Valley are contributing significantly to the aquifer's depletion and pollution. This

is very serious because the aquifer is the water supply for the entire Albuquerque area. The water table in the aquifer has dropped 30 feet during the last decade. These facts support the conclusion that the problem is getting worse and so is the general quality of life in the South Valley.

I am aware that it would take more than \$10 billion to help every community in need of a sanitary wastewater treatment system. The Appropriations Committee last year made \$500 million available for wastewater treatment for communities with special needs. That money is scheduled to become available this fall for projects that have been authorized. Thus far this year, the House passed VA-HUD appropriation bill leaves available, subject to authorization, the fiscal year 1994 \$500 million communities with special needs account.

The Senate Appropriations Committee made wastewater treatment a higher priority, and identified specific projects that would receive funding in both fiscal year 1994 and fiscal year 1995. I am pleased that they included \$12 million in fiscal year 1995 for the South Valley, and another \$3.5 million for Bernalillo County where the South Valley is located.

For almost 30 years this community has suffered deteriorating housing stock, and the health hazard of inadequate sewer and water facilities.

The situation is so critical that there is a moratorium on building desperately needed multifamily housing units. These are units that could greatly improve the housing stock and quality of life in the South Valley neighborhoods.

The wastewater needs for the South Valley are diverse and will require several different approaches. While these are the starkest examples, the valley's problems are diverse. Some parts of the valley are semiurban and could be hooked up to the Albuquerque City system. Other sections of the South Valley would be best served by "community-cluster style" systems like the vacuum systems and constructed wetlands. In the least densely populated areas of the South Valley it makes sense to continue onsite water wells and wastewater disposal systems.

Making lemonade out of a lemon. Two elementary schools and a community center in the South Valley were having to pump their septic tanks daily in order to avoid sewage rising to the ground surface. Bacteria were found in the well of one of the schools about 2 years ago. One of the schools, Los Padillas School, had been using bottled water to drink and to prepare school lunches. The teachers used this dire situation to get the students interested in science. All of the kids learned about the dangers of unsafe drinking water. They learned about the constructed wetlands vacuum technology

to treat their waste and to provide them with clean healthy drinking water.

Helping those who help themselves. In these tight fiscal times, it can be said that Congress helps those who help themselves. If this is the test, South Valley should be helped. This community has been untiring in its efforts to help itself. So many times its efforts have been ignored or rejected.

Nevertheless, its leaders should be commended. They never gave up.

The leaders of South Valley and I have been meeting on a regular basis for 9½ years to develop an action plan to address this problem. I particularly want to mention the hard work in New Mexico at the State legislature and in local government. Speaker of the House, Ray Sanchez; Senate President pro tempore, Manny Aragon; State Representative Kiki Saavedra; State Representative Delano Garcia; former county commissioner, Orlando Vigil, county commissioner, Al Valdez, and county manager, Juan Vigil have all worked tirelessly.

Their hard work has led to successes at the local level. These include the following: In 1991, the Bernalillo County Commission adopted a one-eighth cent tax on gross receipts in and for the unincorporated area of the South Valley to finance solid waste, water, and sewer. In the 2 years that this levy has been on the books, \$1.5 million has been raised in annual revenue and \$900,000 has been designated to assist residents in hooking up to water and sewer systems already in place. Some of this \$900,000 has been used to upgrade substandard onsite wells or septic systems.

A partnership in the making. The city of Albuquerque, in partnership with Bernalillo County, has contributed its resources in the areas of research planning and education. The University of New Mexico, Institute of Public Law, provided a joint study for the New Mexico legislature which led to an appropriation of funds for this project.

The New Mexico legislature appropriated \$4 million in 1992; \$5 million in 1993; and \$8 million in 1994 demonstrating the seriousness of the problem and the State's commitment to a solution.

Users of a new system will also bear a portion of the burden for the improvements. If the city is the provider, total user fees may total almost \$3,500 for hookup to both water and sewer service. These costs do not include the cost to extend lines from the house to the water meter and sewer stubout. While average incomes range from \$18,000 to over \$40,000 per household it would be difficult for most homeowners to pay these substantial costs out-of-pocket to ensure a sanitary liquid wastewater disposal system and safe drinking water supply.

Given the magnitude of the costs, grants, and direct appropriations are

needed in order to keep rates from being prohibitively high. The Revolving Loan Fund has not been used because there is no way the residents could pay back the loan; the rates would be so high that the people who need the wastewater system could not afford it. The South Valley is not part of Albuquerque City and city officials say that the city is already subsidizing the South Valley residents.

In addition, the Revolving Loan Program cannot make a long-term commitment for future funding of a phased project. The funds for both water and sewer problems are eventually needed. I realize that your committee's jurisdiction is mainly the wastewater part of their problem, and we are trying to secure funding for wastewater first. My point, however, is that the loan fund is not the answer for all of the above reasons.

Clearly the legislature is doing its part in this worthy partnership which would use both State resources and Federal resources. Even with the State appropriations the South Valley still needs \$35-\$40 million to meet its water and sewer treatment needs—\$25 million for the wastewater portion which falls within the jurisdiction of your committee.

Dozens of programs on the books but none of them can help the South Valley. Over the years, the community has investigated using the state revolving loan fund, Economic Development Administration Programs, rural development programs under the Department of Agriculture, all of the EPA Programs, HUD Programs, and the Community Development Block Grant Program. The South Valley is ineligible for all of them because it is either too close to Albuquerque and therefore not rural enough, or too close to Albuquerque and therefore, when viewed as a region, is not poor enough. Or the needs of the South Valley are too big and would swallow up entire programs' nationwide budgets. Frankly the existing programs, with their restrictions about being too urban or too well off aren't the important criteria. It has simply been too long since the Federal Government joined the State and local partnership.

The Senate has passed a South Valley authorization. Action is needed in the House. Last year, the Senate passed S. 1685 which authorized this project. That bill is being held at the House desk.

This authorization, if it is enacted into law, will end 30 years of frustration, denial and avoidable health problems in this community.

Thank you, Mr. Chairman.

CONSORTIUM FOR INTERNATIONAL EARTH SCIENCE INFORMATION NETWORK (CIESIN)

Mr. RIEGLE. Mr. President, my colleague from Michigan, Senator LEVIN, and I would like to engage in a colloquy with the distinguished Chair of

the VA, HUD and Independent Agencies Appropriations Subcommittee on an issue of importance to our State, to the Nation, and to the world—the Consortium for International Earth Science Information Network [CIESIN].

Ms. MIKULSKI. Mr. President, I would be pleased to engage in a colloquy with my colleagues from Michigan on that subject.

Mr. LEVIN. Mr. President, last year, in the fiscal year 1994 conference report for the VA-HUD Appropriations Act (Report 103-273, p. 30), the conferees stated their expectation "that beginning in fiscal year 1995, the National Science Foundation will establish, through a competitive process, a Center for the Human Dimensions of Climate Change at a level of approximately \$6,000,000 annually."

That direction resulted because of an agreement reached in the Senate regarding CIESIN during the Senate's consideration of the fiscal year 1994 bill. A colloquy on the matter took place between Senator MIKULSKI, as Senate manager of the bill, and Senator RIEGLE and me on September 22, 1993. During that colloquy, the subcommittee Chair indicated her intention to support the development of a competitive grant of about \$6 million annually to be awarded by the National Science Foundation to a center for the conduct of CIESIN-like activities. These activities were described by my colleague, Senator RIEGLE, and me, earlier in the colloquy. Our intent and understanding was that CIESIN would have the opportunity to compete for selection as this center.

Is that also the understanding of the Senator from Maryland?

Ms. MIKULSKI. Mr. President, the Senator is correct. I stated at that time that I thought it would make good sense to develop such a grant proposal for this kind of center. While I noted that I could not commit future Congresses, I indicated that I would work with the Senators from Michigan and the administration to carry out this agreement.

Mr. RIEGLE. Mr. President, the Senator from Maryland has great foresight in attempting to fashion programs that build upon the Nation's investments in science, as is the case with CIESIN. I thank the Senator from Maryland for carrying forward with her agreement of last year.

I ask the distinguished chairwoman, the gentlelady from Maryland, if the center on page 50 of fiscal year 1995 VA-HUD Conference Report 103-715, described as a "center or consortium for the human dimensions of global climate change," and for which \$6 million was recommended by the conferees for fiscal year 1995, is the center talked about during the debate on the fiscal year 1994 bill, as described by Senator LEVIN?

Ms. MIKULSKI. Mr. President, the Senator is correct. That was my intention and the intention of the conferees. I join the Senators from Michigan to encourage the NSF to carry forward with the competitive process and with the award for this center early in fiscal year 1995. I am aware of the serious funding constraints placed upon CIESIN in fiscal year 1995, and I would like to see them have the opportunity to compete. However, I want to make clear that this \$6 million item in the NSF's appropriations is to be awarded under the framework of a competitive, peer-reviewed process. Of course, no applicant for these funds should be given consideration outside of this competitive selection process.

Mr. RIEGLE. Mr. President, we thank the Senator from Maryland for this clarification and her assistance on this important matter.

Mr. BURNS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, I yield 15 minutes to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President I thank my friend from Texas. In a short time, we will be voting on my amendment and also Senator SMITH's amendment, I believe, on another attempt—possibly a futile one—to remedy this credible problem we face of unauthorized earmarks added in conference. Neither the House nor the Senate have approved these appropriations.

I congratulate the subcommittee, because this is the highest number that was added in any appropriations bill. We count up about \$400 million, higher than any other appropriations bill.

Mr. President, I ask unanimous consent that a letter from the Citizens Against Government Waste be printed in the RECORD at this time.

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

COUNCIL FOR
CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, September 26, 1994.

DEAR SENATOR: In the just-released 1994 Congressional Ratings by the Council for Citizens Against Government Waste (CCAGW), the average score for Senators was 45.76% in support of cutting government waste. The average House score was 52.72%.

This "spending cuts gap" is demonstrated in the 101st Congress and 102d Congress as well, and as you can imagine, House members are making much of their better voting record on eliminating waste and halting pork-barrel spending.

Today and tomorrow, you will have a chance to narrow the House-Senate spending

cuts gap by approving Senator John McCain's amendment to eliminate earmarks and pork in the FY95 VA/HUD appropriation.

Two weeks ago, the House blinked, 189-180, and failed to eliminate pork projects added to the bill. CCAGW strongly urges you to correct the mistake and demonstrate that you have some regard for American taxpayers.

We have seen a list of the earmarked projects, and while many appear to be well-intentioned, suitable endeavors, virtually all are unauthorized. Moreover, the targets of Senator McCain's amendment were all added in conference, the kind of back-door spending that outrages the average American who sees the practice as yet another indication of Congress sneaking around, spending their tax dollars.

Of all the votes you cast this year, none more clearly will define your record on porkbarrel spending. Shamefully, the House blew its opportunity to put principle above election-year politics, but we count on the Senate to approve the McCain amendment and halt the gluttony.

Your vote on the McCain (or any tabling) amendment will certainly be among those tabulated in our final 1994 Congressional Ratings.

Sincerely,

JOE WINKELMANN,
Director of Government Affairs.

Mr. MCCAIN. Mr. President, I will quote from this letter. By the way, this amendment is supported by the Citizens For a Sound Economy and the National Taxpayers' Union.

Citizens Against Government Waste says:

Today and tomorrow, you will have a chance to narrow the House-Senate spending cuts gap by approving Senator John McCain's amendment to eliminate earmarks and pork in the Fiscal Year 1995 VA-HUD appropriation.

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Mr. President, I hope that we can, this time, recognize that this kind of thing is not possible anymore. I was pleased to see that the House acted on the Transportation conference report. Unfortunately, our efforts over here to take similar action were defeated.

I saw a letter, as I arrived at my desk, Mr. President, from the Paralyzed Veterans of America. The letter is addressed to the honorable BARBARA MIKULSKI, chairman of VA-HUD.

Dear Madam Chair: On behalf of the members of Paralyzed Veterans of America, I am writing to request your assistance in opposing any amendment to be offered to the fiscal year 1995 appropriations for the Department of Veterans Affairs. Amendments at this late date jeopardize and delay the final

approval of this necessary appropriation and will curtail the VA's ability to meet the health care demands of veterans.

Delays and foot-dragging have already dearly cost VA health care this year—

[blah, blah, blah].

I have great sympathy for Douglas Vollmer, the associate executive director for Government relations for the Paralyzed Veterans of America. I have had excellent relations with them. Unfortunately, they do not know that we have had an opportunity for an entire year to get this bill up. It is not this side who is proposing the amendment that caused this appropriations bill to come forward at this late date. Probably, Mr. Vollmer does not realize that when we earmark in an unauthorized fashion moneys for specific projects, that Paralyzed Veterans all over America suffer. Perhaps Mr. Vollmer does not realize that the best way to get the kind of assistance that all of our veterans need is to have a fair and equitable distribution of the money and not have unauthorized earmarks which specifically go to the States and districts of members of the Appropriations Committee.

I do not think any veteran in Maryland has a higher calling on the tax dollars of the American taxpayer than a veteran in Arizona, or a veteran in New Hampshire, or in any other State. But we find in this bill 400 million dollars' worth of earmarking—worth of earmarking—that goes on and on and on and on. Many of them are very worthwhile, many are important projects—none of them scrutinized by the Members of this body. None of them, of the nearly \$400 million.

When I say nearly \$400 million, Mr. President, next year when we go through this, perhaps if we adopt the Smith amendment, at least we will be able to identify them instead of our staff having to leaf through page after page of this document and try to uncover it themselves. What happens is that long after the bill is passed is when we finally find out what exactly they were.

I will not go through too many of these. I have a very long list here. I have many pages of these earmarks. Some of them sound reasonable to me. Some of them, to me, are hard to understand. But there is one common thread that runs through these, and that is that they seem to be awarded almost uniformly to the States and districts of members of the Appropriations Committee: \$1.7 million to the city of Little Rock, AR, for community development activities; \$1 million to Cibola County, NM, for the development of the multiagency visitor center; \$1 million for a residential and commercial sewer rehabilitation project.

I am sure all of these are very important. I am sure that Cleveland, OH, needs all of the funding going to Cleveland, OH. I am sure it is just a coincidence that, according to an article in

Congressional Quarterly entitled "A Cleveland Cornucopia," if that is the proper pronunciation, Metropolitan Cleveland was a conspicuous winner when House conferees added special-purposes grants to the housing section of the VA-HUD appropriations.

A chairman of the subcommittee represents Cleveland's east side suburb, and the conference report includes nearly \$10 million in projects for the area. I am sure they are worthwhile projects, Mr. President, but they were not scrutinized by the Members of the House or Senate.

Mr. President, I have gone on and on on this issue for a long, long time. I will continue, probably, unfortunately to go on and on on this issue. But if we ever expect to regain the confidence of the American people we better have an orderly process here, as described in the pamphlet printed at Government expense, called "How Our Laws Are Made."

"How Our Laws Are Made" says that the Senate passes a bill and the House passes a bill and they conference on items of disagreement, period. The very unhealthy and unsavory practice of adding in appropriations that were not authorized at any time into these bills, continues apace. And in this case in this bill, the estimates we have are about 400 million dollars' worth.

Mr. President, I cannot go back to Arizona and tell the people that I am truly representing them if in a conference \$400 million of special projects is added on which I am not a member of the conference. Yesterday, the Senator from Maryland suggested that maybe I become a member of the Appropriations Committee. I do not think that would solve the problem. I think what solves the problem is an orderly process where the Members of both bodies scrutinize both bills and that we abide by the rules of the Senate, which is that the conferees address items in disagreement.

Mr. President, I hope we can win this vote and I believe in those who are worried about inordinate delays. I say we can go back to conference and in 1 New York minute we can clean out those earmarks and bring it right back and have a 100 to 0 vote on the floor of the Senate. All we have to do is take out the earmarks and bring the bill back and I am sure we can pass it very quickly.

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

Ms. MIKULSKI. Mr. President, ordinarily, we alternate back and forth, but I am happy for Senator DURENBERGER to proceed and for the Senator from Texas to yield. I will move into my rebuttal and wrapup. In today's atmosphere we need a little bit more comity with each other to move our legislation.

The PRESIDING OFFICER. The Chair advises that the Senator from

Texas controls 15 minutes. The Senator from Maryland controls 39 minutes.

Mr. GRAMM. I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. DURENBERGER. Mr. President, I appreciate the comments of my colleague from Maryland about comity, and I appreciate the opportunity to speak on behalf of the amendment by my colleague from Arizona. I certainly endorse every comment that he made and I intend to add a few of my own.

Mr. President, I urge the Senate to adopt the amendment offered by the Senator from Arizona. The bill allocates more than \$1.2 billion to projects in about 40 cities. It is clear that those funds come at the expense of the Clean Water Act State Revolving Loan Fund Program that serves the needs of all the States.

By every measure the State revolving fund—or SRF Program as it is called—has been a great success.

Notwithstanding that success, the Appropriations Committee has for 2 years in a row slashed the President's SRF budget request to finance direct grants for selected cities. It would be one thing if the SRF had failed to meet its objectives or if there was a segment of the interested parties which believed that major reforms in the program were needed. But that's not the case. The program is universally popular.

It is my purpose today to make the case against these direct grants by making the case for the alternative—for the SRF—by setting forth the history of wastewater treatment financing under the Clean Water Act.

EARLY HISTORY OF THE CLEAN WATER ACT GRANTS

Mr. President, Federal aid to build wastewater collection and treatment systems began in 1956 with enactment of the Federal Water Pollution Control Act. For most of its history this program provided direct Federal grants to local governments. Cities and towns used the money to lay sewer pipes, to build sewage treatment plants and to replace sewage facilities that had worn out.

In the first years the grants were relatively small, \$20 million to \$50 million per year. But in 1972, the program was dramatically expanded. That was the year that Congress completely rewrote the Federal Water Pollution Control Act to address the water pollution problems that had become a national scandal. Rivers caught fire, the Great Lakes were dying, urban rivers like the Potomac were so polluted they were no longer suitable for recreation. And the American people demanded that our rivers and streams, lakes, harbors, and bays be cleaned up.

Although it was not officially called the Clean Water Act until 1977, it was the amendments of 1972 that signaled

the big change. Authorizations for the wastewater treatment construction grants program were increased to nearly \$5 billion per year with the 1972 legislation. The Federal share of project costs was increased to 75 percent. States were instructed to prepare priority lists of projects for Federal funds. A massive construction program was begun.

That level of effort was continued through much of the 1970's. At the end of that decade, the Federal Government was providing about \$5 billion per year in aid to local governments to build sewage treatment and collection facilities. More than \$26 billion had been invested at that point.

THE REAGAN REFORMS

In 1981 when President Reagan came to office he appointed David Stockman as the Director of the Office of Management and Budget. Mr. Stockman was very critical of the construction grants program. He felt that many of the communities that received Federal assistance could well afford to build their own wastewater treatment facilities.

He also argued, and with some justification, that the very low contribution made by local governments to the cost of these plants encouraged overbuilding. Cities designed plants with capacity well beyond their current needs because the cities contributed on average only 5 percent of the construction costs.

As it happened the construction grants program was up for reauthorization in 1981 and President Reagan made it clear that he would request no funds for 1982 unless significant reforms in the program were made.

And the Congress responded with reforms. The Federal matching rate was cut from 75 percent to 55 percent requiring local governments to shoulder a larger share of the burden. Projects that were growth related were no longer eligible for Federal funding. Priority was given to construction that would bring cities into compliance with Federal water quality standards. It was agreed that the program would be extended, but for only 10 additional years at an authorization level of \$2.4 billion per year. At the end of the 10-year period, the Federal role in wastewater treatment was to be terminated.

There was logic to the commitment of \$2.4 billion per year for 10 years. Those of us in the Federal Government often hear complaints from our colleagues who serve in State and local governments that the Congress imposes mandates without funding them.

The laws that Congress enacts can have major cost impacts for State and local government. Since they are governments that must get their tax dollars from the same people that the Congress taxes, they argue, rightfully in my view, that Congress has an obligation to consider the impacts of its

action on State and local spending and taxes.

Well, we always have in the Clean Water Act. The purpose of the construction grants program was to help pay for a Federal mandate. Publicly owned treatment works, the sewage treatment plants owned by towns and cities and counties, must meet a level of pollution control set forth in the Clean Water Act. It is called secondary treatment. It requires that about 85 percent of the pollutants in the wastewater be removed before the water is discharged to a river or lake. In 1981 when the Congress and the administration agreed to provide another \$2.4 billion per year for 10 years for construction grants it was projected that this amount of money would roughly pay for the cost of complying with that Federal mandate.

And today, most communities are either complying with the requirement or have under construction the sewage treatment facilities necessary to comply. The Federal Government has by now made grants totaling more than \$61 billion to achieve this goal—to pay for the sewage treatment plants that are necessary to comply with the requirements of the Clean Water Act.

STATE REVOLVING LOAN FUNDS

When the grant program came up for reauthorization again in 1985, further and very significant reforms were made. At that time we were looking at the end of the Federal role in 1991. The principal question was how to wind down the Federal role in sewage treatment plant construction once the job had been accomplished. The legislation we developed converted the construction grants program was into a permanent infrastructure investment program at the State level.

Rather than make outright grants to local governments for construction, the 1987 Water Quality Act authorizes grants to the States. Each State places its grant in a revolving loan fund. It matches the Federal grant with some of its own funds. The money in the fund is then loaned to local governments for wastewater treatment construction projects. Local governments pay the money back over 20 years at interest rates less than the market would charge and money is then reloaned to build new sewage treatment facilities in other towns and communities.

These State loan programs are called State revolving funds or SRF's. The first SRF's were established in 1989 and 1990. Today every State and Puerto Rico has established a revolving loan fund. They have all received grants from the Federal Government to capitalize their funds. Loans have been extended to hundreds of local governments through State revolving funds.

The States have done a truly extraordinary job in setting up these funds. States are required to match the Fed-

eral dollars with some funds of their own. Many States have gone well beyond the required match. And a dozen States have leveraged their funds. They have used the Federal grant to backup bonds issued by the State the revenues from which are deposited in the fund and are also used to make loans.

For instance, the State of New York has leveraged its Federal grant and state match at a 3-to-1 rate. For every dollar of Federal grants it receives it is able to loan out more than \$3 to local governments. This means that Federal dollars in states using the leverage of SRF's can reach much farther than they would as a direct Federal-local grants.

The advent of the SRF has brought about another significant reform. Because local communities are required to pay back the loans, the planning and design of the wastewater facilities that are built is likely to be much more in tune with the actual needs of the community. Cities and towns will seek efficiencies and technologies that can save costs and save on water consumption, because ultimately they will have to pay the sewerage charges that finance the facility.

But there is still a substantial benefit for local governments. The State of New York estimates that local government saves \$250,000 in interest costs for each \$1 million borrowed from an SRF as opposed to the bond market. And in some States, no interest loans are offered to communities that cannot afford even the 2 to 5 percent rate that is typically charged for an SRF loan.

So, what we have here is a great success story. Since 1956 the Federal Government has invested more than \$61 billion in local sewage treatment and collection. It is an example of the Congress financing a mandate that it has imposed. Today, there are 16,000 functioning sewage treatment plants owned and operated by local governments across the country.

Plants serving more than 144 million Americans meet secondary treatment—the Federal standard for clean water. That is up from 85 million in 1972. And the quality of the Nation's rivers and streams, lakes, harbors, and bays has improved dramatically as a result.

State revolving funds have magnified the impact of Federal dollars. The money will be available in perpetuity as local governments repay their loans. Many states have leveraged the Federal dollars to extend the reach of the SRF's. And the dollars are applied more efficiently as the discipline of repayment is applied to the design and construction of these facilities.

CLEAN WATER ACT REAUTHORIZATION PROPOSALS

Mr. President, although the intention in 1987 was to terminate the Federal role in wastewater treatment financing, the tremendous success of the

State Revolving Fund Program has caused a change of heart. President Bush and the environmental leaders of his Administration including the head of the Environmental Protection Agency, Bill Reilly, came to see the SRF as one of the most valuable environmental programs carried out by the Federal Government.

Although the phaseout of the SRF funding is scheduled to begin in 1991, President Bush proposed continuation of the program at levels exceeding \$2 billion per year and in his last budget proposed funding at levels not seen since the 1970's. The success of the program and the continuing needs for wastewater investment convinced even the Office of Management and Budget that this program should be extended.

In late 1993 President Clinton released his own Clean Water Act initiative that proposed a reauthorization of the SRF program through the year 2000 at approximately current funding levels—levels well above the amounts for the SRF now included in this Appropriations conference report.

It is interesting to note that President Clinton also proposed an SRF for the Safe Drinking Water Act. New drinking water regulations have imposed substantial costs—estimated to be more than \$8 billion—on local government across the Nation. Many small communities are having a difficult time finding the capital for drinking water supply improvements that will be necessary to comply with these regulations. Because the SRF program has worked so well under the Clean Water Act, the mechanism is proposed as a solution for the serious troubles of the Safe Drinking Water Act.

In February of this year, the Environment and Public Works Committee of the Senate reported legislation, S. 2093, that would reauthorize the Clean Water Act and that would extend the SRF capitalization grants through the year 2000.

THE 1995 WATER INFRASTRUCTURE APPROPRIATION

Mr. President, this 1995 appropriations bill is out-of-step with the long and successful history of the Clean Water Act.

The conference report undercuts the State Revolving Fund Program and returns to an era of direct Federal-local grants setting aside the many reforms imposed by Congress after careful oversight of the program.

While the bill appropriates \$1.238 billion for Clean Water Act State Revolving Funds in 1995, it provides a larger amount, \$1.282 billion, in direct grants to approximately 40 cities for sewage treatment, stormwater, and water supply projects.

The conference report includes many more grants than were contemplated in either the Senate or House passed bills. The Senate bill included \$368 million in grants for 1995. The conference report

comes back to us with \$782 million in grants for a long list of projects never mentioned in either the House or Senate report.

Of course, the amount to be appropriated to the Clean Water Act SRF shared by all the States has been reduced to make room for these new earmarks. This is the second EPA appropriations bill that has been the full responsibility of the Clinton Administration. Both have contained substantially less money in the Clean Water Act SRF account than was provided in bills passed under Republican Presidents. Because most States don't benefit from the direct grants, the Clinton budgets have made them losers. Looking back at the bill passed by the Senate, it is clear that the loss in this case is directly attributable to this long list of earmarks.

Mr. President, I urge the Senate to support the amendment offered by Senator MCCAIN.

Mr. President, I think I just finished the last meeting of the Environment and Public Works Committee, and I have been at that now for I think it is about 12 years of serving on that committee.

So, among other things, I know a little bit of something about water infrastructure grants that are included in H.R. 4624. I know a little bit of something about the origin of the Clean Water Act, a little bit of the history of the clean water bill which is set forth in my statement. There is an early history of the Clean Water Act grants, which I think will endorse everything that my colleague from Arizona said about what has happened to what has turned out to be pretty good intergovernmental policy—the relationship between Federal, State, and local government—in implementing the environmental objectives in water cleanup, what happened to them in the last 2 years on the path through the Appropriations Committee.

Let me forgo the early history of the big buildup in 1972 of the Federal Water Pollution Control Act of 1977. We first called it, I guess, the Clean Water Act, and it was at that point that we jumped up to 75 percent Federal money. By the time Dave Stockman got here with President Reagan in 1981, we figured we were shoveling an awful lot of money out into local government in a lot of communities in which maybe the need was not all that great and/or where they could have committed some local funds to meet those same needs.

So starting with—I almost called him President Stockman—but starting with OMB Director Stockman's recommendation in 1981, the committee and this Congress, the House and the Senate, began to review, revise, and to implement some reforms in the whole way the program was authorized.

In 1985, when the reauthorization came up, there were further and very

significant reforms that were made at that time, looking toward an end to the Federal role in all of that. That was the year that we came up with a concept of State revolving loan funds. As the local communities would begin to repay funds these would be gathered at the State level and they could be used in conjunction with State funds for further grants.

What happened with the State revolving loan fund program, which was established in I think about 1989 or 1990, every State and Puerto Rico has established a revolving loan fund of some kind. They have received grants from the Federal Government which capitalizes their own funds, and those loans then have gone out into a variety of local government projects.

So what you have, in effect, with this relatively small amount of Federal money, which is in effect recycled in part by repayment, is a cooperative effort between the State and the local governments to determine which wastewater treatment plants and projects are the ones that are most appropriate, and which ones may be less appropriate and have to go on some back burner for a while. That, in effect, for the last year or so, has saved the demise of the Federal participation in these treatment plants.

The bottom line, Mr. President, is that the State revolving funds have magnified the impact of Federal dollars. The money now will be available, in effect, in perpetuity as local governments repay their loans. Many States have leveraged the Federal dollars to extend the reach of the SRF, applying them more efficiently, more appropriately. They are beginning to discipline the repayment where people are falling behind, getting their money back inappropriately. There is now an intergovernmental discipline which does not have to be exercised here at the Federal level.

So, Mr. President, as I have watched this process go through the natural evolution of what is the appropriate Federal role, what is the State role, and what is the local role, this is one of those programs where a relatively small amount of Federal money is achieving a very important national purpose by enhancing the relationship between State and local government and, in effect, we do not need an Environment and Public Works Committee to determine what projects work and which ones do not; we do not need an Appropriations Committee at this level to make the determinations about the wisest expenditure of funds.

So I conclude, Mr. President, by saying that the 1995 appropriations bill appears to me to be out of step with the very long and successful history of the Clean Water Act. The conference report undercuts the State Revolving Fund Program. It returns us, in effect, to an era of direct Federal-local grants, set-

ting aside many of the reforms imposed by Congress after careful oversight of the program.

While the bill appropriates \$1.238 billion for Clean Water Act State revolving funds in 1995, it provides a larger amount, \$1.282 billion in direct grants, to approximately 40 cities for sewage treatment and storm water and water supply projects.

The conference report includes many more grants than were contemplated either in the Senate- or the House-passed bills. The Senate bill, for example, included \$368 million in grants for 1995; that is, directs grants. The conference report came back to us with \$782 million in grants for a long list of projects never mentioned in either the House or the Senate report.

The amount to be appropriated to the Clean Water Act State revolving fund shared by all the States has been reduced to make room for these new earmarks. So, in effect, this evolution of a more responsible system, using the recycled, repaid funds is now being taken apart in order to bring the decision-making back here to the national level.

So, Mr. President, I strongly urge my colleagues to take the advice of our friend from Arizona. I do not know which States are the ones that benefit from the new largess of the Appropriations Committee. I do not know which ones get housing money. I am only here to say that I think the good policy which has evolved over time in terms of how to wisely see the expenditure of these moneys at the local level is being put into reverse by the action of our colleagues on the Appropriations Committee.

I am sure there is desperate need in these 40 projects; there is no question about that. I am here only to speak for my colleagues, as my friend from Arizona has done, about the logic of reversing a very, very good change in Federal policy which has enhanced the relationship, the intergovernment relationship, between State and local government, which has made a few billion dollars go an awful lot further than they would have gone under the original Federal grant program, under the Clean Water Act.

So for whatever reason my colleagues might have to support this particular amendment by my colleague from Arizona to send this back to the committee, I suggest that good public policy is at the root of it. The Clean Water Act and the SRF fund is a good example of that, and I, as strongly as I can, urge my colleagues to support his amendment. I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Maryland.

Ms. MIKULSKI. Mr. President, much has been said about this conference report this morning, some complimentary and some critical.

I would like to just try to present the facts as they are. First, in response to the Paralyzed Veterans' letter raising concern that an amendment to the bill would put it back in the House and could possibly delay us meeting our October 1 deadline, it was indicated that perhaps this subcommittee foot-dragged. I really take exception to that because the whole leadership of this subcommittee has moved in a steady way. We on the Appropriations Committee are very clear that we have a due date. We on the Appropriations Committee know when that due date is and we organize ourselves, through both our hearings, waiting for House action, bringing to the Senate and then moving our bill in a steady way.

We had completed our conference before we broke in August. Every deadline for this subcommittee was met and met in a prompt timely way. Our hearings were completed in June, which is the schedule for the Senate. The House acted. We took up our bill in July and then met in conference before the break. Then we were ready. There was a report here September 1.

We are part of everything else that is going on in this institution.

My bill was ready to come to the floor the minute we got back from the August break. We were ready to go. We were ready to go. So it is not that we have foot dragged. We have been part of this gridlock that is going on where my legislation and I believe some of the other appropriations bills are stacked up like planes over LaGuardia Airport waiting to land in the midst of a storm.

So, I want to assure both the people of Maryland and the people of America that the subcommittee working with both sides of the aisle has met its deadlines. We are here this week because that is the way the schedule fell because of other things. We were ready to go last week, but the hours and hours and hours of debate, and I might add some might say fruitless debate on campaign finance reform, is one of the ones that delayed that.

I was willing yesterday to come from a sick bed—I also canceled an appearance some place else—to be on the floor to move this bill.

So this subcommittee does not foot drag. It might be criticized for content but do not criticize it in that way.

The second thing is there is much discussion that has gone on today about the authorization committees. I am a member of an authorizing committee. I know what they are up against. But I will tell you many of the things that we were in suspended animation on were because the authorizing committees could not act.

Now, the authorizing committee in VA waited to act to see how we are going on health insurance reform and how perhaps the VA needed to be restructured should we pass health insurance reform.

When that possibility dimmed, the authorizing committee moved in a very straightforward way under the leadership of Senator ROCKEFELLER, with the cooperation of Senator MURKOWSKI, but because our bill had already moved through the Senate, projects that were authorized in VA were not included here, and we added some in the conference because that was the will of the institution. It was a question of how to coordinate the timing.

Now, the Senator from Minnesota spoke about the clean water bill and how this is going to jettison the process and he really spoke in his usual style about good government. But we might have good Government, but when you have gridlock, deadlocked government, it is hard to do good government.

He referred to the 1987 clean water bill. Mr. President, that is the last time we had a clean water bill. This subcommittee has been waiting for not one, but 3 years for the Clean Water Act to be reauthorized. They cannot get it out for whatever reasons and for whatever the disputes are. The authorizing committee is stymied in bringing a bill to the floor, and in the meantime we have needy cities in many States of which there are Members who are not even on the Appropriations Committee, as often indicated.

So we acted because things do affect the communities that would be included. I can go over that.

When we talk about this, it is one of the reasons we tried to pace ourselves to give the authorizing committees a chance to act. Guess what? Some did; some did not. Some I never know whether they will.

But we have an obligation, I might say a duty, to move this legislation particularly in those areas that affect not only the environment but could have a serious impact on public health or public safety.

So when we talk about the processes, we did not foot drag. When we talked about the fact not everything is authorized that is not my fault. I am not pointing fingers and I am not saying who is at fault. Some waited because of health insurance reform, and others have been stymied because other people have other agendas.

I also might want to talk about this process, implying that we met in some back room with the small group of people maybe wearing black coats and looking like Darth Vader reruns, that could not be farther from the truth. We met in open session, public session. I might add we met during regular business hours, and we have the active participation on a bicameral bipartisan basis.

The process was out in the open. Any Member of the Senate could attend. Any Member of the Senate could have their staff attend. Any Member of the Senate who wanted to know more could do so.

So I wanted to talk about this process and indicate to those within the Senate who are following this debate in their offices about the process.

I also want to talk then about my bill. The Senator from Arizona talked about the \$400 million that was added. Mr. President, that is one-half of 1 percent of the bills's funding. The remaining 99.5 percent is not.

What is this bill? Well, I will not go through the other 99.5 percent, but I would like to say to the American people what we have here is funds that support the following agencies:

Veterans, Housing and Urban Development, the American Battle Monuments Commission in which there was substantial funds for the D-day commemoration, chemical safety hazards support, communities development financial institutions, the Consumer Product Safety Commission, the Corporation on National Service, the Office of the Inspector General for RTC, the U.S. Court of Appeals for the Veterans' Administration, the Arlington Cemetery, EPA, the consultative office on both environmental quality for the President and the science adviser, FEMA, the Consumer Information Center, the Office of Consumer Affairs at HHS, the space agency, the Science Foundation, the Neighborhood Reinvestment Corporation, the FDIC, Resolution Trust Corporation, with certain things before the passing of reform legislation, and even Selective Service.

One might recall during our debate there was an attempt to terminate Selective Service, and it was this subcommittee that had a staunch defense for the preservation of Selective Service, not knowing what the new calls will be for the U.S. military and that while others, misguided, well-intentioned but misguided with the end of the cold war, failed to realize the need for Selective Service.

So our funds maintained 172 VA hospitals, 135 nursing homes, 360 outpatient clinics all already in operation. They serve 27 million veterans. It has the people, the training, and the equipment to be there. We have been dealing with a backlog in terms of prosthetic devices. We have funded VA medical research because of its important impact on clinical care.

We have dealt with the backlogs where American veterans often have to wait months and even years for their disability claims to be processed. It is the subcommittee's strong and affirming principle that the U.S. veterans should not have to stand in line to have their disability benefits processed in a timely, effective, and fair way.

Also, my colleague, the distinguished Senator from Texas, talks about investments in new technology and scientific research. We tried to look to the next generation, and that is why

we fund the National Science Foundation, which supported important investment in civilian research and development and also in NASA.

We are also trying to rebuild America's infrastructure by using community development block grant money, cleaning up water pollution and through those projects—and those are all authorized and some quite frankly were not, but we were able to provide jobs to hardworking people who want to work in the construction industry, and then also getting a dual use for them in terms of rebuilding our infrastructure, modernizing VA facilities, new outpatient facilities, and also clean water.

We could go on with other issues related to that, but I think my colleagues get the point about how complex this bill was and also other stresses placed on this appropriations that were not of our making.

I know that the Senator from Arizona advocates a balanced budget amendment and fiscal conservatism, and actually the new I believe Republican manifesto has elements in it that I think both parties should take a look at. And I commend him for his work in those areas. But I would like to point out that if his amendment is agreed to, when this bill works, it would strike out projects that meet really very important needs. Because what it would do in VA, the facility construction is working its way through and it would jeopardize veterans' health care, it would jeopardize the funding for housing authorization, which has been unable to move through, and also these EPA wastewater projects. These are things that we had talked about.

But the other thing that the Senator talks about is that you have to be on the committee to get something. I would really point out that those HUD special purpose grants serve 27 States. I believe 19 of those States were not members of the committee, they were those projects that did meet needs. And then in VA medical care, there are four or five projects that were not there but what VA themselves asked for. It was not that a Senator asked for it, it is what the VA asked for.

So these projects were not added under the cloak of midnight or in some secret room. They were done in broad daylight, again, as I say, during regular business hours in an open conference.

The consequences to the Senator's amendment is that this would send it back to the House in an item of disagreement. I am not sure what would happen in the House, but as of October 1, the fiscal year ends, this legislation could go on a continuing resolution, and the consequences of that is that certain reforms that were made, for example, moving over the \$50 million in VA medical care, which is why the paralyzed vets wrote their letter, I say to

the Senator from Arizona, that that \$50 million would essentially not be there, and it would have really serious effects on both the acute care and outpatient visits.

So I really urge my colleagues to defeat the McCain amendment. We believe that we acted properly. We believe we acted in a timely way. And we believe that these projects were either authorized or were pending in bills waiting for authorization and, therefore, it is not something that we made up. To talk about how some of these projects are pork is really not to describe them in an accurate way.

So, Mr. President, I could say more on this. I know we have about another 30 minutes of debate.

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

The PRESIDING OFFICER. The Senator from Maryland controls 23 minutes 45 seconds.

Ms. MIKULSKI. And the other side? The PRESIDING OFFICER. The other side controls 6 minutes and 35 seconds.

Ms. MIKULSKI. I now yield the floor. The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I yield the distinguished Senator from Arizona 2 minutes.

Mr. MCCAIN. Mr. President, I want to make sure that my friend from Maryland understands me. I have the highest regard for her work. I have the highest regard for her efficiency and her dedicated service to the people of Maryland and this country.

So there will be no misconception about my remarks, I believe she, in chairing the subcommittee, has done outstanding work. She has labored hard under very difficult circumstances in perhaps one of the most complex pieces of legislation that this body faces.

My disagreement lies not with the outstanding work that she does. My disagreement lies with the process that has given us the \$400 million, which I am trying to eliminate because I have very grave concerns and disagreements in the process itself.

I, again, want to reiterate my respect and admiration for the Senator from Maryland and the outstanding work she does.

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

The PRESIDING OFFICER. The Senator yields back his time.

Who yields time?

Mr. CHAFEE addressed the Chair.

Mr. GRAMM. How much time does the Senator need?

Mr. CHAFEE. Is the Senator short of time? What is the situation?

The PRESIDING OFFICER. The Senator controls 5 minutes 15 seconds.

Mr. GRAMM. Mr. President, let me yield the Senator 5 minutes. I will yield him the remainder.

Ms. MIKULSKI. How much time does the Senator want?

Mr. CHAFEE. First, I do not want to travel under any false colors. I am against your side on this. I think I need about 12 minutes perhaps.

Mr. GRAMM. Mr. President, I have but 5 minutes and 15 seconds to give, and so I give that 5 minutes and 15 seconds to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Texas.

I urge the Senate to adopt the amendment offered by the Senator from Arizona. I am deeply troubled by the grants for water projects that are included in this conference report. The bill allocates more than \$1.280 billion to specific projects in 40 cities. And what it does is it takes it out of the State Revolving Fund, a program that serves all the States. By every measure, the State Revolving Fund, the so-called SRF, has been a great success. The revolving fund was created by the 1987 amendments to the Clean Water Act.

When it was created, it was our intention to terminate Federal assistance for local sewage projects with the 1994 appropriation. There was to be an end to the Federal sewage grants. This revolving fund was conceived as a transitional device, and the revolving fund has worked so well that there is now virtually universal support for its extension.

Despite all this, Mr. President, the Appropriations Committee has slashed the funding for the revolving fund and used the dollars to make grants to selected specific cities. This flies in the face of the whole Clean Water Act.

The Federal Government started financing local sewage projects in the 1950's. Over the years, Congress has managed this program very carefully in order to assure that the funds were used efficiently and effectively. It appears that the Appropriations Committee has disregarded all of that legislative history and the environmental and the fiscal and the performance safeguards that we put in place. It seems to me that the conference report is a slap in the face to the States that have worked so hard to make the revolving fund a resounding success.

Under the revolving fund, the States can leverage their revolving fund grants with State bonds and appropriations to get the most out of the Federal investment in clean water facilities. In New York, for example, for every dollar in revolving fund grants received from the Federal Government, \$3 is invested in water projects.

There are five points I would briefly like to make. Most States are going to be the losers under this proposal. Under the Clean Water Act, the revolving funds were distributed to all the

States based on a formula reflecting the need for wastewater treatment infrastructure. The law required EPA to survey the States every 2 years and report to Congress on the relative needs of each of the States for wastewater treatment, but not at all under this legislation.

What they do is they just allocate the money from the Federal Government directly to the cities, not based on any criteria of need. But a cursory review of the project makes it clear that membership on the Appropriations Committee is the most important criterion to determine how these grants are going to be allocated. So that is the first big problem.

Second, the environment and public health will be at greater risk. These grants for specific projects are made without any consideration of their water quality or their public health benefits. This is a list of projects recommended one at a time by Members of the House and the Senate, and what it does, it drains dollars off from the Revolving Fund Program and surely means that projects with greater requirements for environmental or health benefits will not be built.

Third, the conference report means less money for water quality. Because it bypasses the revolving fund project to make these direct grants that I mentioned, we will not get the benefit of the leveraging that I previously touched on.

Fourth, there is an increase potential for waste, fraud, and abuse. There is virtually no fiscal accountability when Congress makes a direct appropriation for a specific project. The Appropriations Subcommittee sat there and said, "We are going to send this money to city A, B, or C," not going through any accountability process.

When Congress decides that a particular city will get a specific amount of money, merely because the amount was requested by a Member representing that city, no executive oversight, either at the Federal or State level, is brought to bear. The project may be poorly designed. It may be oversized. It may be technologically inappropriate. It may benefit only a few, or maybe the pipe dream of some local planner or politician whose vision is never realized in actual development. Or the community that builds the project may lack the financial and managerial sophistication necessary to operate the complete facility.

Fifth, these direct grants imperil the Clean Water Act itself. At the time that the Senate first considered this appropriations bill, Senator SMITH, of New Hampshire, offered an amendment to strike the direct grants that it contained. The distinguished manager of the bill and the chair of the Appropriations Subcommittee argued in the absence of reauthorization for the revolving fund, she was forced to respond to

the needs of these communities and the requests of their representatives as best she could.

The implication left by her remarks was that reauthorization of the Clean Water Act was a necessary step to secure support for the SRF Program from the Appropriations Committee. In the absence of a reauthorization, the resources made available through the budget and appropriations process would be allocated to projects of committee members instead. In other words, her argument is that the blame for slashing the SRF is to be laid at the door of the authorizing committees for failing to enact legislation to extend the SRF Program.

It is my judgment that the Clean Water Act is not in need of major amendment. It works quite well. It is our most successful environment statute. If the price we have to pay for reauthorization is a weaker wetlands protection program—or risk assessment language that undermines the technology-based standards that have meant so much progress under the act—or a requirement that we pay off every property owner affected by a regulation, then I would staunchly oppose reauthorization. Based on her record, I am sure that the manager of this conference report would be of a similar mind.

But appropriations measures like this conference report will make it much more difficult to protect the Clean Water Act. This kind of action will surely heighten the demand for a reauthorization of the SRF Program. If one does not have a member on the Appropriations Committee, one's Federal assistance for water infrastructure projects is about to disappear. The message is clear. Without an SRF reauthorization, the plan of the Appropriations Committee is to dole out the money directly to the cities they select in their annual bills.

Mr. President, if this conference report contained a few grants for cities facing very high sewerage rates, like Boston, or communities where sanitary facilities simply do not exist, like the colonias along our border with Mexico, I would not be here making these points. I am not, in principle, opposed to the occasional direct appropriation that responds to a real need that has not been addressed in authorizing legislation.

But this conference report is of a different character. It reflects the wholesale conversion of an existing program that is successfully meeting the needs of all the States into direct congressional grants without regard to environmental or public health priorities, without fiscal or performance oversight and in contravention of sustained efforts by the Congress to make the Clean Water Act and effective and efficient means to protect this Nation's waters.

The Senate should reject this approach to water infrastructure financing. It hurts the States represented by most Members. It results in spending on projects of lower priority and less dollars for clean water in the long run. It runs the risk of wasteful or fraudulent projects unchecked by executive oversight. And it strengthens the hand of those who want to roll back the Clean Water Act and our other environmental laws.

This is not just a debate about spending or pork. The conference report reverses 40 years of policy judgments made by the Congress on the right approach to water project funding. I urge my colleagues to vote for this amendment.

The PRESIDING OFFICER. The Senator from Rhode Island has consumed all of his allotted time.

The Senator from Maryland controls the remainder of time between now and 12:30.

BIPARTISAN HEALTH INSURANCE BILL

Ms. MIKULSKI. Thank you, Mr. President.

Before the Senator from Rhode Island leaves the floor, first, I would like to thank the Senator from Rhode Island for his effort to fashion a bipartisan health insurance bill. The Senator has played a very important role in the debate and also, I believe, in helping us develop a framework to be taken up in fiscal year 1995.

I would like to thank him not only for his work but the spirit with which he went about it. I always had a sense of welcoming when we have talked with both him and his staff. I think that is the way we ought to be doing things. I just wanted to say that.

Mr. CHAFEE. If I might, I would like to thank the distinguished Senator very much for those kinds remarks, and the cochairman of the coalition, mainstream coalition, is our Presiding Officer currently. So I think he also—

Ms. MIKULSKI. I was going to say something about him in a minute.

Mr. CHAFEE. Deserves great credit. I think all of us who are part of that coalition found it a very, very exciting undertaking, where everybody was working toward a common goal. We were trying to come up with health care legislation that could be accepted and passed this year.

We appreciate the kind comments the manager of the bill made just now and also for her input. The distinguished Senator from Maryland joined with us on several occasions and was of valuable assistance.

VA-HUD, AND RELATED AGENCIES
APPROPRIATIONS ACT FOR FISCAL
YEAR 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Ms. MIKULSKI. Mr. President, I also wonder if the Senator could share with us when he would anticipate the Senate passing clean water legislation. The Senator outlined the process by which he would like all to operate, but the Clean Water Act has not been passed for 3 years, and it just sits there. And then we in the appropriations committee run into these obstacles.

Does the Senator anticipate that legislation will be passed in 1995 and that some of those prickly issues could be resolved?

Mr. CHAFEE. Well, I do not think so. I think the situation in the House is that it is not going to pass over there because of a variety of other reasons. But that, it seems to me, is not a valid reason for making these basic changes that were undertaken and included in this conference report.

Ms. MIKULSKI. I do not want to debate that. I was just trying to look at next year. I hope that I will continue to chair the VA-HUD appropriations. In the absence of an authorizing bill, we will be in the same type of situation. I hope as the time goes forth that perhaps when we look at where we are around April or May, we could have a conversation so that we are not into these types of situations.

But, Mr. President, this is exactly what happens to those of us on the Appropriations Committee. If the authorizers do not act, we oftentimes, because of the need and other things that need to be moved administratively—we have to fill the vacuum, and we have filled the vacuum. It is not like we filled the pork barrel. We have filled the vacuum in the absence of authorizing not 1 year, not 2 years, but 3 years waiting for the authorization of the Clean Water Act.

The very fine Senator from Rhode Island says to 1995, "Well, not next year."

Well, if not next year, then what are we supposed to do? I believe we are now at a crisis in this institution and in the House. Either the authorizers have to act, or do not take the battle to us over the process. I recall that when the budget reforms went into place, authorizing legislation for new programs had to be done by May 15. If they were not quite done by May 15, then they could not be considered.

I think we ought to, once again, go back to that so that there is some impetus and some sense of urgency and some sense of beginning to move together in the national interest to move these authorizations. For those who might be watching us on C-SPAN around the country and around the

world, the authorizing process sets the policy and the recommended levels of funding. It is the Appropriations Committee, who have historically been the quiet guardians of the purse, who fund those at a level commensurate with what is available to be funded under the Budget Act.

Once again, we are now taking on more and more of a role, and that could be questioned. But what really needs to be questioned is: Are the authorizing committees going to be authorizing committees, or are they so dysfunctional that that situation needs to be addressed?

Mr. CHAFEE. I wonder if the floor manager will yield for a question here.

Ms. MIKULSKI. Yes, I will.

Mr. CHAFEE. It seems to me the point that the floor manager is making is that there is no authorization of the Clean Water Act, so she cannot proceed with that, and she is suggesting that there is a hiatus here, or a failure by the authorizing committee to authorize. But then, at the same time, the chairman goes ahead with her subcommittee and appropriates in a whole series of other measures that are not reauthorized. None of this money that is being doled out at this tremendous clip, based on Lord knows what, except perhaps membership on the subcommittee or the overall committee, is authorized.

Ms. MIKULSKI. Does the Senator wish to ask me a question?

Mr. CHAFEE. I am wondering what your rationale is. How can she implore the fact that the SRF is reauthorized, so she cannot appropriate there, but it is perfectly all right to make the direct grants to those that have not been authorized?

Ms. MIKULSKI. The so-called direct grants met the criteria for community development block grant funds, so they were not just out of a wish list.

Let me, in the concluding hours of this debate, comment on the Smith amendment, which was not addressed in this morning's debate. I would like to, before we conclude for this morning, urge my colleagues to defeat the Smith amendment and to do that for three reasons:

First, it seems to amend the Senate rules for an amendment to the conference report. It has not been the subject of hearing by the Rules Committee for consideration through the normal authorizing process. It is ironic that the sponsors of this amendment have raised questions about this year's appropriation and its need to pay closer attention to the authorizing process, but then they now wish to also further authorize on appropriations.

I would recommend that they take their idea to the Rules Committee for a hearing next year, and if that is the wish of the institution, we, of course, will abide by it. The Smith amendment would ask that each side would publish

their specific items, and everyone would be able to read them. Those are very nice intentions, and if that is what the body wants to do, fine. But if you do it on this bill, let me tell you what the consequences are. The consequences are that it would be an item in disagreement. That sounds so arcane, but the fact is that means it has to go back for a house vote, and maybe the bill will survive or maybe it will not. Maybe the projects will survive or maybe not. But with the meltdown that is going on in our institutions, once again, we might not be able to meet our deadline of October 1 for meeting these needs. I am really hot about the fact that I want my veterans appropriations to go through.

I ask unanimous consent that the letter from the Paralyzed Veterans of America be printed in the RECORD.

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

PARALYZED VETERANS OF AMERICA,

Washington, DC, September 27, 1994.

Hon. BARBARA MIKULSKI,

Chair, House Appropriations Subcommittee on VA, HUD and Independent Agencies, U.S. Senate, Washington, DC.

DEAR MADAM CHAIR: On behalf of the members of Paralyzed Veterans of America (PVA), I am writing to request your assistance in opposing any amendment to be offered to the fiscal year 1995 appropriations for the Department of Veterans Affairs (VA). Amendments at this late date jeopardize and delay the final approval of this necessary appropriation and will curtail the VA's ability to meet the health care demands of veterans.

Delays and foot-dragging have already dearly cost VA health care this year with the demise of any meaningful health care reform. As you know, proposals introduced in this Session of the Congress would have corrected long-standing irregularities in eligibility, streamlined the provision of services and guaranteed a stable funding base for the system. We realize health care reform has been pronounced dead for this year. But this does not mean that these problems in the provision of health care services for veterans will just go away. If amendments are offered to the VA appropriation at this time, the delays produced could very well call for additional reductions in sorely needed funding.

The VA needs every available dollar for the next fiscal year to maintain services and momentum to play a meaningful role in health care reform that must occur either unilaterally or in conjunction with national reforms.

Again, on behalf of all PVA members, we deeply appreciate your efforts to oppose any amendment which will delay or reduce needed funding for veterans health care programs and services.

Sincerely yours,

DOUGLAS K. VOLLMER,

Associate Executive Director

for Government Relations.

Ms. MIKULSKI. They talk about what the consequences of this amendment would be. I will repeat myself. We are talking about the fact that we are dealing with the VA backlog. Do we really want veterans standing in line? We already are wondering what happened to them because of Agent Orange, and we are wondering what happened to them in Desert Storm. We are

really worried about what it means to their spouses and maybe to their children. I do not know what they are eligible for, but I tell you that I do not want them standing in line to find out what it is about, while we block and do this and that we talk about the process.

I want to move this legislation. When we talk about these HUD special projects and then the fact that we want to send it back, those projects came from 45 States with one or more projects in this bill. The Senate voted 71-27 to retain those projects. They voted 60-30 something to retain the water projects. The Senate has spoken. The projects that were added were primarily from the House, or some projects that were in other authorizing bills that either have not passed both bodies or are pending. What we added in VA came primarily from what the Veterans' Administration wanted and the veterans authorizing committee wanted. What we did in EPA were those projects that were pending for 3 years in the clean water projects. If you look at those projects, they do not belong to one party, or whether somebody is on the Appropriations Committee or not.

So, Mr. President, while we are talking about reforms and we are talking about process, those are things that should wait for another day. This bill is the result of months of work, putting together delicate balances, and making tough choices. Much has been said about these projects.

This committee, this subcommittee, received 1,100 individual requests from Senators for line-item projects. That totaled \$96 billion. This entire appropriations is \$88 billion to fund VA, space, and all the other programs I mentioned. We said "no" to 90-some billion dollars' worth of projects. We could say "no" to the individual projects. We did not pig out or pork up. We think we have done a great bill.

So we would hope that this afternoon when the Senate returns from its party conferences and the rollcalls are had, that we would defeat the Smith amendment, we would defeat the McCain amendment, and that we would agree to the conference report.

Mr. President, I could say more, but I think that summarizes my argument. In concluding this morning's activity, I would like to thank the Presiding Officer, too, for his leadership in developing the framework for the mainstream coalition. His work on the Finance Committee is well known. In that coalition, we look forward to working with him in 1995 to truly reform health insurance.

I do not want the morning to conclude without really a tip of the hat to GEORGE MITCHELL, who really tried his darndest to shepherd a bill through, who operated in the spirit of civility, comity, and tried to fashion a bill by listening, and so on.

The clock has run out. But those of us with major sports teams in our States know that even though the clock runs out, the game continues. I know there will be other times and opportunities. I think we need to return to the tradition of good sportsmanship and respect for one another and, hopefully, we will be able to pass health insurance.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 1272, Thomas R. Carper, to be a member of the Amtrak Board of Directors; Calendar No. 1273, Celeste P. McLain, to be a member of the Amtrak Board of Directors; and Calendar No. 1274, Celeste P. McLain, to be a member of the Amtrak Board of Directors (reappointment).

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action, and that the Senate return to the legislative session.

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

The nominations, considered and confirmed, en bloc, are as follows:

AMTRAK

Thomas R. Carper, of Delaware, to be a Member of the Amtrak Board of Directors for a term of four years.

Celeste Pinto McLain, of California, to be a Member of the Amtrak Board of Directors for the remainder of the term expiring March 20, 1995.

Celeste Pinto McLain, of California, to be a Member of the Amtrak Board of Directors for a term of four years. (Reappointment)

THE NOMINATION OF THOMAS R. CARPER TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL RAILROAD PASSENGER CORPORATION [AMTRAK]

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering the nomination of Thomas R. Carper to be a member of the Board of Directors of the National Railroad Passenger Corporation [Amtrak]. The Committee on Commerce, Science, and Transportation held Governor Carper's confirmation hearing on September 21, 1994, and reported his nomination on September 23, 1994.

Governor Carper's accomplishments and talents are familiar to many of my colleagues in the Senate. He was elected as Governor in 1993. Prior to this election he served five terms as Delaware's Congressman in the U.S. House of Representatives and 6 years as Delaware's State treasurer. Governor Carper earned a B.A. in economics in 1968

from Ohio State University and served for 5 years as a Navy aviator, including a tour of duty in southeast Asia during the Vietnam war. In 1975, he earned an MBA degree from the University of Delaware and won his first election to the State treasurer's office the following year. In 1983, he won his first election as Delaware's Representative to the House.

Governor Carper's prior government service has given him knowledge of the issues surrounding Amtrak. He has said that Delaware's dependence upon "high-quality rail transportation services for its prosperity" has required him, as Congressman and Governor, to address difficult transportation and financial issues. Moreover, as Congressman, he participated in the debates on Amtrak transportation and appropriation bills during his five terms in the House. Finally, also as a Congressman, he commuted by rail between Delaware and Washington, DC, almost daily, an experience that provided him "with valuable insights into inter-city passenger rail service from the perspective of the consumer or general public."

Governor Carper's service in State and Federal Government, plus his familiarity with Amtrak, is exactly the type of experience that is needed on the Amtrak board. Therefore, I urge my colleagues to support the President's nomination of Thomas R. Carper to be a member of the Board of Directors of Amtrak.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF RECESS AND TIME FOR VOTES

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the recess be extended until 2:30 p.m. and that the votes previously ordered for 2:15 p.m. begin at 2:30 p.m.

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

RECESS UNTIL 2:30 P.M.

Ms. MIKULSKI. Mr. President, this concludes our debate. I yield back such time as I might have, and I ask unanimous consent that the Senate stand in recess until 2:30 p.m.

There being no objection, the Senate, at 12:29 p.m., recessed until 2:31 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mrs. BOXER).

VA-HUD AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The question is on the adoption of the conference report accompanying H.R. 4624. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—90

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

NAYS—9

Brown	Helms	Roth
Feingold	Kohl	Smith
Gregg	McCain	Wallop

NOT VOTING—1

Bradley

So the conference report was agreed to.

VOTE ON AMENDMENT NO. 2587

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 2587 offered by the Senator from Arizona to the House amendment to the Senate amendment No. 84.

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 28, nays 72, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—28

Baucus	Gorton	Nunn
Bennett	Graham	Pressler
Bradley	Gregg	Roth
Brown	Hatch	Sasser
Chafee	Helms	Smith
Coats	Kassebaum	Thurmond
Craig	Kempthorne	Wallop
Durenberger	Kohl	Warner
Faircloth	Lugar	
Feingold	McCain	

NAYS—72

Akaka	Exon	McConnell
Biden	Feinstein	Metzenbaum
Bingaman	Ford	Mikulski
Bond	Glenn	Mitchell
Boren	Gramm	Moseley-Braun
Boxer	Grassley	Moynihan
Breaux	Harkin	Murkowski
Bryan	Hatfield	Murray
Bumpers	Heflin	Nickles
Burns	Hollings	Packwood
Byrd	Hutchison	Pell
Campbell	Inouye	Pryor
Cochran	Jeffords	Reid
Cohen	Johnston	Riegle
Conrad	Kennedy	Robb
Coverdell	Kerrey	Rockefeller
D'Amato	Kerry	Sarbanes
Danforth	Lautenberg	Shelby
Daschle	Leahy	Simon
DeConcini	Levin	Simpson
Dodd	Lieberman	Specter
Dole	Lott	Stevens
Domenici	Mack	Wellstone
Dorgan	Mathews	Wofford

So the amendment (No. 2587) was rejected.

The PRESIDING OFFICER (Mrs. FEINSTEIN). Pursuant to the previous order, the Senate concurs in the House amendment to the Senate amendment No. 84.

VOTE ON AMENDMENT NO. 2588

The PRESIDING OFFICER. The question occurs on amendment No. 2588, offered by the Senator from New Hampshire, to the House amendment to the Senate amendment No. 28.

The yeas and nays have been ordered. 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 45, nays 55, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—45

Bennett	Feinstein	McConnell
Bradley	Gorton	Metzenbaum
Brown	Grassley	Murkowski
Burns	Gregg	Nickles
Campbell	Hatch	Nunn
Chafee	Helms	Packwood
Coats	Hutchison	Pressler
Cohen	Jeffords	Roth
Coverdell	Kassebaum	Sasser
Craig	Kempthorne	Smith
Dole	Kohl	Thurmond
Durenberger	Lott	Wallop
Exon	Lugar	Warner
Faircloth	Mack	Wellstone
Feingold	McCain	Wofford

NAYS—55

Akaka	Breaux	Danforth
Baucus	Bryan	Daschle
Biden	Bumpers	DeConcini
Bingaman	Byrd	Dodd
Bond	Cochran	Domenici
Boren	Conrad	Dorgan
Boxer	D'Amato	Ford

Glenn	Lautenberg	Reid
Graham	Leahy	Riegle
Gramm	Levin	Robb
Harkin	Lieberman	Rockefeller
Hatfield	Mathews	Sarbanes
Heflin	Mikulski	Shelby
Hollings	Mitchell	Simon
Inouye	Moseley-Braun	Simpson
Johnston	Moynihan	Specter
Kennedy	Murray	Stevens
Kerrey	Pell	
Kerry	Pryor	

So the amendment (No. 2588) was rejected.

Mrs. FEINSTEIN. Pursuant to the previous order, the Senate concurs in the House amendment to the Senate amendment No. 28.

Ms. MIKULSKI. Madam President, I ask unanimous consent that the motion to reconsider the last three votes be laid upon the table.

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

Ms. MIKULSKI. Madam President, I ask unanimous consent that a list of corrections to typographical errors contained in the statement of the managers accompanying the VA-HUD bill be printed in the RECORD.

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

TECHNICAL ERRORS IN JOINT EXPLANATORY STATEMENT

The joint explanatory statement of the committee of conference (House Report 103-715) contains the following technical errors in amendment numbered 28:

On page 12, the amount for the city of Portland, Maine should be \$400,000, not \$500,000.

On page 12, the amount for the State of Maine should be \$800,000, not \$700,000.

On page 14, the \$2,000,000 for revolving loan funds are for the Vermont community loan fund, the Burlington Ecumenical Action Ministry [BEAM], the Washington County revolving loan fund, the Rockingham revolving loan fund, the St. Johnsbury revolving loan fund, and the Vermont Job Start Program.

On page 16, the \$1,000,000 for the Henry Ford Health System is for health care delivery in Michigan, not Mississippi.

On page 17, the \$300,000 for development of a recreational center is to be awarded to the City of Philadelphia, not the City of Chester, Pennsylvania.

On page 21, the \$300,000 for Martin County, Kentucky is for lead-based paint removal.

On page 21, the \$2,000,000 for De Paul University's library is for services in Illinois, not North Carolina.

On page 21, the \$2,000,000 for the Twin Cities Opportunities Industrialization Center is for a facility in Minnesota, not Illinois.

On page 22, the \$750,000 is for the Delta Foundation in Greenville, Mississippi, not Michigan.

On page 22, the \$150,000 is for the Microenterprise Assistance program in San Antonio, Texas, not California.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to disagree to the House amendments to the Senate bill, S. 3, the Campaign Finance Reform Act:

David Boren, Wendell Ford, Harlan Mathews, John Glenn, Paul Simon, Barbara Mikulski, Don Riegle, Frank R. Lautenberg, Claiborne Pell, Joseph Lieberman, Charles S. Robb, Chris Dodd, John F. Kerry, Tom Harkin, Barbara Boxer, David Pryor, Daniel K. Akaka.

VOTE

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

The question is, Is it the sense of the Senate that debate on the motion to request the conference with the House on the disagreeing votes of the two Houses relative to S. 3, the campaign finance reform bill, shall be brought to a close?

The yeas and nays are automatic under the rule and the clerk will call the roll.

The legislative clerk called the roll. The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 57, nays 43, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—57

Akaka	Exon	McCain
Baucus	Felngold	Metzenbaum
Biden	Feinstein	Mikulski
Bingaman	Ford	Mitchell
Boren	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Heflin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Jeffords	Reid
Chafee	Kassebaum	Riegle
Cohen	Kennedy	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
DeConcini	Lautenberg	Sasser
Dodd	Leahy	Simon
Dorgan	Levin	Wellstone
Durenberger	Lieberman	Wofford

NAYS—43

Bennett	Gramm	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Packwood
Burns	Hatch	Pressler
Campbell	Hatfield	Roth
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Coverdell	Johnston	Smith
Craig	Kempthorne	Specter
D'Amato	Kerrey	Stevens
Danforth	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Faircloth	Mathews	
Gorton	McConnell	

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 43. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion to invoke cloture is rejected.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my intention that the Senate will shortly next proceed to the conference report on the Labor, Health and Human Services appropriations bill. I expect that to occur shortly, as soon as the managers can be present.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, while awaiting the presence of the managers, I ask unanimous consent that there be a period for morning business, during which Senators may be permitted to speak therein for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. Moseley-Braun). Without objection, it is so ordered.

Mrs. BOXER. Madam President, I ask unanimous consent to address the Senate for up to 15 minutes.

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

THE REPUBLICANS ARE STALLING

Mrs. BOXER. Madam President, I am very disappointed that a large majority of my Republican colleagues have decided that, outside of routine business, they really do not want to continue the work of this Congress. They want to stall and run the legislative clock down. They would rather talk on and on, even all through the night if that is necessary, to kill legislation that I believe is important to the American people.

Madam President, here is a sample of the legislation, or just some of it, that is ready to go: The Superfund reauthorization, which is needed to clean up toxic waste sites all over this Nation and in California. We have an inordinate number of those because we have had so many military bases and defense contractors there. The Elementary and Secondary Education Act, which is a desperately needed investment in educational reforms, teacher training in math and science, computers, software, and safe schools. Housing legislation to reform public housing and reduce the crime that plagues public housing. Campaign finance reform, so we can put a cap on the obscene amount of money that is spent sometimes to buy a Senate seat. A gift ban for Members of Congress. The California Desert Pro-

tection Act, which has come such a long way due to the efforts of my colleague, the senior Senator from California, Senator FEINSTEIN. As for health care reform, we know now that it is dead. Senator MITCHELL quoted one of our Republican colleagues, saying something to the effect of: Well, now that we have killed health care, we just have to make sure that our fingerprints are not on it.

Even when several members of their own party support working on a health care compromise so that insurance companies cannot walk out on us when we get sick, and so that many more of us can get health insurance, the vast majority of Republicans say they will not vote to stop the endless talking. They each have great health care, Madam President, because they are here in this Congress. They have a health care card, but they want to talk on and talk on, so that we cannot get the same kind of insurance to the people of America that we have for ourselves. I think that is outrageous.

Madam President, the filibuster has a new best friend: The Republican Party. They embrace the filibuster. They love the filibuster. They use it lovingly. They are proud to put on these filibusters, and they say so themselves. The filibuster party is the GOP.

In the past 2 years, filibuster tactics have been used 60 times. Let me repeat that: In the past 2 years, filibuster tactics have been used 60 times. It was used only 9 times in the entire decade of the 1980's. By the way, during that period of time, the Republicans had control of this Senate, so we Democrats understood that you had to get things done no matter which party was in control. We did not stop legislation. I hope the American people will hear that. Filibuster tactics were used 60 times in the last 2 years, compared to only 9 times in the entire decade of the 1980's.

Madam President, we were not sent here to listen to the sound of our own voices into the night, while problems go unsolved. We were sent here to work on the real problems of real people, and to hammer out solutions. When we hammer out these solutions, I do not get everything I want. The Senator from Illinois does not get everything he or she wants. But we are sent here to hammer out solutions, not to talk on and on and on and on and on, endlessly throughout the night. I do not think one needs a degree in political science to understand the game plan here. There is an election coming up, and our Republican friends want no more progress.

Hopefully, we will get a trade treaty. That has been years in the making. We also will probably get—and I hope we do—the appropriations bills. If we do not, there will be utter chaos. I do not think the Republicans want to be responsible for that. But they really hope

to stop our progress and, by doing so, I believe they hope to divert attention from what has already been achieved. Part of the diversion is their new contract with the American people: Vote for them and guess what they will give you? A higher military budget and tax cuts for the wealthy. Sounds like "deja vu all over again," as Yogi Berra once said. I think a baseball analogy is appropriate here. There is no baseball this year, and the Republicans want no more legislation this year.

It is the trickle-down theory they want, back to the future. Tax breaks for the rich, spend more on the military, and pray the deficits take care of themselves. We tried that, and what happened? The largest deficits in history, deficits that went from \$50 billion when Carter left office to almost \$300 billion when Bush left office.

So under the Republican administration, the debt piled up, while they spent more and more on the military and gave tax cuts to the wealthy. Twelve years of bright red ink that weakened America in the world.

Madam President, do you remember when President Bush got sick when he had dinner with the Japanese? It is no wonder. I felt for him. We all had a feeling of weakness and dizziness then, as the industrialized world took advantage of our weak trade policy and berated us for our deficits and for not being productive. Back to the future with that? I hope not. Back to the future with zero job creation? That is what we had under the Bush administration. I hope we do not go back to the future there. Back to the future with history making small business failures? I hope not. Back to the future with S&L's going broke? I hope not. Back to the future with doctors gagged at family-planning clinics? I hope not. Back to the future with education, the environment, health research, and anticrime legislation being treated as stepchildren? I hope not.

But that is what the Republicans want, and they are trying to divert attention from the accomplishments of this Congress and this administration, and I hope the American people will cut through the mean-spirited politics and get the facts.

I know it is hard to cut through the meanness and get to the facts. Good news does not seem to get through these days. It reminds me of a story about President Clinton that is going around that I think is very instructive about how hard it is to get good news out.

President Clinton is by himself on a boat in the middle of a lake, and he spots a child drowning—this is the story—and without thinking anything about his own safety or anything else, he leaps off the boat. He walks on water and rescues this little child and brings her back, walking on water all the way. The next day the newspaper says: President Clinton cannot swim.

You get my point. It is hard to get good news out. What is the good news? Let me give it to you in numbers and in facts. The highest job growth since 1970: 226,000 jobs created every month, since this administration took over.

The best economic growth since the Kennedy administration in the sixties. The deficit is the lowest as a percentage of GNP since 1979. It is the first time since the Truman administration in the 1940's and early 1950's that the deficit has gone down 3 years in a row.

The inflation rate. Except for 1986, when oil prices collapsed, inflation is now the lowest since the Kennedy administration. We have had the highest growth in income since the Nixon administration and the highest industrial production since the Johnson administration in the 1960's; the highest business investment and productivity since the Ford administration in the mid-1970's; the lowest Federal work force since the Kennedy administration.

Let me repeat that: Under the Democrats, economic growth is way up, and we have the lowest Federal work force since the Kennedy administration. No wonder the Republicans do not want the people to cut through and see the facts.

My State of California has been lagging, and it has been a matter of deep concern to me. I have talked to this administration and to my colleagues about California constantly. But last week, the UCLA Business Forecasting Project said that 111,000 net new jobs will be created in California this year. Finally, Madam President, we are not losing jobs; we are gaining jobs. This is an independent study group that says 111,000 net jobs will be created in California this year. We have to do better, but we are beginning to see it turn around.

This administration's economic strategy, which has been supported by the Senate on a very partisan basis, is working. Priorities are: Trade promotion, high-technology investment, education and job training, defense conversion, the information super-highway, timely disaster relief. Madam President, you have had the terrible floods, and we have the terrible fires and earthquakes, and this administration, unlike others, has acted fast and they are helping us rebuild.

A thousand more border patrol agents and hundreds of millions of dollars to reimburse my State for criminal costs associated with the incarceration of undocumented immigrants. It is coming together. It is not perfect, but let us not go back to the future.

This so-called contract put out by NEWT GINGRICH and the Republicans is described this way in an opinion printed by USA Today. The writer, who was a speech writer for President Bush, says the contract was put together "the way a TV network assembles a situation comedy."

He said, "The GOP has conducted vast amounts of market research, figured out which ideas please citizens and which don't—and gathered the winners together under the auspices of a contract."

This writer says: "The result is hash for wonks—10 pieces of legislation with no fewer than 48 separate and often technical parts."

So I urge the people of this country to cut through the filibuster and promises and so-called contracts and look at where we were economically and where we are today. I urge the people of this country to consider the consequences of the election in November.

If the Republicans take control of the Senate, they will do everything in their power to enact the policies of the past. They said it. Higher military budget. Do you know we spend five times more than every potential enemy on the military budget? Hear that again—and I include Russia in the list of potential enemies, even though they are really friends now. Keep them in the list because we want to be sure it is true. We spend 500 percent more than all of our potential enemies put together, and the Republicans want us to go back to those days.

I remember those days of \$7,500 coffee pots, \$400 hammers, \$900 wrenches. That is what we had in the runaway days of the military budget. We need a lean, mean defense that is tough, strong, and works. That is what we need. And we need to invest in the domestic side of the budget. That is what we have begun, and we are seeing results.

The Republicans voted against the crime bill. They did not like it because they said there was prevention in it, and they called that pork. I call that baloney. The prevention in that bill was recommended by police chiefs, sheriffs, and prosecutors.

I held violence roundtables all over the country, and they are the ones who said: You know, Senator, once they get in prison, it is too late. Help us out. Yes, we want more prisons. Yes, we want more law enforcement. But we need prevention, and so a small part of the bill went toward that.

But the Republicans do not like it. They are even trying to do away with that by adding an amendment to one of appropriations bills.

So Americans, I hope you will engage, listen, and judge for yourselves. Ask yourselves if we have made progress on the deficit, jobs, crime, and new priorities.

I hope you will decide not to go back to the future. None of us is perfect. No President has ever been perfect. No Senator has ever been perfect. We can talk about our imperfections all day and all night. We could make it real personal. But there is more at stake. We have to come together, Republicans, Democrats, with all our imperfections and work for this country. I

am very optimistic about the future. But I will tell you. We did not come here to filibuster. We came here to work. We have a can-do spirit in this country. This is a government of, by, and for the people which should reflect a can-do attitude, not a no-can-do, yak, yak, yak through the night, stop the progress. We are in this U.S. Senate. We are not in an election campaign. We are on this floor. We are supposed to do the work for the people. The operative word is "work."

I hope we will stop these filibusters and get down to work.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont asked for recognition and then we will go to the Senator from Idaho.

Mr. LEAHY. Madam President, I want to commend the Senator from California for what she said. With gridlock and filibusters, the Senate is really voting maybe. We are not elected and do not get paid salaries to vote maybe. We are elected to vote yes or no. Filibusters by Senators is not what the American people want. She is right.

Madam President, I know the Senator from Arizona was seeking recognition. I appreciate his courtesy in letting me go forward.

A GOAL TO ELIMINATE A WEAPON OF SHAME

Mr. LEAHY. Madam President, for the past 3 years, I have urged the Congress, the administration, and governments around the world to stop the terrible slaughter of innocent people by landmines. These tiny weapons, often no larger than a can of shoe polish, can blow the leg or arm off whoever steps on them.

They are indiscriminate. They cannot tell the difference between a soldier and a child, and usually it is civilians, going about their daily lives, who are killed or maimed. It is a young child like the boy in this photograph who steps on a landmine probably costing about \$3 or \$4, strewn by the thousands. That child will spend the rest of his life in a poor country trying to survive without his legs. Over 1,200 people are killed by landmines each month, and many thousands more are injured. There are 100 million unexploded mines strewn in over 60 countries.

Last year, the Congress, in a unanimous vote on a resolution I wrote extended the U.S. moratorium on exports of antipersonnel landmines for another 3 years, and since then at least 16 countries have stopped exports following our lead. But much stronger action is needed. During the past year, another 2 million new mines were deployed, and they are waiting to kill, waiting to maim.

Madam President, ridding the world of any weapon takes leadership and

international cooperation. On Monday, President Clinton showed that the United States will provide that leadership. In his speech to the U.N. General Assembly, President Clinton announced for the first time that the United States will seek the ultimate elimination of antipersonnel landmines. I applaud the President for that.

This is a crucial milestone, and I want to commend the President for his courageous step. By declaring this goal we put to rest any need for further debate about how to end the landmine scourge. We agree that the solution is to ban them completely.

That is the only way to put an end to this mayhem.

The question is how to achieve that goal. It will take years, but let us agree that we should move as quickly as possible. Every day, of every week, of every month, of every year, landmines continue to kill and maim their innocent victims.

As a first step toward that goal, the President called on other countries to join with the United States in an international agreement to reduce the number and availability of these weapons.

The administration's proposal would impose limits on certain kinds of mines, and includes verification and compliance procedures for enforcing these limits. Frankly, I am skeptical that an elaborate system of rules which permits some kinds of mines but not others can work in the real world. We have seen how landmines are routinely used in violation of the laws of war, even by those who are signatories to those agreements. But I will support any interim measure that will lead to the ultimate goal of the elimination of these killers.

Madam President, I am greatly encouraged by the President's announcement. I also want to mention what is happening in Italy, which has been one of the largest producers of mines. Just last week, in the town of Castenedolo where Valsella, the company which produces the mines, is located, thousands of people gathered to call for a ban on landmines. The mayor of the town was among them, as were the two parliamentarians, Emma Bonino and Edo Ronchi, who I met with a couple of weeks ago and who sponsored legislation to end production and exports of antipersonnel landmines. The Italian Defense Minister has announced his support, and the Foreign Minister is expected to announce in the U.N. General Assembly that Italy has stopped all exports and production of these weapons.

In less than a year, Italy has gone from being among the world's largest landmine producers, to a world leader by ending its involvement in this shameful business. If Italy can do it, so can we and so can the rest of the world.

Madam President, as support for the elimination of landmines builds around

the world, I again want to commend President Clinton, and our U.N. Ambassador Madeleine Albright, for their leadership. After years of work it is so gratifying to have their strong support. If we work together there is no reason why we cannot achieve this goal, and solve one of the most urgent humanitarian crises of our time.

Madam President, I ask unanimous consent that an excerpt of the President's remarks on landmines at the United Nations be printed in the RECORD.

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

EXERPTS OF SPEECH BY PRESIDENT CLINTON AT THE UNITED NATIONS ON SEPTEMBER 26, 1994

And today, I am proposing a first step toward the eventual elimination of a less-visible, but still deadly threat: the world's 85 million antipersonnel land mines—one for every 50 people on the face of the Earth. I ask all nations to join with us and conclude an agreement to reduce the number and availability of those mines. Ridding the world of those often hidden weapons will help to save the lives of tens of thousands of men and women and innocent children in the years to come.

Mr. LEAHY. I applaud the President of the United States for his strong statement.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

REPORT ON IDAHO SHOOTOUT

Mr. CRAIG. Madam President, for a few moments this afternoon while we are in morning business, I would like to discuss a matter that is of great concern to the citizens of my State of Idaho, the many citizens around the Nation and a number of my colleagues here in this body.

In fact, it should be a concern of every American who values his or her civil liberties and the great tradition of balance and restraint in the enforcement of our laws. We depend upon our State and Federal authorities to maintain order and keep the peace in our society, and we trust they will do so in a way that is consistent with the law and in keeping with the trust we have placed in them in a very historic and constitutional fashion.

Sometimes that balance and restraint breaks down as it did during the botched raid in Waco, TX. Sometimes a line is crossed that runs the risk of breaking the trust and confidence Americans have placed in our Federal law enforcement community.

Whatever one may think about the particular characters involved in the Randy Weaver affair in north Idaho 2 years ago, there is evidence suggesting that line was crossed and that crucial confidence was broken by Federal authorities during a standoff near Naples,

ID. While this event did not receive the attention of the Waco raid, both episodes cost human lives, both could have been handled differently, and both may have been severely mishandled by Federal authorities.

The major difference between the Waco and north Idaho raids is the first received a thorough and open public investigation. The other is the subject of a still unreleased Justice Department investigation by this attorney general.

I am here today on this floor publicly demanding the release of the second investigation.

So, Madam President, let me relate to you the story that really began in October 1989 when Randy Weaver allegedly sold two illegal firearms to an undercover BATF agent in Idaho. Fourteen months later, he was indicted by a Federal grand jury and subsequently ordered to stand trial. He failed to appear for trial and was indicted by the grand jury for that offense as he should have been. In March, 1991, he and his family began hiding out in a cabin near Naples, ID. They were kept under surveillance by Federal law enforcement agents for the remainder of that year and well into the next.

Finally, in August 1992, the situation erupted in a shootout that killed Federal Deputy Marshal William Degan and Randy Weaver's son, Samuel. Federal, State, and local law enforcement agencies converged on the scene for a standoff with the Weavers and their friend Kevin Harris, who was thought to have fired the shot that killed Deputy Marshal Degan. During the 19-day standoff, a Federal sniper killed Randy Weaver's wife, Vicki, and wounded both Weaver and Harris.

On August 30, Harris surrendered to authorities, followed the next day by the surrender of Weaver. Additional charges of murder and conspiracy, among others, were filed against Weaver and Harris.

The trial began in April 1993. On July 8, 1993, without any evidence being presented by the defendants, the jury acquitted Kevin Harris of all charges and acquitted Randy Weaver of all but the least serious of the charges against him.

Quite frankly, public opinion in my State about Randy Weaver and Kevin Harris was divided. From the beginning of the well-publicized standoff to the end of the trial, some saw them as victims; others saw them as outlaws.

However, opinion was not so divided regarding the Government's actions. Idahoans were first surprised by the force of the Federal response, which turned the small community of Naples upside down. It became an armed military camp. They were concerned when reports began to circulate about the lack of coordination with local and State law enforcement. Concern turned into fear and hostility as mishaps were revealed that the case was perhaps

handled in the wrong way, from the original targeting of Randy Weaver through the shootout and investigation and the trial itself.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that upon the completion of the remarks of the Senator from Idaho, the Senate proceed to the consideration of H.R. 4606, the conference report accompanying the Labor, HHS, Education appropriations bill.

Mr. WELLSTONE. Madam President, reserving the right to object, and I do not think I will, might there be any time—I want 5 minutes before we move on to that bill—I ask the majority leader?

Mr. MITCHELL. Madam President, I would then request that upon the completion of the remarks of the Senator from Idaho, the Senator from Minnesota be recognized to address the Senate for 5 minutes, and following the completion of his remarks, the Senate proceed as originally requested.

Mr. WELLSTONE. I thank the Senator.

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

Mr. MITCHELL. I thank the colleague.

Mr. CRAIG. Madam President, I was discussing an episode that had happened in north Idaho known as the Randy Weaver affair, and I was telling you about the breaking of laws and then, of course, the converging of State, local, and Federal law enforcement upon a small cabin in Naples, ID, and the subsequent actions that happened, the killing of a Federal marshal, the killing of Mrs. Vicky Weaver, and then both the shooting of Randy Weaver himself and Kevin Harris.

Now here are my concerns. For example, one of the most serious questions involved the rules of engagement observed at the site of the incident. It is my understanding that the Federal law enforcement practice is to prohibit using deadly force against an individual unless that individual is actually threatening the life of another. Yet in the north Idaho incident, official handwritten instructions directed law enforcement personnel that deadly force could be used against any armed adult in the compound area.

Let me repeat that. A handwritten note suggested that any armed adult in the compound area deadly force could be used upon.

There was some argument at the trial about whether this was an actual modification of the rules of engagement or a change in the application of the usual rules. That argument, however important technically at trial, ignores a more disturbing question about the substance of the policy itself: When does the Department of Justice consider it acceptable for Federal law en-

forcement to fire on an armed citizen first, even if he or she is not threatening the life of any other person, and then ask questions later? That appears to be what happened in the Randy Weaver incident.

Citizens who take seriously their right to bear arms have much to fear from a Government that assumes that the mere possession of a firearm presents a threat to others.

Idahoans were also disturbed by a series of apparent blunders by Federal authorities. For instance, the initial order to appear issued to Weaver contained an incorrect trial date, and no correction of the order was made or ever issued, although he was indicted for failing to appear on the correct date he was never notified about.

Questions also were raised about the on-the-scene investigation, including failing to triangulate in order to place evidence accurately at the scene, failing to search the scene thoroughly enough to discover the magic bullet uncovered days later, miscounting evidence and staging photographs of evidence. Law enforcement officials admitted during the trial that evidence was mishandled and lost.

There was also a disturbing lack of coordination among Federal agencies. Documents in the possession of the Government and essential to the prosecution's examination of witnesses were mailed fourth-class to Idaho, reaching the prosecution after the witnesses had testified and provoking a rebuke from the judge. Yet readily available for publication was an FBI report highly critical of the work of the U.S. Marshals Service.

Concerns were also raised about the disparity between the seriousness of the offenses at stake and the level of force used by the Government against Weaver and Harris. In this sense, comparisons drawn between the north Idaho action and the incident at Waco, TX, were inevitable and deeply troubling. It has been suggested that these two cases reflect a pattern of over-zealousness in pursuing firearms violations, whether because they are sensational, grab headlines or help secure congressional appropriations.

These were only a few of the many, many concerns related to me by my constituents while the Weaver case developed in my State of Idaho. I spent literally days monitoring the case, following up on rumors, and discussing the matter with Federal, State, and local officials who had been involved in the matter.

The virtual exoneration of the two defendants was seen as proof that the Federal Government had acted improperly. Fairly or unfairly, the public expected the Government's law enforcement experts to be just that—experts. Even one misstep would have raised questions. The cumulative effect of these blunders was devastating with

public opinion in my State. Not only did they diminish the value of the physical evidence and the credibility of the law enforcement testimony, but they strengthened the popular notion of the case as an example of powerful, corrupt Government pursuing vulnerable citizens and trying to cover up its own misdeeds.

It was because of the level of unease among my constituents that I wrote to Secretary Bentsen and Attorney General Reno following the trial, requesting an investigation and report on the Government's handling of the case and citing these very problems that I have related to all of you.

Both departments responded that they were indeed cooperating in reviewing the Weaver case. I commended them for their promptness and their responsive action. It seemed to me, and I continue to believe, that failing to answer the legitimate questions raised about this case would be equally destructive to the interests of law enforcement community and the citizens in my State of Idaho.

My office continued to receive a steady stream of inquiries and complaints about the incident in north Idaho. Rather than dying down, interest in the case has been increasing as time has passed without a report of the internal investigation of the Federal actions.

We made informal inquiries about the progress of the internal investigation and confirmed early this spring that the reports were finished and being reviewed. In April of this year, 1994, 9 months after I had requested the investigation, I wrote requesting release of the information.

In June, I received a response from the Department of Justice to my letter, stating that the report was under review. I wrote back, objecting to being put off, and then requesting the release of the report.

On July 5 of this year, the Department of the Treasury released a report of its investigation. That report concluded that BATF had acted properly in the original investigation and arrest of Weaver; the report also noted that BATF was not involved in any events subsequent to that initial arrest.

I expected the Department of Justice to follow the suit with its report, but no information was released. I spoke to the Attorney General and learned the report was still under review.

Since that time, Attorney General Reno has kept me informed of the status of her report—and I say this to her credit. While I appreciate that courtesy of the Attorney General, we do not appear to be any closer to the report's release now than we were 90 days ago when the Department first officially informed me that the report was under review.

Now, with my patience and credulity wearing mighty thin, I have been in-

formed that there is an active effort within the administration to suppress this report and to prevent its release to the public.

Madam President, I most sincerely hope the administration is not trying to engineer a coverup on this issue. But what am I to think—what are my constituents to think—when my original request for an investigation was made more than a year ago when we learned the investigation and the report were completed before spring of this year and when the Department of the Treasury's report on its involvement was released more than 2 months ago?

I said earlier that comparisons between the Weaver incident and the events in Waco were inevitable. Along those lines, it is instructive to note that the voluminous reports on the investigation of the Government's handling of the very complicated Waco case were completed and released today to the public in less than 8 months.

Let me be clear: I am not on a witch hunt. I have no way of knowing what this report will say about the activities in north Idaho. It was not even the current administration who conducted the operation that we are now questioning. But it is the current administration who has conducted the investigation of those events and has the control of the findings of that investigation.

Whatever their personal thoughts about the particular individuals involved in the standoff, people are concerned about a possible misuse of Federal power and the future threat that may pose to all Americans' civil liberties. Every day that passes only increases the cynicism and the unease felt by those who are monitoring the Weaver matter in my State and elsewhere in the Nation. Every day that passes only darkens the cloud that they see hanging over our Federal law enforcement agencies.

I can promise the administration that delay will not make the case or the issue go away. My constituents are not going to just forget it, citizens who are watching from around the country are not going to tune out, and I am not going to melt away.

Again, I urge the administration to release this report. Silence only allows doubt and suspicion to breed and adds to credence to anyone's claim that a coverup may well be underway. Do the right thing by our own law enforcement agencies and by citizens of this country: Release the report of the Randy Weaver investigation.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Madam President.

GRIDLOCK

Mr. WELLSTONE. Madam President, we just had a vote a short time ago in

which we were unable to obtain cloture. This was cloture so that we could move to the conference committee on the campaign finance reform bill.

I have four items, Madam President. Let me make a connection between that vote, that obstructionism and, mind you, all we were trying to do is get to conference committee to then consider a campaign finance reform bill.

The second item: Yesterday the majority leader announced there would be no health care reform legislation passed in this Congress. Yesterday the majority leader announced that he really did not see us going forward, given the threat of filibuster or given the threat on part of some Senators to just introduce amendment after amendment after amendment. Let me make a connection.

The second item: Citizens Action came out with a report this past week. That is the Nation's largest consumer organization. And they looked at a period from January 1993 to July of this year in which opponents of health care reform spent \$46 million, \$46 million mainly targeted to congressional health care committees. Madam President, these were contributions which were made to block health care reform.

The fourth item: A Common Cause study just came out. From 1987 through 1993, according to Common Cause, business PAC's gave over \$72 million to Senators as opposed to \$16.7 million from labor PAC's. That is a ratio of 4 to 1.

Final item, Madam President, in the lobbying packet the insurance industry, according to one industry news letter, urged its members in each State to go to the Federal Election Commission reports, find out the wealthy contributors of each member, and then hold meetings with those contributor allies for the purposes of then going to Senators and Representatives.

Madam President, that is not very subtle, not very subtle.

My point is simply this: What has happened with the blocking of health care legislation makes the best case I know for campaign finance reform. It really is shameful the unprecedented amount of money that is poured into the House and the Senate. It really is shameful that that money has been used to block health care reform and it emerges, I think, not as the variable but one variable in explaining our inaction.

Madam President, even if you did not agree that it was the variable, let me just simply make the point, that if—and I use the analogy one more time, opposing teams before a football game or a soccer game were paying the referees before they officiated the games, people would not have a lot of confidence that those referees were making impartial decisions or good decisions. And we wonder why people are so angry.

Madam President, I believe that we will get this cloture vote in a day or so, and my distinguished colleague, Senator MCCONNELL, said he looked forward to debate. I look forward to the debate. I look forward to debate and, more importantly, I look forward to action, because in the past couple of days, as I have heard Senators speak about this, they have said to have any kind of campaign finance reform bill passed would be business as usual.

Business as usual is where we are right now. Business as usual is an unholy mix of money and politics. Business as usual is when Senators have to raise \$5 million, \$6, \$8, \$12 million, maybe \$20 million for a Senate race. This is an obscene money chase and people in the country hate it and they feel as if it just belongs to those people who have the money. They feel as if it is not even a game they can play any longer. They feel completely ripped off. They feel left out of this process.

I venture to say, Madam President, that the citizens of Minnesota and the citizens of Illinois and every single State would like to see the large, big contributions out of politics. Let people make small contributions. Let people raise money. But we do not need to be raising these obscene amounts of money for campaigns.

As to the argument that discount vouchers for ads, or for whatever, represents some kind of entitlement program for politicians, these elections do not belong to politicians, they belong to the people in our country. I think it is absolutely critically important that we get this big money out of politics. But we do not even have an opportunity, based on this vote that took place, to move to a conference committee.

One more time—and I conclude this way with these points: health care reform, hijacked; unholy mix of money and politics, failure to enact reform that would do well for people makes the best case possible for campaign finance reform. No. 1.

No. 2, we see right now in what is going on on the floor of the Senate an effort to just bring this process to a grinding halt, to essentially blow the Senate up, to stop us from moving forward on any major initiative. And that is what has happened on this bill.

What we saw happening with this past vote just about 45 minutes ago was a vote where Senators essentially were saying that we cannot even appoint conferees from the House and from the Senate to come together to try and reach agreement on campaign finance reform, which would get some of the large money out of politics, which would begin to reform this process, which would begin to give people more confidence in this process.

I find this to be business as usual. I heard those people who oppose campaign finance reform talking about

business as usual. The business as usual is just blocking, blocking, blocking. The business as usual is to bring this process to a grinding halt; try and let as little as possible pass the Senate; block almost everything, and then go around the country fanning the flames of discontent, telling people throughout our country: "Government can do no good; legislation can't be passed; everything is wrong."

I think it is a profoundly cynical approach. I think it essentially represents the very best of nondecision-making, and I do not think that is why we are here. I fully support what my colleague from California, Senator BOXER, had to say. It is a core issue. It is a root issue. If we do not have campaign finance reform, we will not have made this process accountable. This is a key reform issue. It is a key item for us. It is a priority for the U.S. Senate. And right now, we just see a blatant effort to filibuster this one way or the other: Block it, block it, block it.

I hope we will vote for cloture when we vote on this again. I take it that that will be by Thursday.

I yield the floor.

DEPARTMENTS OF LABOR,
HEALTH AND HUMAN SERVICES,
AND EDUCATION AND RELATED
AGENCIES APPROPRIATIONS
ACT, 1995—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 4606, which the clerk will report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 20, 1994.)

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am pleased to report to the Members of the Senate that we have a very successful—and an extremely short—conference with the House. Not only were we able to preserve all the important funding initiatives of the Senate, as well as those of the administration, but we completed action on all 157 Senate amendments to the House bill in less than 10 minutes. In fact, I think the time was 8 minutes total for our conference. We set a new record. So there really is not much contention in the this bill.

The conference agreement now before us is within our subcommittee's 602(b) ceiling and is well below the level requested by the President. The conference agreement totals \$252.9 billion. That is \$6.6 billion less than last year's level. Of that total, \$69.9 billion is for discretionary budget authority under the direct control of the subcommittee.

Our bill also includes \$38 million for two programs in the Crime Trust Fund allocated to our subcommittee. The remaining \$182.8 billion is for mandatory programs funded by our subcommittee.

I am particularly proud that this agreement does not impose an across-the-board cut of programs within our bill.

Mr. President, there are many important features of this bill, but for the sake of time, I would like to mention just a few highlights.

The conference approves the Senate's initiatives to root out wasteful spending and abusive practices in the Departments of Labor, Health and Human Services, and Education.

Some of the waste, fraud and abuse initiatives include: an increase over the President's budget for payment safeguards to curtail overcharges in the Medicare Program; a pilot program designed to help investigators detect potential Medicaid fraud; prevention of payment of Federal workers' compensation benefits to convicted felons; and increased monitoring by the Social Security Administration to identify and suspend SSI benefits to those who do not comply with drug or alcohol treatment requirements.

The conference agreement includes \$1.319 billion for the Low-Income Home Energy Program, which is \$94 million more than the House recommendation and \$589 million more than the President's budget request. This also includes advance funding for program year 1996 at the fiscal 1995 level.

Overall, the conference agreement provided 46 percent of the President's request for his investment programs in our bill, including initiatives in worker retraining, education reform, and children's programs.

For Head Start, the conference agreement includes a \$210 million increase over fiscal year 1994. This report includes a \$396 million increase for the National Institutes of Health, reflecting the conference's strong belief that the NIH is a vital investment program for our Nation.

I am also pleased that the conference recommends a \$67 million increase for the substance abuse block grant, for a total of \$1.234 billion.

For the Department of Labor, the conference report provides an additional \$178 million for dislocated worker assistance, and \$120 million for one-stop career shopping. In addition, the conferees recommended \$250 million for the joint Department of Labor and Department of Education school-to-work transition initiative.

The conference report also provides a total of \$528 million for the administration's education reform initiatives, including a \$298 million increase for Goals 2000. For title I, the conferees recommended a \$328 million increase over fiscal year 1994 levels.

The report also includes \$2.25 billion, or \$174 billion over the President's request, for 13 key health prevention programs at the Center for Disease Control and Prevention and the Health Resource Services Administration. Specifically, our agreement provides \$616 million for community health centers, \$100 million for breast cancer screening, and a \$12.5 million increase for family planning programs.

And for the first year, our subcommittee has been allocated \$38 million from the Crime Trust Funds to fund two crime bill programs. Specifically, this bill provides \$37 million for the Community Schools Program and \$1 million for the Domestic Violence Hotline.

I also publicly thank Chairman SMITH, my House counterpart, and his ranking member, Congressman PORTER, for their excellent cooperation this year. I want to commend the new chairman of the House subcommittee, Congressman SMITH, for his cooperation, hard work, and his leadership on these issues. The House's assistance was essential to completing this year's conference in record time.

I also want to publicly thank Senator SPECTER, our ranking member on our subcommittee, and his staff, for all of their excellent advice and assistance throughout this process. Senator SPECTER's counsel and input is reflected throughout the process, beginning with hearings earlier this year, committee markup and now conference, and I am most grateful for all of his help and assistance in bringing this bill to the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HEALTH CARE REFORM

Mr. MOYNIHAN. I thank the President. I rise to state that I agree with the majority leader's assessment that large-scale health care reform cannot be enacted in the final days of this Congress. I further agree with Senator MITCHELL that we need at least 60 votes in the Senate to pass legislation quickly. I believe the record will be that this has been my view for a very long while. With those two defining facts in mind, I would like to outline four simple pro-

visions that I believe could be passed in just a few days.

This proposal would include basic health insurance reforms to provide portability of coverage and to eliminate the denial of health insurance due to preexisting conditions. These are familiar matters which have passed the House and Senate before. In addition, it would expand health care coverage for the self-employed and for children and pregnant women. These expanded benefits would be financed by a gradual increase in the tobacco tax of the kind we have already reported from the Committee on Finance.

The insurance reforms, again to state, have already passed the Senate twice.

The proposal for expanding benefits is a measured approach using existing programs rather than creating new programs, with all the organizational paraphernalia that goes with new programs. The expansion of existing programs will be financed by a gradual increase in an existing tax. We are not inventing anything new.

This proposal will not foreclose or prejudice the direction of future reforms in the health care system. It is consistent with reforms that stress private or public, Federal and/or State initiatives.

The proposal is deficit neutral; expanded benefits for the self employed and children and pregnant women will cost \$59 billion over 10 years and will be fully financed by a quite modest increase in the tobacco tax.

Under the four major elements of the proposal:

First, insurance reforms would guarantee that insurers could not deny coverage based on health status, medical condition, or anticipated need for health services. One of the things we learned in the course of the years of inquiring into the issue of who are the uninsured, we find persons with high professional standing and good incomes who are uninsured because of a previous medical condition, which is absurd.

Second, self-employed persons could deduct 100 percent of the cost of their health insurance premiums, which is effectively the case for persons insured by their employer.

Third, millions of children in families with incomes below 185 percent of the poverty level could become eligible for Medicaid through enhanced matching grants to States.

Fourth, a gradual increase in the tobacco tax would fully fund the expansion of health care benefits for the self-employed and for children and pregnant women.

Under my insurance reform proposal, insurers would be prohibited from imposing a preexisting condition exclusion for individuals who maintain continuous insurance coverage. The intent of this provision is to prohibit insurers

from requiring individuals who change jobs from having to meet a new preexisting condition whenever this type of change occurs.

In addition, a limitation would be placed on the length of time insurers could exclude individuals who have preexisting conditions. Under the proposal, insurers would only be permitted to exclude conditions which were diagnosed or treated within the 3 months previous to enrollment for a maximum of 6 months after the date of enrollment.

Identical provisions, as I have said, passed the Senate twice in 1992 but were dropped in conference.

The provisions were included in H.R. 4210—the Family Tax Fairness, Economic Growth, Health Care Access Act of 1992—which was reported by the Finance Committee, and passed by the Senate on March 13, 1992.

In addition, Secretary—then Senator—Bentsen, along with 15 Republicans and 5 Democratic cosponsors, proposed these reforms on the floor of the Senate as part of a package of amendments to H.R. 11, the Revenue Act of 1992. Sixteen Republicans and seven Democrats spoke on the floor in favor of this bipartisan set of reforms. No one in the Senate spoke against it. No one opposed it. And in that spirit, I hope we can proceed, even at this late hour. The reforms passed by a voice vote on September 23, 1992, and there is no reason why these insurance reforms should not enjoy the same support in the Senate today.

My proposal would make health insurance more affordable for self-employed individuals by permitting the self-employed to deduct 100 percent of their insurance premiums. This is a simple matter of tax fairness. It would put self-employed individuals on the same footing as employees who can exclude from income health care insurance premiums paid for by their employers.

The deduction would be gradually phased in starting at 25 percent in 1994. A 25-percent deduction for the self-employed expired on December 31, 1993. Indeed, we allowed it to expire in last year's reconciliation bill only with the full expectation that we would tend to this item as part of health care reform legislation this year. If we do not take action in this Congress, the self-employed will have no deduction for health insurance on their next tax return. I know that no one in this Congress has intended this to happen to the self-employed.

My proposal would expand Medicaid coverage for children and for pregnant women. Currently 10 million children lack health insurance coverage. Under my proposal two-thirds of these children could become eligible for Medicaid coverage.

For children, the proposal would encourage States to expand Medicaid eligibility by giving States an enhanced

Federal matching rate for the costs of covering children who they are not now required to cover. This would make eligible for coverage all children up to age 19 with family incomes up to 185 percent of the Federal poverty level.

Current Medicaid law has an extraordinarily complicated formula for coverage of children. States are now required to provide coverage of infants (up to age 1) and children up to age 6 with family incomes under 133 percent of the Federal poverty level. They have the option of covering infants with family incomes up to 185 percent of poverty. And finally, States must also cover all other children born after September 30, 1983 with family incomes up to 100 percent of poverty.

By giving States an option and an incentive to cover all children under age 19, with family incomes below 185 percent of the Federal poverty level, we will hopefully not only expand coverage significantly but move toward a simplification of eligibility rules, as well.

My proposal would also increase coverage of pregnant women by requiring that States cover this group with family incomes up to 150 percent of the Federal poverty level. Federal law currently requires States to cover pregnant women only up to 133 percent of the Federal poverty level. Thirty-four States cover pregnant women at income levels beyond the minimum of 133 percent of Federal poverty; the majority of these States cover this group up to 185 percent of the Federal poverty level. The requirement that States increase coverage to 150 percent of poverty would also apply to infants.

The Medicaid changes and the deduction for the self-employed would be financed by increasing the excise tax on cigarettes by 45 cents per pack, phased in over 5 years, with a proportional increase in the tax imposed on other tobacco products—a proposal very similar to the one offered by Senator MITCHELL.

Mr. President, as I stated recently, for health care reform legislation I have had one clear guideline in mind at every stage of our deliberations: the first principle of the Hippocratic oath "primum non nocere"—First Do No Harm. In my view, the proposal I have outlined meets this elemental standard. Moreover, it provides expanded health insurance coverage that can be paid for without harming beneficiaries of existing programs.

Mr. President, there is so much more that I would like us to do.

I do wish we could somehow reasonably contain health care costs.

I do wish we could fund new and greater support for medical education and research.

But, Mr. President, the reality is that with only about 15 days left in this Congress, and with so much disagreement on those issues, we must

target our efforts in health care reform to what we do know how to do, and to what a large majority can agree on. The undeniable fact that time is running out on this Congress does not mean that we should give up but only that we should concentrate intensely on what health care reforms are realistically possible in this Congress.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the conference report.

Mr. SPECTER. Madam President, I join the chairman of the subcommittee, the distinguished Senator from Iowa, Senator HARKIN, in supporting the conference report before the Senate today. There has been an extraordinary amount of work done in this massive bill, almost \$253 billion, and extraordinary staff work. At the same time, I want to thank Chairman SMITH and Congressman PORTER, chairman of the House committee, and the ranking Republican there, for their work. It is a very complicated matter to move through the numerous items of concern in the Departments of Health and Human Services, Education, and Labor, and to allocate the funds which are available.

While at first blush, that sum of money might seem very substantial—and it is—when you have to fund the National Institutes of Health, which does basic research and has had really marvelous results, and when you have to allocate increases for cancer—prostate cancer, breast cancer, cervical cancer—and you have to find money for heart disease and for diabetes, and you have to work through the complicated issues of sufficient funding for Head Start and other educational programs, and fund mine safety, AIDS research, and a tremendous number of items which confront this bill, it seems vast indeed.

We were able to move through the conference with the cooperation, as I say, of Congressman SMITH and Congressman PORTER, and the staffs have done a really extraordinary job. We are on a tight schedule with a great many matters pending, as we try to conclude the work of the Senate this year and try to get all the appropriations bills finished before September 30, which is at the end of this week.

Mr. President, I join the chairman of the subcommittee, the distinguished Senator from Iowa, in supporting the conference report that is before the Senate today. I want to take this opportunity to thank Chairman HARKIN and the other members of the subcommittee, for putting together this very comprehensive conference agreement. I also want to thank Chairman

SMITH and Congressman PORTER for their hard work and their willingness to compromise on the differences between the House and Senate bills.

The bill totals more than \$252.9 billion, including over \$70 billion in discretionary spending, and provides funding for workforce retraining, educating this Nation's children and continuing the critical biomedical research to cure and curb disease. This year, as in the past, the subcommittee allocation was insufficient to meet all of the health, welfare, job training and education and education needs, but given the budget constraints faced by the subcommittee, I think that the agreement is very comprehensive.

TEEN PREGNANCY

When one talks of the social ills in America today, the problem of the increasing numbers of births to adolescents is always at the top of the list. The costs associated with families begun by teens are staggering. In 1990, an estimated 51 percent of Aid to Families With Dependent Children (AFDC) payments went to recipients who were 19 or younger when they first became mothers. And when AFDC costs were combined with those of Medicaid and food stamps, over \$25 billion of these funds were used to support families begun by teens in 1990.

The conference agreement contains over \$217 million for education and prevention programs to deal with issues surrounding teen pregnancy.

PRENATAL CARE AND LOW BIRTHWEIGHT INFANTS

Each year, about 7 percent, or 287,000, of the 4,100,000 babies born in the United States are of low birth weight and therefore, at far greater risk of death or disability. Including \$4.5 million for the CDC to support the development of community coalitions for the prevention of teen pregnancies.

Beyond the human tragedy of low birth weight there are the financial consequences. In 1990, the hospital-related costs for caring for low birth weight newborns totaled more than \$2 billion, or an average of \$21,000 per infant. And in infants of extremely low birth weight, hospital costs often exceed \$150,000.

It is generally recognized that prenatal care that begins in the first weeks of pregnancy and is appropriate to the mother's level of health risk can effectively prevent low birth weight births and improve birth outcomes. The bill recommends \$1.498 billion for programs which support education, counseling, and prenatal services for pregnant women. This amount includes a \$12.5 million increase for the healthy start program, bringing the total amount available to \$110 million.

PRISON EDUCATION

On a given day in the United States, there are approximately 1.3 million residents in correctional institutions. The costs of incarcerating an individual per year is approximately \$25-

\$30,000. The correctional population is characterized by low levels of formal education with estimates of between 60 and 80 percent of the prison population functionally illiterate. Only 40 percent of prison inmates have graduated from high school. Lack of formal education limits an individual's ability to succeed in society. Criminal records, coupled with limited academic and vocational training, exacerbates the problem further. The conference report before us today provides \$116.7 million for programs to educate juveniles in adult corrections facilities, literacy and vocational education programs for adult inmates and substance abuse prevention and treatment for the criminal justice population.

LIHEAP

A program that is of critical importance to Pennsylvania is the Low Income Home Energy Assistance Program. These funds help low income families avoid having to decide between heating or eating. Over 70 percent of households who receive LIHEAP have annual incomes of less than \$8,000. LIHEAP already has borne its share of funding cuts. From fiscal year 1981 to fiscal year 1993, LIHEAP's funding has been cut by \$1.6 billion, or 53.9 percent after adjusting for inflation. Funding for this program supports grants to States to deliver assistance to low income households to help meet the costs of heating and cooling their homes. The conference report includes \$1.319 billion for the fiscal year 1995 winter program and for the in advance funding for the fiscal year 1996 winter program. While I would like to have seen an increase in the LIHEAP program, this was not possible, due to the extremely tight budget situation.

FAMILY VIOLENCE

The O.J. Simpson case brought the incidence of domestic violence into the public eye. But unfortunately, family violence is not a rare occurrence. Last year alone, an estimated 4 million women were beaten by their husbands or partners. Battering is the single largest cause of injury to women in the United States and medical costs associated with those injuries is approximately \$3.5 billion annually. To prevent family violence and to provide immediate shelter to victims and their families, the agreement includes \$32.6 million, an increase of \$5 million over the fiscal year 1994 amount. In addition, the agreement provides new funding of \$1 million for education and training for community leaders and law enforcement personnel, \$750,000 for a national conference on violence, and \$1 million for a domestic violence hotline.

BIOMEDICAL RESEARCH

This agreement includes \$11.3 billion for the National Institutes of Health, an increase of \$396.5 million above last year's level. These funds will continue

the progress being made in identifying new treatments and supporting promising avenues of research for diseases such as cancer, Aids, Alzheimers disease, diabetes, mental illness, and arthritis as well as the many other illnesses that afflict the people of this Nation.

BREAST CANCER

Breast cancer, the most commonly diagnosed cancer in America today, currently afflicts over 1.8 million women, and it is estimated that an additional 1 million women have yet to be diagnosed. The incidence of this disease continues to rise and every 12 minutes a woman dies of this dreaded illness. The conference agreement this year provides an estimated \$350 million for research programs for breast cancer. In addition, \$100 million has been included for breast and cervical cancer screening, an increase of \$21.9 million. These additional funds will continue the progress made in ensuring that all women, especially those of low-income and of particular risk of developing cancer, will have access to preventive health services.

AIDS

The agreement contains \$2.6 billion for research, education, prevention, and services to stop the spread and find a cure for AIDS. This amount represents an increase of \$134.3 million over last year's funding level. Included in this amount is \$356.5 million to provide grants to cities with the highest incidence of AIDS. The increase in the title I funds will enable grants to be provided up to 7 additional cities, bringing the total number of cities receiving grants to as many as 41.

I am also pleased to report that the Pediatric AIDS Demonstration Program under title IV of the Ryan White Act has been funded at \$26 million. This money helps coordinate services for women, infants, and children who are infected with HIV or who are at risk of developing the disease. Because of their unique vulnerability, infants suffering from AIDS require specially tailored approaches for treatment, prevention, and care. The funds provided will continue the existing pediatric and adolescent AIDS demonstration projects.

MENTAL HEALTH SERVICES

Each year, more than 40 million adults in the United States experience one or more mental disorders. In addition 8 million children are tormented with serious emotional disturbances. The direct and indirect costs of these illnesses have been estimated to cost over \$148 billion each year. The bill contains \$1.072 billion for research, prevention, and treatment of mental illness.

EDUCATION

This country must give this Nation's youth the opportunity to obtain the best education possible. The challenge

is to find new and better ways to teach this country's 43 million school children. Meeting this challenge will take new ideas and innovative approaches to teaching and the resources to assure that all children are given every opportunity to reach their full potential. Because of very severe budget constraints, this bill does not contain all of funds necessary to strengthen our educational system. But we are moving in the right direction. The bill provides \$27.4 billion for education programs and provides \$7.7 billion for student financial aid, including \$6.2 billion for Pell Grants, which raises the maximum grant to \$2,340, an increase of \$40 over the previous year's cap.

For education for disadvantaged children, the bill includes \$7.2 billion, an increase of \$321.1 million over the fiscal year 1994 level. Capital expenses for private schools is funded at \$41.4 million and the Even Start Program, funded last year at \$91.3 million has increased to \$102.1 million. The agreement restores \$41.1 million in funding cut proposed by the administration for library programs bringing the total amount available to \$146.3 million.

Also included is \$6 million for a new Charter School Program. This program will stimulate comprehensive education reform by supporting the development of schools, created by teachers, parents and community members. These new schools would be given flexibility from some of the cumbersome Federal regulations, but would be required to meet challenging performance standards. Programs such as charter schools will allow schools to try new ways of teaching, including contracting with private management firms, if they choose to do so.

JOB TRAINING

Another vital part of this Nation's education system is the training and retraining of this Nation's work force. The once-familiar occupations held by our grandfathers, and mothers and fathers, have declined or disappeared and wholly new industries have emerged which require new skills. These skills often involve technical training that is beyond what is traditionally taught in our schools. To help address this need, the bill includes \$5.4 billion for job training and adults and youth, including \$1.056 billion for summer youth employment and \$1.3 billion for the retraining of dislocated workers. Also included is \$250 million for the School to Work Program which helps States and localities prepare noncollege bound students for the transition from school to the workplace. This is an increase of \$150 million over the fiscal year 1994 level.

In closing, Mr. President, I again want to thank Senator HARKIN and his staff and the other Senators on the subcommittee for their cooperation in a very tough budget year.

Mr. HARKIN, Madam President, I thank Senator SPECTER for all of his

work and input in this bill. It is due in no small part to his working closely with us, and our staffs working together, that we were able to have a record conference. As I said, in less than 10 minutes, we finished our conference meeting.

Madam President, in order to take care of the amendments in disagreement, I ask unanimous consent that the conference report be temporarily laid aside.

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

Mr. HARKIN. Madam President, I ask unanimous consent that the Senate concur, en bloc, to the amendments of the House to the amendments of the Senate in disagreement, with the exception of amendments numbered 73, 83, and 148, and that all the preceding motions be reconsidered, en bloc, and tabled.

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

The amendments in disagreement, with the exception of amendments numbered 73, 83, and 148, are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4606) entitled "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes."

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 12, 13, 20, 32, 37, 66, 75, 78, 79, 80, 89, 91, 101, 108, and 124 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$223,837,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "\$2,100,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 105. The Secretary of Labor is authorized to accept, in the name of the Department of Labor, and employ or dispose of in furtherance of authorized activities of the Department of Labor, during the fiscal year ending September 30, 1995, and each fiscal year thereafter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

SEC. 106. Section 5315 of title 5, United States Code, is amended by inserting at the end thereof: "The Commissioner of Labor Statistics, Department of Labor."

Section 5316 of title 5, United States code, is amended by striking: "Commissioner of Labor Statistics, Department of Labor."

SEC. 107. None of the funds appropriated in this title for the Job Corps shall be used to

pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of \$125,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "\$24,625,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$2,089,443,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$218,367,000, of which \$3,375,000 shall be transferred to the National Institute of General Medical Sciences".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$2,181,407,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "\$65,267,000, together with \$1,500,000 which shall be only for employee buyouts, terminal leave, severance pay, and other costs related to the reduction of the number of employees in the Office of the Assistant Secretary for Health".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$138,642,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 63 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$5,159,785,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(INCLUDING RESCISSION)

Funds not obligated by the States by June 29, 1995, under section 204(b)(4) of the Immigration Reform and Control Act of 1986 are hereby rescinded.

For Federal administration and allotments of funds to the States made by the Secretary of Health and Human Services for the purpose of making payments to public and private nonprofit organizations for public information and outreach activities; and English language and civics instruction provided to any adult eligible legalized alien who has not met the requirements of section 312 of the Immigration and Nationality Act for purposes of becoming naturalized as a citizen of

the United States, \$6,000,000: *Provided*, That the Secretary of Health and Human Services shall allocate such amount among the States not later than August 15, 1995: *Provided further*, That each State's share of these funds shall be equal to that State's percentage share of the total costs of administering and providing educational services to eligible legalized aliens in all States through fiscal year 1994, as determined by the Secretary: *Provided further*, That the definition of "eligible legalized alien" contained in section 204(i)(4) of the Immigration Reform and Control Act of 1986 is amended by inserting before the period at the end ", except that the five-year limitation shall not apply for the purposes of making payments from funds appropriated under the fiscal year 1995 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for providing public information and outreach activities regarding naturalization and citizenship; and English language and civics instruction to any adult eligible legalized alien who had not met the requirements of section 312 of the Immigration and Nationality Act for purposes of becoming naturalized as a citizens of the United States": *Provided further*, That each State may designate the appropriate agency or agencies to administer funds under this heading: *Provided further*, That section 204(b)(4) of the Immigration Reform and Control Act of 1986 is amended by striking the fourth sentence and inserting the following: "Funds made available to a State pursuant to the preceding sentence of this paragraph shall be utilized by the State to reimburse all allowable costs within 90 days after a State has received a reallocation of funds from the Secretary, but in no event later than July 31, 1995."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "\$472,920,000, of which \$12,000,000 shall be for carrying out the National Youth Sports Program: *Provided*, That payments from such amount to the grantee and subgrantees administering the National Youth Sports Program may not exceed the aggregate amount contributed in cash or in kind by the grantee and subgrantee: *Provided further*, That amounts in excess of \$9,400,000 of such amount may not be made available to the grantee and subgrantees administering the National Youth Sports Program unless the grantee agrees to provide contributions in cash to such program in an amount that equals 29 percent of such excess amount."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 71 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$4,419,888,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$91,247,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 208. Taps and other assessments made by any office located in the Department of Health and Human Services shall be treated as a reprogramming of funds except that this provision shall not apply to assessments required by authorizing legislation, or related to working capital funds or other fee-for-service activities.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert "enacted into law".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$7,232,722,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "\$7,214,160,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "not less than \$39,311,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "enacted into law".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 95 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "8004(f), 9004(f), or the relevant citation which may be designated in the Act: *Provided*, That should the Improving America's Schools Act not be enacted into law for fiscal year 1995 funds for impact aid shall be made available under the provisions of Public Laws 81-815 and 81-874 with amounts allocated proportionately and under the same timeframes as provided in fiscal year 1994".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 96 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "III, IV, V, VII, VIII, IX, and XV (or under the comparable citations which may be designated)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 97 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "enacted into law".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$1,564,877,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 99 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$1,268,418,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "\$5,899,000 shall be for law related education; \$12,000,000 shall be for arts education activities; \$28,000,000 shall be for dropout prevention assistance, if authorized; \$4,185,000 shall be for Ellender Fellowships; \$12,000,000 shall be for education for Native Hawaiians, \$10,912,000 shall be for foreign language assistance, if authorized; and \$100,000,000 shall be for new education infrastructure improvement grants, if authorized".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 102 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "enacted into law".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$245,200,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 104 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert: "part C or under subpart 3 of part A of title VII or under the comparable citation which may be designated by amendments to the authorizing legislation".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$2,998,812,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 130 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "section 1521 of the Higher Education Amendments of 1986 as amended by Public Law 103-239, to be administered by the Secretary of Education; part E of title XV of the Higher Education Amendments of 1992; and Public Law 102-433, \$962,842,000, of which \$8,060,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 135 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: "\$5,000,000, to remain available until expended, shall be for general construction needs at the University and \$5,500,000, to remain available until expended, shall be for the establishment of a Law School Clinical Center to be administered under the same

terms and conditions as the Centers established and funded under Public Laws 99-88 and 100-517 with not more than \$1,000,000 to be used for construction".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "as amended by the Improving America's School's Act as enacted into law; the National Education Statistics Act of 1994, as enacted into law; the Education Council Act, as amended; part F of the General Education Provisions Act; and title VI of Public Law 103-227, \$354,892,000; *Provided*, That \$86,200,000 shall be for education research of which \$41,000,000 shall be for regional laboratories, including rural initiatives and network activities, \$33,000,000 shall be for research centers and \$3,200,000 to remain available until expended, shall be for school finance equalization research; \$36,750,000 shall be for the Fund for the Improvement of Education; \$3,000,000 shall be for the international education exchange program; \$750,000 shall be for 21st Century Community Learning Centers, if authorized; \$4,463,000 shall be for civic education activities; \$14,480,000 shall be for the National Diffusion Network; \$36,356,000 shall be for Eisenhower professional development Federal activities, including not less than \$5,472,000 for the National Clearinghouse for Science and Mathematics and \$15,000,000 for regional consortia; \$2,250,000 shall be a mathematics telecommunications demonstration, if authorized; \$40,000,000 shall be for education technology activities, if authorized; and \$7,000,000 shall be for Ready to Learn television, including funds to be awarded to the Corporation for Public Broadcasting in such amounts as the Secretary determines appropriate".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 139 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "title II of the Higher Education Act, \$144,161,000, of which \$17,792,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended; and \$4,916,000 shall be for section 222 and \$6,500,000 shall be for section 223 of the Higher Education Act, of which \$5,000,000 shall be for additional awards for demonstration of on-line access to statewide, multitype library bibliographic data bases using fiber optic networks and \$1,500,000 shall be for a demonstration project making Federal information and other data bases available for public use by connecting a multistate consortium of public and private colleges and universities to a public library and an historic library".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 144 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

(INCLUDING RESCISSION)

Of the funds made available under this heading in Public Law 102-394, \$7,000,000 are hereby rescinded. For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal

year 1997, \$315,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 511. None of the funds appropriated or otherwise made available under this Act may be obligated in violation of existing Federal law or regulation already prohibiting such benefit or assistance. None of the funds appropriated under this act may be used by any federal official or any State or local official to induce undocumented immigrants to apply for Federal benefits for which such officials know or should know such undocumented immigrants are not eligible. In no case, however, shall Federal, State, or local officials be penalized for efforts to ensure that eligible persons are not excluded from participation in, denied the benefits of, or subjected to discrimination by any program receiving funds under this Act, on the grounds of race, color, or national origin-based traits, including language. Each State agency and each other entity administering a program under which verification of immigration status is required by section 121 of the Immigration Reform and Control Act of 1986 shall participate in the system for the verification of such status established by the commissioner of the Immigration and Naturalization Service pursuant to section 121(c) of that Act, unless an alternative system is available and employed for such purposes which is found to meet the criteria for waiver under section 121(c)(4).

SEC. 512. Notwithstanding any other provision of law, monthly benefit rates during fiscal year 1995 and thereafter under part B or part C of the Black Lung Benefits Act shall continue to be based on the benefit rates in effect in September 1994 and be paid in accordance with the Act, until exceeded by the benefit rate specified in section 412(a)(1) of the Act.

SEC. 513. No more than one percent of salaries appropriated for each Agency in this Act may be expended by that Agency on cash performance awards: *Provided*, That of the budgetary resources available to Agencies in this Act for salaries and expenses during fiscal year 1995, \$30,500,000, to be allocated by the Office of Management and Budget, are permanently canceled. *Provided further*, That the foregoing proviso shall not apply to the Food and Drug Administration and the Indian Health Service.

SEC. 514. Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

§ 1118. Protection against the Human Immunodeficiency Virus

"(a) IN GENERAL.—Whoever, after testing positive for the Human Immunodeficiency Virus (HIV) and receiving actual notice of that fact, knowingly donates or sells, or knowingly attempts to donate or sell, blood, semen, tissues, organs, or other bodily fluids for us by another, except as determined necessary for medical research or testing, shall

be fined or imprisoned in accordance with subsection (c).

"(b) TRANSMISSION NOT REQUIRED.—Transmission of the Human Immunodeficiency Virus does not have to occur for a person to be convicted of a violation of this section.

"(c) PENALTY.—Any person convicted of violating the provisions of subsection (a) shall be subject to a fine of not less than \$10,000 nor more than \$20,000, imprisoned for not less than 1 year nor more than 10 years, or both."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 154 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 515. Notwithstanding any other provision of law, (1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation act, or in the Act establishing the program or activity for which funds are contained in this Act;

(2) no department, agency, or other entity other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purposes for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

(3) no funds provided under this or any subsequent appropriation act shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.

And on page 55 of the House engrossed bill, H.R. 4606, after line 3, insert:

SEC. 305. None of the funds appropriated under this Act may be used to publish, release, report or finalize the designation of institutions to be reviewed under subpart 1 of part H of title IV of the Higher Education Act of 1965, as amended, until the State postsecondary review entity responsible for evaluating those institutions has received the Secretary's approval for its institutional review standards.

And on page 58, line 19 of the House engrossed bill, H.R. 4606, strike "\$8,119,000" and insert in lieu thereof "\$8,519,000".

And on page 43 of the House engrossed bill, H.R. 4606, after line 14, insert:

SEC. 210. Of the funds made available under this title, under the heading Low Income Home Energy Assistance, for fiscal year 1996, the Secretary shall receive assurances from States that funds will assist low-income households with their home energy needs, particularly those with the lowest incomes that pay a high proportion of household income for home energy.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 155 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "TITLE VI—EMERGENCY APPROPRIATIONS".

Resolved, That the House recede from its disagreement to the amendment of the Sen-

ate numbered 156 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

DEPARTMENT OF HEALTH AND HUMAN SERVICES
PUBLIC HEALTH AND SOCIAL SERVICES
EMERGENCY FUND

For the Public Health and Social Services Emergency Fund to be used to assist States and local communities in recovering from the flooding caused by tropical storm Alberto and other emergencies, \$35,000,000 to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 as amended, is transmitted by the President to the Congress.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 157 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

TITLE VII—CRIME REDUCTION PROGRAMS
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
CHILDREN AND FAMILIES SERVICES PROGRAMS

In addition to amounts otherwise appropriated in this Act, \$26,900,000, to be derived from the Violent Crime Reduction Trust Fund, including \$1,000,000 for a domestic violence hotline as authorized by the Safe Homes for Women Act of 1994 and \$25,900,000 for carrying out the Community Schools Youth Services and Supervision Grant Program Act of 1994.

DEPARTMENT OF EDUCATION
SCHOOL IMPROVEMENT PROGRAMS

In addition to amounts otherwise appropriated in this Act, \$11,100,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out the Family and Community Endeavor Schools Act.

DEPARTMENTS OF LABOR,
HEALTH AND HUMAN SERVICES,
AND EDUCATION AND RELATED
AGENCIES APPROPRIATIONS
ACT, 1995

The Senate continued with the consideration of the conference report.

Mr. HARKIN. Madam President, I ask unanimous consent that we return to the conference report.

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

Mr. HARKIN. Madam President, we are now in a situation where we are ready for a vote on the conference report.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. LIEBERMAN] is necessarily absent.

The result was announced—yeas 83, nays 16, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—83

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

NAYS—16

Brown	Gregg	Pressler
Conrad	Helms	Roth
Craig	Hutchison	Smith
Dole	Kempthorne	Wallop
Faircloth	Nickles	
Gramm	Nunn	

NOT VOTING—1

Lieberman

So the conference report was agreed to.

Mr. HARKIN. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

• Mr. LIEBERMAN. Mr. President, I was unavoidably detained and therefore missed this vote on the Labor-HHS appropriations conference report. Had I been present, I would have voted "aye." This conference report contains important funding for programs that are important to this country and to my home State of Connecticut—programs like LIHEAP, the child care block grant, Ryan White funding, job training and Head Start. I have been an ardent and enthusiastic supporter of these programs so I very much regret having missed this vote.

Today I have been at home and at my synagogue, observing the Jewish holiday of Shemini Atzeres. I was en route to cast my vote on this measure but I regret that because of traffic congestion I did not arrive in time to cast my vote.

Again, had I been present on this vote, I would have voted "aye."•

Mr. DECONCINI addressed the Chair. The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Madam President, I ask unanimous consent I may proceed as if in morning business.

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

STATEMENT ON RESOLUTION CALLING FOR REMOVAL OF RUSSIAN TROOPS FROM MOLDOVA

Mr. DECONCINI. Madam President, on August 10, 1994, negotiators for the Governments of Moldova and Russia reached a tentative agreement on withdrawal of Russia's 14th Army, about 8,000-10,000 strong, from Moldova over a period of 3 years.

This is a significant step, since Moldova is the only remaining former Soviet Republic upon which Russian troops are still stationed without permission of the host government. Moreover, the 14th Army has a violent history in Moldova. It is stationed in Moldova's breakaway Transdnistria region, where many 14th Army soldiers helped provide firepower for the secessionist forces during the bloody civil conflict of 1992.

Unfortunately, there are reports that Moscow may be rethinking the withdrawal agreement. The commander of the 14th Army has publicly rejected the agreement, telling Der Spiegel that it was "idiotic." General Grachev, the Defense Minister, and theoretically General Lebed's boss, met with Lebed in Moscow, and emerged from the meeting suitably chastened. Apparently he now thinks that the agreement needs further drafting after he had signed on to it.

Meanwhile, a diplomatic mission of the Conference on Security and Cooperation in Europe posted in Moldova has called for the accelerated withdrawal of the 14th Army. The call was reiterated last July by the CSCE Parliamentary Assembly in Vienna. Ironically, while the Russian military seems committed to scuttling a political settlement that follows the directions of CSCE policy, Mr. Kozyrev's Foreign Ministry is seeking a greater role for CSCE, including coordination of the activities of several all-European political and military organizations, including NATO.

I would note that, as was the case with Russian military forces in the Baltics, the Clinton administration has been forthright in calling for the renewal of the 14th Army from Moldova. During a recent visit to Moldova, Ambassador Albright characterized the withdrawal of the 14th Army as "a matter of primary importance to United States foreign policy." This statement, incidentally, elicited an outburst from General Lebed that Russia shouldn't let "some woman" make decisions for Russia.

Madam President, the senior Senator from Nebraska [Mr. GRASSLEY] and I have introduced a concurrent resolution urging the Russian government to live up to the agreement to pull its forces out of Moldova. The resolution also urges the administration to use every appropriate opportunity to secure removal of Russian military forces from Moldova.

Mr. Yeltsin is here in our Capital City today. He has met with President Clinton. I am very optimistic that the President will reiterate to Mr. Yeltsin and Mr. Yeltsin will respond as he has in the past in public that it is the policy of the Russian Republic that the troops should get out.

This is important. This is the last bastion of Soviet authority in someone else's homeland, and it is only proper that Mr. Yeltsin, with his leadership that he has demonstrated, will withdraw those troops in accordance with the agreements and urging of this country that he is prepared to do so, and I compliment him.

If Mr. Yeltsin is sincere about Russia's role as a peaceful peacekeeper, and if Russia is genuinely committed to living up to international law and CSCE commitments, Moscow should be preparing to bring its 14th Army back to Russia. I urge the Russian Government to adhere to the provisions of the August 10 withdrawal agreement, and I urge my colleagues to join us in supporting this resolution.

I ask unanimous consent that the current resolution sponsored by myself and Senator GRASSLEY be printed in the RECORD.

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

S. CON. RES.—

Whereas military forces of the Russian Federation continue to be deployed on the territory of the sovereign and independent nation of Moldova against the wishes of the people and government of Moldova;

Whereas the continued stationing of military forces by the Russian Federation in Moldova without permission of the government of Moldova is contrary to international law;

Whereas the Parliamentary Assembly of the Conference on Security and Cooperation in Europe passed a resolution on July 6, 1994, calling for a "most rapid, continuing, unconditional, and full withdrawal" of the 14th Army of the Russian Federation from Moldova, and the diplomatic mission in Moldova of the Conference on Security and Cooperation in Europe has called for the accelerated withdrawal of the 14th Army;

Whereas on August 10, 1994, negotiators of the governments of Moldova and the Russian Federation initialed an agreement according to which the Russian Federation will withdraw its military forces from Moldova in 3 years; and

Whereas the Minister of Defense of the Russian Federation has called for changes in such withdrawal agreement and the Commander of the 14 Army of the Russian Federation has publicly rejected the terms of the agreement: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls upon the government of the Russian Federation to adhere to the provisions of the agreement initialed on August 10, 1994, to provide for the withdrawal of the military forces of the Russian Federation from Moldova; and

(2) urges the Administration to continue to use every appropriate opportunity, including multilateral and bilateral diplomacy, to secure removal of the military forces of the Russian Federation from Moldova.

SERBIA AND MONTENEGRO SANCTIONS

Mr. DECONCINI. Madam President, the announcement that the international community is easing sanctions on Serbia and Montenegro is absolutely appalling to this Senator. The stated intention of this move—to drive a wedge between Serbia and the Serb militants it has supported in Bosnia—is so incredibly naive that I must wonder if it is the real intention of the Contact Group countries, which I am sorry to say includes the United States, that suggested it.

Let me put things into perspective. The Bosnians, who—I should remind everyone—are the victims of aggression—agreed unconditionally and by the two-week deadline to the Contact Group peace plan, which in part turns out to be rewarding that aggressor.

The Bosnians approved of this because they realized this was the best they could get. They are giving up 49 percent of their country, and yet the group that had taken 49 percent—actually taken 70 percent is being rewarded. If the Bosnian Moslems had not done so, the contact group threatened to ease sanctions on Serbia and Montenegro. So they were pressured into it and they manufactured it that way. The Bosnian Serb militants, on the other hand, effectively said no because the plan did not reward them quite enough—only 75 percent of someone else's sovereignty and someone else's country. The consequences for them should have been the lifting of the arms embargo on the Bosnian forces, as this body has finally gone on record as has the House. But this did not happen. Instead, the deadline for the so-called peace plan has been extended indefinitely.

Meanwhile, the Bosnian Serb militants have been allowed to cleanse northern Bosnian regions under their control of about 10,000 additional non-Serbs. They have been allowed to attack U.N. personnel and to hold hostage relief supplies needed for a third winter of war. They have very recently threatened to attack any incoming planes to Sarajevo, and so we halt the flights. Utilities have been cut off by the Serbs for almost 2 weeks in the Bosnian capital, with an occasional trickle of electricity and natural gas.

Sanctions on Serbia and Montenegro were to be tightened for all of this, but

Mr. Milosevic conveniently distanced himself from the Bosnian Serb position, thereby avoiding any consequences for the Serb rejection of the plan. This, in turn, conveniently provided the United States and its allies with some cover for the now all but overt support for Milosevic, the person most responsible for this conflict, in this part of the world.

We, as Americans, must now ask our leaders: How have the Bosnians benefited from working with the contact groups these past 3 months? Are they better off as a result of this?

We must now ask: Why continue to offer to the Bosnian Serb militants a plan for which there was a clearly stated, supposedly firm, deadline to take it or leave it, and they left it? There would be consequences.

We must now ask: On what basis can we have trust in the words in Slobodan Milosevic? Is not his announced intent of cutting off military supplies to the Bosnian Serb militants confirmation that he has lied over these past 2 years in denying that he was giving them support? Everyone knows he was, but he said, "No, we are not."

Are his intentions to make peace in Bosnia and Herzegovina, or to derail the latest sanctions-tightening effort? I think it is clear it is the latter. Do we feel he has abandoned his hopes for a greater Serbia? Do we think he is going to let the Serb militants be defeated? No.

We must now ask: If we cannot trust Mr. Milosevic, how will 135 observers cover a 375-mile border with Bosnia and Herzegovina 24 hours a day? Why does NATO let helicopters, the new method for transporting support to the militants, fly into a no-fly zone it is mandated to enforce? What about reports of pontoon bridges over which supplies will also be delivered? Why do we not simply declare the border area a no-supply zone, and bomb the bridges and Serb militant supply routes and depots?

We must now ask: If countries bordering Serbia and Montenegro are, for whatever reasons, unable to fully enforce a complete blockade on these federated Republics, should we not expect that even the most gradual easing of sanctions will lead to the opening of the floodgates regarding items still prohibited by sanctions?

We must now ask: In this effort to get border monitors in Serbia and Montenegro, did we demand as well the reestablishment of CSCE monitors in Kosovo, Sandzak, and Vojvodina? Did we get a commitment from Belgrade that there would be full cooperation in surrendering individuals indicted by the international tribunal for war crimes?

We must now ask: Assuming that the easing of sanctions continues, will we forget that the international community first imposed sanctions on Serbia

and Montenegro in light of their instigation of the war in Croatia? Will we forget that the United Nations has linked easing of subsequent, Bosnia-related sanctions to improvements in the situation in the Serb-occupied part of Croatia? Have Serb militants there complied with the Vance plan? The answer is clear they have not. Are they perhaps a new source of supply for their militant brethren in Bosnia? The answer is clearly yes. Have they not, in fact, recently joined them in attacking Bosnian forces in the northwestern Bosnia and Herzegovina?

We must now ask: Assuming that the easing of sanctions continues, will we forget that some of the original U.S. sanctions were linked to Kosovo, where repression of the Albanian population continues with unabated severity?

We must now ask: Where is the unity of our friends or allies regarding the defense of principles they together enshrined in the Helsinki Final Act—including human rights, the territorial integrity of States and the inviolability of their borders—which have been violated so severely and blatantly in the former Yugoslavia now Serbia? Where is the unity of U.N. members regarding the right, enshrined in the U.N. Charter, of a member State to its own self-defense? Where is the unity of the parties to genocide convention regarding their commitment to try to stop genocide where and when it is found to be taking place? And where is the leadership of the United States in creating this unity around principles which it has advocated so strongly? Why are we merely going along with the policy prescriptions of Russia, Britain, and France, even though we know they continually fail to work?

Until these questions are satisfactorily answered, I cannot but call our current approach unacknowledged appeasement. Call it anything but appeasement, and I am disappointed to say that. As Bosnian Prime Minister Haris Silajdzic said in Washington last week, at least the Munich appeasement came before the genocide. Now, we not only ignore that lesson of history, we appease the aggressor after the genocide has already taken place and, in fact, as it resumes. The goal of this policy is simply to get the Bosnian conflict and the former Yugoslavia as a whole off the front pages and out of the nightly news. It is a policy without principle, one that history will judge us, and it will not be a good verdict.

I urge the administrator to rethink its policy and to take stronger steps to see that we meet our obligations of human rights and our commitment to freedom.

The PRESIDING OFFICER. The Senator from Iowa.

DEPARTMENTS OF LABOR,
HEALTH AND HUMAN SERVICES,
AND EDUCATION AND RELATED
AGENCIES APPROPRIATIONS
ACT, 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

AMENDMENTS OF THE HOUSE TO THE
AMENDMENTS OF THE SENATE NOS. 73 AND 83

Mr. HARKIN. Madam President, I ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate numbered 73 and 83.

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

The amendments are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 73 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$877,223,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 209. Of the funds appropriated or otherwise made available for the Department of Health and Human Services, General Departmental Management, for fiscal year 1995, the Secretary of Health and Human Services shall transfer to the Office of the Inspector General such sums as may be necessary for any expenses with respect to the provision of security protection for the Secretary of Health and Human Services.

Mr. INOUE. Mr. President, I would like to thank the House and Senate conferees for accommodating the request I submitted to the Labor, HHS, Education appropriations bill, H.R. 4606. I am especially appreciative of the additional \$3 million that was appropriated to the Corporation for Public Broadcasting [CPB] for fiscal year 1997. In looking at the language accompanying the conference report, I noted that there was a reference in title IV to the CPB, regarding the compensation of a certain public television personality. I believe the information contained in the report language has been taken out of context and is misleading. I would like to clarify this issue for the RECORD.

First, the report specifically states that "the conferees have learned that a single individual is paid \$438,000 annually for his once a week 30 minute appearance." It also says that "these costs are paid directly by taxpayers and contributors to local stations." I would like to note that the individual referred to in the report is not an employee of public broadcasting. The individual is a television personality who is compensated for his expertise and performance on a popular television program.

Second, CPB's share of the compensation paid to this individual is approximately \$14,000. In other words, the vast

majority of the compensation level mentioned in the report is not made up of taxpayer funds; only \$14,000 of this amount can be traced to Federal taxpayer funds.

Let me tell you how this difference originates. The total yearly cost of the television program in question is approximately \$2.3 million. The Public Broadcasting Service [PBS] invests approximately \$400,000 for a year's schedule of the program. This is about 17 percent of the program's yearly cost.

Thus, the total PBS contribution to the \$438,000 compensation level would be 17 percent, or \$75,000. But this \$75,000 PBS contribution is not composed totally of Federal funds. PBS is not a direct recipient of Federal funds, but it does receive funding from the private, nonprofit, Government-funded Corporation for Public Broadcasting. PBS receives approximately 19 percent of its yearly budget from the taxpayer-supported CPB to acquire and distribute national programming. Therefore, 19 percent of the \$75,000 contribution of PBS money could be said to originate with Federal funds. This amount is \$14,000. In other words, approximately \$14,000 of the compensation paid to the television personality can be traced to Federal funds.

Mr. President, this modest contribution produces a 600 percent return on its investment because the program as a whole brings in almost \$1.5 million from corporations, another \$1.22 million from local businesses, and \$288,417 in station pledges. Due to this increasing private support, the PBS investment in this program has been declining over the past 4 years.

Mr. President, we are all concerned about rising costs and inflated salaries. However, to imply that taxpayers are footing the entire bill for the compensation level of this on-air talent is misleading. Opinions will differ with regard to the talent or likability of on-air personalities. I believe that decisions about compensation for on-air talent are best left to program producers.

Finally, I would like to remind my colleagues that the Federal Government is just one source of funding for public broadcasting. CPB appropriations account for approximately 14 percent of the public broadcasting industry's income—including public television and public radio. The largest source of funding comes from the more than 5 million individuals and families who contribute each year. In addition, Federal support for public television costs each taxpayer approximately \$1 each year. I believe this is a small price to pay for the number of high-quality programs and services we receive each year.

CPB RESCISSION

Mr. HARKIN. Mr. President, the conference agreement on H.R. 4606 rescinds \$7 million of CPB's fiscal year 1995 ap-

propriation provided in Public Law 102-394, the fiscal year 1993 Labor, Health and Human Services, and Education appropriations bill. The Senate bill did not include a CPB rescission. The House bill included a \$21.1 million rescission.

The \$7 million rescission in the conference agreement resulted from severe financial constraints imposed by the discretionary budget caps. Unfortunately, our budget problems were compounded by the fact that the House refused to agree to appropriating an additional \$61 million out of the Department of Defense budget for impact aid, thereby reducing funding for impact aid in H.R. 4606 by that amount.

A CPB rescission in the fiscal year 1995 bill, while not based on any effort to influence public broadcasting programming decisions, could open the floodgates for such action. It is not my intention that the fiscal year 1995 rescission for CPB serve as a precedent for future appropriations.

Mr. INOUE. Mr. President, Senator STEVENS, Senator COCHRAN, and I regretfully agreed to rescind fiscal year 1995 appropriations funding for the Corporation for Public Broadcasting [CPB]. This rescission is a serious threat to the editorial integrity and financial stability of the public broadcasting system. It jeopardizes the continuity and stability that is essential to the continued development of high-quality public radio and television programming for our country. More importantly, the rescission threatens the concept of advance funding.

We have grave concerns about the potential precedent that the rescission may have on the future of public broadcasting. When Congress created the CPB in 1967, it took great pains to ensure that CPB would act as a heatshield from political pressures. Its structure and statutorily restricted activities were designed to ensure that producers and stations would not be subject to political interference.

Placing public broadcasting funding on a regular appropriations schedule provides the opportunity for Congress to immediately influence programming decisions by delaying or reducing funding until concessions were made. The principle of advance funding was established in 1975 to address this very issue. Advance funding was a carefully considered approach to providing much needed Federal support for the CPB while ensuring insulation from political interference and outside pressures.

Mr. President, this rescission must not be repeated. We will not support future rescissions of CPB appropriations. Senators INOUE and STEVENS of the Communications Subcommittee and Senator COCHRAN are committed to providing multiple year authorizations and advance funding, both of which are vital to ensuring a healthy public broadcasting system in this country.

The Communications Subcommittee, which is in the process of reauthorizing the CPB, will take steps to ensure that the principle of advance funding is emphasized as a critical component of Federal support for public broadcasting.

We must not turn our backs on the commitment we made to the public broadcasting system nearly 20 years ago. It is imperative that we continue to provide the financial stability and means needed for the CPB to realize its full potential.

SENATE BUDGET COMMITTEE SCORING OF H.R. 4606—FISCAL YEAR 1995 LABOR, HHS, AND EDUCATION APPROPRIATIONS—CONFERENCE BILL

[Dollars in millions]

	Budget authority	Outlays
VIOLENT CRIME TRUST FUND		
Crime Total	38	7
Senate 602(b) crime allocation	38	8
Difference	0	-1
GENERAL PURPOSE		
Discretionary Totals:		
New spending in bill	68,245	28,123
Outlays from prior years appropriations		39,953
Permanent/advance appropriations	1,771	1,769
Supplementals	0	-20
Subtotal, discretionary spending	70,016	69,826
Mandatory Totals:		
General purpose bill total	196,154	195,904
Senate 602(b) allocation	266,132	265,723
Difference	- (*)	- (*)
General Purpose totals above (+) or below (-):		
President's request	-1,680	-502
House-passed bill	314	1
Senate-reported bill	1	-0
Senate-passed bill	-0	0
Overall Totals:		
General Purpose, Discretionary	70,016	69,826
General Purpose, Mandatory	196,154	195,904
Crime Trust Fund	38	7
Overall bill total	266,208	265,736

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement accompanying H.R. 4606, the Labor, Health and Human Services, Education and related agencies appropriations bill for fiscal year 1995.

The conference agreement provides \$213.4 billion in new budget authority and \$176.5 billion in new outlays for programs of the Departments of Labor, Health and Human Services, and Education and related agencies.

When adjustments are made for prior-year outlays and other completed actions, the bill as adjusted totals \$266.2 billion in budget authority and \$265.7 billion in outlays for fiscal year 1995.

The subcommittee has done a good job under very difficult budgetary constraints. I am pleased that the bill is within the subcommittee's 602(b) allocation.

There are several items for which the Senator from New Mexico would like to express appreciation. One item is \$12 million for Hispanic serving institutions. This will be the first time funding will be provided to institutions of higher education attempting to meet the needs of Hispanic students. Thirteen universities, serving over 20,000 students in New Mexico, are designated as HSI's.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined the conference report on H.R. 4606, the fiscal year 1995 Labor, Health and Human Services, Education, and related agencies appropriations bill, and has found that the conference report is below its 602(b) general purpose allocation by \$124,000 in budget authority and by \$169,000 in outlays. This conference report exactly meets its 602(b) crime allocation in budget authority and is below by \$1,288,000 in outlays.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the fiscal year 1995 Labor, Health and Human Services, Education, and related agencies appropriations conference report and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

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

I would like to thank the chairman and ranking member of the subcommittee for supporting funds for the newly authorized character education grants. The bill provides \$750,000 to assist local partnerships working to develop character-counts education programs in their communities. This is the first installment of a \$6 million grant program that is authorized in the pending elementary and secondary education reauthorization bill.

I am extremely pleased that this bill provides \$25.9 million for the Community Schools Youth Services and Supervision Grant Program.

This program, adopted through an amendment I offered to the crime bill, has tremendous bipartisan support. It will go a long way to providing constructive after-school opportunities for our young people.

I continue to be concerned about the practice of providing a \$600 million contingency fund for LIHEAP that must be designated as emergency spending to be released. These expenses, in most cases, can be anticipated and should be addressed through the regular appropriations process.

NATIONAL INSTITUTE OF MENTAL HEALTH
The conference report provides \$543.55 million for non-AIDS research at the National Institutes of Mental

Health [NIMH], which is now funded as one of the National Institutes of Health. This funding level is \$17.3 million above the fiscal year 1994 level and \$1.5 million above the House bill. The Senate directed the increase in funding above the House bill, to Decade of the Brain activities. I strongly urge NIH to fulfill this intent.

CENTERS FOR DISEASE CONTROL

Despite the fact that overall funding for CDC remains close to the fiscal year 1994 level, I am pleased that the subcommittee provided \$54.5 million for the infectious disease program, to, among other things, continue monitoring the hantavirus outbreak in the southwest. This represents a \$6.7 million increase above the fiscal year 1994 funding level.

HOMELESS INITIATIVES

Finally, I appreciate the subcommittee's support of my efforts to provide increased funding for the Health Care for the Homeless Program. The bill provides \$65.4 million for this program, an increase of \$2.4 million above the fiscal year 1994 level and the President's request.

Mr. President, there are many worthy programs funded in this legislation. The subcommittee did a good job in setting priorities and staying within

its budget allocation. I urge my colleagues to support the conference agreement.

Mr. NUNN. Mr. President, I vote against this conference report for a very specific reason: the appropriations conferees apparently in deference to the for-profit trade school sector, have tied the hands of the Secretary of Education, prohibiting him from implementing a key provision of the Higher Education Act for 1 year. A "yes" vote for this conference report undermines attempts to bring integrity and accountability to the Federal student financial aid programs.

At issue is a new requirement which for-profit trade schools would have to comply with: a requirement that in order to participate in Federal student aid programs, at least 15 percent of a school's revenue come from somewhere other than the Federal Pell grant or guaranteed student loan programs. This requirement, commonly referred to as the "85-15 rule," was contained in the 1992 amendments to the Higher Education Act, and was to be implemented by the Department of Education on September 30, 1994. However, the conference report, in deference to objections raised by the trade school industry, prohibits the Secretary of Education from implementing this requirement. In doing so, I believe Congress is sending the wrong signal to the trade school sector and may also be costing the taxpayers millions of dollars for substandard job training.

Mr. President, the integrity of the Federal student aid programs is at stake. These programs have been, and are being, wracked by blatant fraud and abuse. Investigations by Congress, the General Accounting Office, the media, the FBI, and the inspector general at the Department of Education have, time and time again, determined that much of the fraud and abuse—amounting to hundreds of millions of dollars per year—was perpetrated by owners of for-profit trade schools. A good portion of Congress' investigative work was done by the Senate Permanent Subcommittee on Investigations which, under my chairmanship, conducted an in-depth examination of waste, fraud, and abuse in title IV programs in 1990, and again in 1993.

Every school which the subcommittee investigated for fraud and abuse had, it turned out, relied very heavily on Federal student aid programs as the main source of revenue. In fact, were it not for student aid programs, the schools we investigated would probably not have existed. Our investigation confirmed that some for-profit trade schools establish their tuition charges based not on what the cost of education is, but rather on the amount of student aid available to the students. When the Pell grant and loan limits were raised, we found that many of these schools raised their tuition.

Clearly, not every trade school is a scam. If I believed that, I would be working to remove that sector from participation in all Federal aid programs entirely. I am not doing that. But I am deeply disappointed that the conferees have bowed to the interests of the trade school sector to delay the implementation of a new eligibility requirement that these schools would have had to comply with. I ask those Members who have opposed the 85-15 rule for fear that some trade schools would close: Do you know the default rate of those schools? Do you know about their teachers and curriculum? Do you know what percentage of the people who enroll in those schools graduate? How many of them get jobs as a result of the training? If you cannot answer these questions, I suggest you should not be asking the Federal taxpayer to be the sole supporter of those schools.

This 85-125 rule is not that tough. Prior to its enactment, we allowed these for-profit businesses to reap profits—big profits—without one dime of funding other than Federal student loans and grants. That is preposterous. Again, every trade school which the Permanent Subcommittee on Investigations has investigated for abusing the Federal loan and Pell grant programs relied almost exclusively on Federal student aid as their revenue source. One school in Florida took in \$153 million in Federal loans in just 3 years, and the two schoolowners took out \$7.8 million in salary in the same timeframe. That would not have happened if this provision would have been in place. We need to make sure that some other entity, whether it be private companies who hire graduates, the students themselves, or some other financial aid program is willing to provide at least 15 percent of that corporation's tuition revenues. It is hoped that by doing so, some additional measure of quality would be assured. Why should the Federal taxpayer be paying for schools that, on the basis of merit, cannot attract any other form of financial support.

When we allow for-profit schools to rely exclusively on Federal funds, we eliminate competition and a free market. We have created hundreds, if not thousands, of Government-sponsored enterprises which are operated for the benefit of private individuals and to the detriment of the students we aim to assist. We need to constantly remind ourselves that these are student aid programs, not school aid programs.

I am disappointed because, after working diligently to expose the fraud and abuse in these programs, and after working with the Labor and Human Resources Committee to get strong integrity provisions included in the 1992 reauthorization of the Higher Education Act, this appropriations bill protects this industry from what I believe

to be a very sound provision of law. Every Member of Congress receives the semiannual reports from the inspector general. Every report I've seen since the late 1980's spell out in graphic detail the extent of the fraud and abuse being perpetrated against us, yet the conferees want us to delay this provision for another year.

Mr. President, I believe this delay is a big mistake. The taxpayers have demanded that defaults be reduced and fraud eliminated. The Congress has directed the Secretary of Education to better manage these programs. If Senators believe that there are truly good for-profit trade schools which will be adversely impacted by this requirement, then perhaps we should give the Secretary of Education specific and limited waiver authority, but we should not delay this provision entirely for another year, while the trade school lobby works to kill this provision altogether.

CDC BIRTH DEFECTS PREVENTION FUNDING FOR FISCAL YEAR 1995

Mr. BOND. Mr. President, I would like to bring the attention of the Senate to an important aspect of this bill. It is my understanding that we are providing the Centers for Disease Control and Prevention with a \$17 million, or nearly 15 percent, increase over the fiscal year 1994 level for its activities in the chronic and environmental disease prevention area, including birth defects prevention.

Mr. HARKIN. That is correct. The conference agreement significantly expands funding for the CDC's chronic and environmental disease prevention activities and the Senate report specifically urges CDC to provide expanded funds for State birth defects surveillance programs. I share the Senator's concern for the prevention and treatment of birth defects which are a leading cause of childhood disability and infant mortality in this country.

Mr. BOND. As the chairman well knows, through his good work for children with disabilities, 150,000 babies are born each year with defects and many more have birth defects which are not identified until later in their childhood. Yet we have no system to track these births as we do for low birthweight or even for cancer through national cancer registries. With these expanded birth defects surveillance funds it is my hope that data can be collected to identify environmental factors associated with birth defects and to apply this knowledge to guide public health interventions. I would like to clarify that the committee has prioritized the birth defects surveillance program at CDC for a portion of the increased funds.

Mr. HARKIN. Yes, it is our intention that a portion of the increase provided to the CDC for fiscal year 1995 be used specifically to expand assistance to States for birth defects monitoring systems.

Mr. BOND. I thank the chairman. I know of no greater advocate for children with birth defects than the chairman of this subcommittee, and know he looks forward to the day, as I do, that we have in place a national system for the prevention of birth defects.

BONUS CAPS

Ms. MIKULSKI. Mr. President, I note that the conference report on this bill includes language that places a cap on the amount that agencies may spend on cash performance awards, known as bonuses. Under this provision, the amount spent by an agency on employee bonuses may not exceed 1 percent of the amount budgeted for the agency's personnel compensation and benefits.

Mr. HARKIN. The Senator from Maryland is correct.

Ms. MIKULSKI. As I understand it, this language is not intended to restrict bonuses to hard-working non-supervisory employees who qualify for performance awards.

Mr. HARKIN. That is correct.

Ms. MIKULSKI. Full-time rank-and-file employees would still be eligible to receive bonuses. Is that correct?

Mr. HARKIN. Yes, that is correct.

Ms. MIKULSKI. Mr. President, because of increasing budget constraints and efforts to downsize and streamline the Federal Government, agency personnel are being asked to assume more and more responsibilities, with fewer resources and rewards. Unfortunately, it is often the lower grade workers that tend to suffer the most from this trend. I want to make it clear for the record that it is not the intent of the Congress to in any way discourage agencies from appropriately rewarding lower level employees who perform their work in an exemplary fashion.

OFFICE OF AMERICAN WORKPLACE FUNDING

Mr. KENNEDY. Mr. President, the conferees have agreed to an appropriation of \$7 million for salaries and activities by the Office of the American Workplace. It is my understanding that while the conferees did not provide the specific increase in funding for the Workers Technology Skills Development Act that the Senate had sought, it would be consistent with the appropriation bill that we are passing today to fund this program. As you know, the purpose of that act, which we expect to enact shortly as part of the Elementary and Secondary Education Act, is to increase worker involvement in the introduction and deployment of technology in the workplace and promote the use of advanced workplace practices to improve workers' wages, skills, and participation in the changing workplace.

Mr. HARKIN. Yes. I am a cosponsor of that legislation. I think it would be appropriate and meritorious for the Department of Labor to fund projects under that program. As you know, we had specifically indicated in our Sen-

ate report that we intended the \$500,000 we had provided to fund pilot programs to be used to fund projects pursuant to that act. The Department of Labor has the ability under our Appropriations Act to fund such programs and to the extent that the Department is able to use appropriated moneys in the coming fiscal year to fund pilot programs, we intend that such funds be used to fund projects under the Workers Technology Skills Development Act.

Mr. WOFFORD. Mr. President, as secretary of labor and industry, I saw first hand what worked for workers in Pennsylvania. I have been very pleased that working with both my colleagues, over a relatively short period of time, the Congress has been able to address the need, even in a modest manner, for ensuring full worker involvement in any efforts to modernize the workplace and make it more competitive. I am pleased that the Department of Labor will be able to fund such programs in the upcoming fiscal year.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2593

(Purpose: To provide for enhanced penalties for health care fraud)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 2593.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. COHEN. Madam President, it became clear yesterday, with Senator MITCHELL announcing that there will be no further consideration of health care reform this year, that we are missing an opportunity to do a number of things. Senator SPECTER, Senator CHAFEE, myself, and a delegation of Senators from both the Democratic and Republican side, have been working for some time in trying to come up with a bipartisan mainstream coalition bill. We felt we were on the edge of producing such a proposal that we believe would have provided a very sound basis for health care reform for certainly this year and well into the future.

But that is no longer a reality. In addition to not addressing health care re-

form, there is another opportunity that we are losing due to our failure to consider health care reform measures, and that is the opportunity to crack down on health care fraud. There is strong agreement between Republicans and Democrats that we need to rid our health care system of fraud and abuse that is costing taxpayers, patients, and families dearly and driving up the cost of the entire health care system for all Americans.

Earlier this year, I released the results of a year-long investigation into health care fraud and abuse conducted by my staff on the Senate Special Committee on Aging. We found that health care fraud and abuse is rampant throughout Federal, State, and private health care programs, and that losses to health care fraud and abuse over the last 5 years are almost four times the total costs to date of the entire savings and loan crisis.

Defrauding the Federal and private health care programs, Mr. President, is shockingly simple, and Medicare and Medicaid and private insurers are leaving their doors wide open to fraud, inviting scam artists to rip off the system. According to the GAO, as much as 10 percent of the entire health care budget is lost to fraud and abuse each year. That amounts to up to \$100 billion a year—as much as \$275 million every single day—and more than \$11.5 million every hour—in health care dollars lost to health care fraud and abuse.

Mr. President, that is a staggering sum of money that we are losing every single day and every single hour. One of my great regrets about not taking up health care legislation this year is that we are going to be back here next year in the same position, but having lost \$100 billion more by failing to toughen our defenses against health care fraud. I first introduced this legislation last year. Despite strong agreement on the need to combat health care fraud, no action was taken. Then last year I introduced parts of this legislation as an amendment to the crime bill. It was accepted by a unanimous vote, only to be rejected by the House of Representatives. The House stripped it out of the crime bill in order to attach it to the health care reform bill. And now we have no health care reform, but we still have health care fraud. That, Mr. President, should not be tolerated a single day longer. That is the reason why I am standing here today to offer this legislation on this pending bill.

Mr. President, the vulnerabilities to fraud exist throughout the entire health care system, and defrauding the system has become a routine way of doing business for many unscrupulous providers.

Major patterns of abuse that plague the system are overbilling, billing for services not rendered, unbundling,

whereby one item—for example, a wheelchair—is billed as many separate component parts, upcoding services to receive higher reimbursements, or providing inferior products to patients. Some of the other widespread scams are paying kickbacks and inducements for referrals of patients, falsifying claims and medical records to fraudulently certify an individual for Government benefits, billing for so-called ghost patients, and even paying drug addicts or other patients to have their blood drawn or have unnecessary medical tests performed so the fraudulent doctor or clinic can be reimbursed by Medicare or private insurance.

Our health care system is rife with abuse, and Medicare and Medicaid and private insurers are leaving their doors wide open to the fraud. Here are several examples:

Physician-owners of a clinic in New York stole over \$1.3 million from the State Medicaid Program by fraudulently billing for over 50,000 phantom psychotherapy sessions never given to Medicaid recipients.

A speech therapist submitted false claims to Medicare for services rendered to patients who were already dead.

A home health care company stole more than \$4.6 million from Medicaid by billing for home care provided by unqualified home care aides. In addition to cheating Medicaid, this company placed elderly and disabled individuals at risk from untrained and unsupervised aides. Nursing home operators charged personal items such as swimming pools, jewelry, and even the family nanny, to Medicaid cost reports.

Large quantities of sample and expired drugs were dispensed to nursing home patients and pharmacy customers without their knowledge. When complaints were received from the nursing home staff and patient relatives regarding the ineffectiveness of the medications, one of the scam artists stated "those people are old, they will never know the difference, and they will be dead soon anyway."

One scheme involved the distribution of \$6 million worth of reused pacemakers and mislabeled pacemakers intended for animal use only. Think about that. We have people out there using pacemakers whose batteries have gone dead, that are totally useless. Some are intended for animals only and are being implanted in human bodies. The scheme involved kickbacks to cardiologists and surgeons to induce them to use pacemakers that already expired.

Then we have a clinical psychologist who was indicted for having sexual intercourse with some of his patients and then seeking reimbursement from a Federal health plan for these encounters as so-called therapy sessions.

These cases are just the tip of an enormous iceberg of fraud and abuse

that is costing taxpayers and patients dearly, and freezing out millions of Americans from affordable health care coverage.

To give you an illustration as to how health care fraud can strike very close to home, I will offer another example of a Medicare beneficiary living in a boarding home in Saco, ME. She fell and sustained a very small cut on her forearm. It was less than an inch long. It required no medical treatment by a physician. The cut healed within 2 weeks, without requiring any doctor's services. At most, she used 14 of the so-called waterproof, 6- by 8-inch dressings, at a total cost, actually, of less than \$40. An unscrupulous medical supplier, however, billed Medicare \$850 for 50 of these dressings, which were never medically necessary. In addition, that same supply company billed Medicare \$2,660 more for these dressings, plus gels, which were never needed by the patient. So, in essence, you and me and everybody here in this country ended up paying almost \$3,800 for the treatment of a cut of less than one-inch long that never required a doctor's attention or services.

The amendment I am offering today, Mr. President, will toughen our defenses against such health care fraud and abuse. There is broad agreement on both sides of the aisle on the changes proposed by this amendment in order to stop the fraudulent providers from bleeding billions of dollars from our health care system.

The provisions of this amendment, to give an example, were included in the legislation I first introduced last year, and they are included in the so-called mainstream coalition health care reform bill. They are also included in Senator DOLE's health care reform bill, Senator MITCHELL's reform plan, and, indeed, even the Clinton administration's health care reform package.

Everybody agrees with the provisions in this amendment—President Clinton, Mrs. Clinton, Senator DOLE, Senator MITCHELL, the mainstream coalition. Everybody agrees that we need this legislation.

Ridding the health care system of this kind of fraud and abuse, as I pointed out, is not a partisan issue. Rather, the proposals I am offering in this amendment today are based on recommendations of a Health Care Fraud Task Force convened by the Bush administration. They have been endorsed by the current administration, numerous law enforcement agencies, and many health care provider groups.

The amendment will do the following:

It will give prosecutors stronger tools and tougher statutes to combat criminal health care and fraud.

It should allow health care plans and the Government to kick the so-called bad apples out of the system entirely.

It will create much tougher civil penalties and remedies for fraud and abuse.

It will coordinate enforcement programs and beef up the investigative resources which are inadequate.

The amendment does this by financing additional health care fraud enforcement resources with proceeds derived from forfeiture, fines, and other health care fraud enforcement efforts.

While toughening the system against fraud and abuse, this amendment also gives guidance to health care providers and industries on how to comply with fraud rules, so they will know what is or is not prohibited activity.

I firmly believe the vast majority of health care providers are honest professionals whose highest priority is quality care for their patients. This amendment is in no way designed to impugn the integrity of these dedicated individuals.

Unfortunately, however, health care fraud has become a very lucrative business and some dishonest providers will do all they can to manipulate the system. Just as Willie Sutton said he robbed banks because "that's where the money is," many scam artists seek out health care fraud because they know that the health care budget provides one of the biggest pots of money available for the taking—and one that has very little chance of them being caught.

While the Federal and State law enforcement officials are making some progress cracking down on health care fraud, the current enforcement scheme has resulted in a system whereby the mouse has outsmarted the mousetrap. Those defrauding the system are ingenious and motivated, while the Government and private sector responses cannot hope to keep pace with the sophistication and cunning of those individuals they pursue. We must take steps to stop this abuse now.

Our current system of fighting health care fraud is like trying to put out a forest fire with a garden hose. By providing tougher tools, better coordination, and more resources, this amendment will help equip the law enforcement and health care officials to fight fraud and abuse effectively.

I fully expect that this amendment will be opposed by those who argue that we should wait another year, wait until next year, to come back and start the debate all over again on health care reform. That means maybe sometime in March the debate will begin, maybe sometime next August or September we will conclude that debate and maybe, finally, we will have some kind of health care fraud legislation.

As I indicated before, Mr. President, that means we are out another \$100 billion. That means we are out another \$275 million a day. That means we are out another \$11.5 million an hour. We sit here and say, well, wait until next year.

Mr. President, I do not think we can afford to wait until next year. Over 300 days have elapsed since the Senate passed its crime bill containing some of these health care fraud provisions, and with the estimates that I have just reeled off, that we are losing these \$275 million every day, these 300 days could represent over \$85 billion lost to health care fraud and abuse just since the Senate passed its crime bill last year.

So here we are, Mr. President, just days before we are due to adjourn and there is no health care reform bill in sight. While it was my hope we could have passed a health care reform bill this year, that is not going to be the case.

The only ones who are benefiting from this delay on this important issue are the ones who are bilking billions from our system. The very big losers are going to be the American people, taxpayers, patients, and families who cannot afford health care coverage now because the premiums and the health care costs are padded to cover these exorbitant costs that are being lost to the scam artists.

Mr. President, I ask that the section-by-section description of my amendment be placed in the RECORD.

I urge my colleagues to accept this amendment.

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

SECTION-BY-SECTION ANALYSIS

The Cohen legislation establishes a stronger, better coordinated federal effort to combat fraud and abuse in our health care system. It expands criminal and civil penalties for health care fraud to provide a stronger deterrent to the billing of fraudulent claims and to eliminate waste in our health care system resulting from such practices. It also seeks to deter fraudulent utilization of health care services.

Section 101.a. All-Payer Fraud and Abuse Control Program: The Secretary of Health and Human Services and the Attorney General are required to jointly establish and coordinate an all-payer national health care fraud control program to restrict fraud and abuse in private and public health programs. The Secretary and Attorney General would be authorized to conduct investigations, audits, evaluations and inspections relating to the delivery and payment for health care; would be required to arrange for the sharing of data with representatives of health plans; and would have to establish standards by regulation to carry out the program.

b. Health Care Fraud and Abuse Control Account: To supplement regularly appropriated funds, a special account would be established to fund the all-payer program, managed by the Secretary and Attorney General. All criminal fines, penalties, and civil monetary penalties imposed for violations of fraud and abuse provisions of this legislation would be deposited into the account and used for carrying out the proposed requirements.

Section 102. Application of Federal Health Anti-Fraud and Abuse Sanctions to All Fraud and Abuse Against Any Health Plan: The provisions under the Medicare and Medicaid program, which provide for criminal

penalties for specified fraud and abuse violations, would apply and be extended to similar violations for all payers in the health care system. The violations would include willful submission of false information or claims, acceptance of kickbacks, bribes or rebates in return for referral for services and other violations currently included under Medicare. Penalties would include fines and possible imprisonment. The Secretary could also consider community service opportunities.

Section 103. Health Care Fraud and Abuse Guidance: Provides mechanisms for further guidance to health care providers on the scope and applicability of the anti-fraud statutes in order to better comply with these statutes. The further guidance would be provided by the modifications of existing safe harbors and the promulgation of new safe harbors; interpretive rulings providing the HHS' Inspector General's interpretation of anti-fraud statutes; and special fraud alerts setting activities that the Inspector General considers suspect under the anti-fraud statutes.

Section 104. Reporting of Fraudulent Actions Under Medicare: The Secretary is required to establish a program through which Medicare beneficiaries may report instances of suspected fraudulent actions on a confidential basis.

Section 201. Mandatory Exclusion from Participation in Medicare and State Health Care Programs: The Secretary currently is required to exclude individuals and entities from Medicare and Medicaid based on convictions for program-related crimes relating to patient abuse or neglect. This section would extend the Secretary's authority to felony convictions relating to fraud and felony convictions relating to controlled substances. Currently the Secretary is permitted, but not required, to exclude those convicted of such an offense. Adoption of this proposal would better recognize the seriousness of such offenses and ensure that beneficiaries are well protected from dealing with such individuals.

Section 202. Establishment of Minimum Period of Exclusion for Certain Individuals and Entities Subject to Permissive Exclusion from Medicare and State Health Care Programs: Mandatory exclusions contain a minimum period of exclusion for five years. This section establishes a minimum period of exclusion expressly determined by statute for certain permissive exclusions, such as three years for specific convictions.

Section 203. Permissive Exclusion of Individuals with Ownership or Control Interest in Sanctioned Entities: Some of the current permissive exclusions are "derivative" exclusions—that is, they are based on an action previously taken by a court, licensure board, or other agency. Current law allows permissive exclusion authority for entities when a convicted individual has ownership, control or agency relationship with such entity. The bill would extend the current permissive exclusion authority for entities controlled by a sanctioned individual to individuals who held a controlling interest in sanctioned entities at the time of the violation.

Sections 204-205. a. Actions Subject to Criminal Penalties: The current employer-employee exception to the anti-kickback statute would be clarified to prohibit payment to employees based on value and volume of referrals to the employer.

b. New Exception for Capitated Payments: In order to allow basic managed care arrangements to provide incentives for preventive care and to provide coinsurance and de-

ductible differentials (disclosed in writing) designed to encourage enrollees to utilize a preferred provider network, the bill provides certain exceptions to both the criminal anti-kickback provision and civil monetary penalties provision.

A new exception has been created from the criminal anti-kickback statute for capitated payments.

Section 206. Intermediate Sanctions for Medicare Health Maintenance Organizations: The Secretary would be able to impose civil monetary penalties on Medicare-qualified HMOs for violations of Medicare contracting requirements.

Section 301. Establishment of the Health Care Fraud and Abuse Data Collection Program: The Secretary would create a comprehensive national data collection program for the reporting of information about final adverse actions against health care providers, suppliers, or licensed practitioners including criminal convictions, exclusions from participation in Federal and State programs, civil monetary penalties and license revocations and suspensions.

Section 401. Civil Monetary Penalties: The provisions under Medicare and Medicaid which provide for civil monetary penalties for specified violations would apply to similar violations for all payers in the health care system. The violations would include billing for services not provided, submitting fraudulent claims for payment, hospitals giving financial incentives to physicians to reduce or limit care provided to hospital inpatients, and other violations currently included under the Medicare program.

The provisions would also clarify that repeatedly claiming a higher code, or repeatedly billing for medically unnecessary services, for purposes of reimbursement is prohibited and subject to civil monetary penalties.

An intermediate civil monetary penalty would also be established for criminal anti-kickback violations.

The provision also clarifies that the routine waiver of Medicare Part B copayments and deductibles would be prohibited and subject to civil monetary penalties, although exceptions are provided.

In addition, retention by an excluded individual of an ownership or control interest of an entity who is participating in Medicare or Medicaid would be prohibited and subject to civil monetary penalties.

Finally, the amount of civil monetary penalty that can be assessed is increased from \$2,000 to \$10,000.

Section 501. Health Care Fraud: Establishes a new health care fraud statute in Title 18. Provides a penalty of up to 10 years in prison, or fines, or both for knowingly executing a scheme to defraud a health plan in connection with the delivery of health care benefits, as well as for obtaining money or property under false pretenses from a health plan. This section is patterned after existing mail and wire fraud statutes.

Section 502. Forfeitures for Federal Health Care Offenses: Requires the court, in imposing sentence on a person convicted of a Federal health care offense, to order the forfeiture to the United States of property used in commission of an offense if it results in a loss or gain of \$50,000 or more and constitutes or is derived from proceeds traceable to the commission of the offense.

Section 503. Injunctive Relief Relating to Federal Health Care Offenses: This provision expands the scope of the current injunctive relief section by adding the commission of a health care offense. This provision allows the

Attorney General to commence a civil action to enjoin such violation.

Section 601-604: Payments for State Health Care Fraud Control Units: Provides language to establish state health care provider fraud control units modeled on the current state Medicaid Fraud Control Units. The jurisdiction of these units would be expanded to include investigation and prosecution of provider fraud in other federally-funded or mandated programs. The proposal also allows the states to choose whether to conduct investigations and prosecutions for patient abuse related crimes occurring in board and care facilities and other alternative residential settings.

The HHS' Inspector General would continue oversight and the state units would detail its activities in its yearly grant applications. This section also contains a recitation of the units' original authorization language as currently contained in the Social Security Act, and also allows the units to participate in the all-payer fraud abuse control program.

Mr. BIDEN. Mr. President, I rise for three purposes.

First, I compliment the Senator from Maine. He has worked long and hard on dealing with what is a multibillion-dollar problem. A report which my committee issued several years ago established that there were a minimum of \$70 billion in health care fraud per year. That estimate is probably a little low.

I compliment Senator COHEN for sticking to this issue and being as involved in trying to do something about this fraud that takes place with as much diligence and insight as he has. That is the first reason I rise.

The second reason is that a number of my colleagues have said, "Joe, why was this dropped from the crime bill?" The truth of the matter is—and the Senator from Maine did not suggest anything other than this—that the vast bulk of what the Senator has introduced was not in the crime bill. It was not a part of the crime bill, and it was not dropped from the crime bill.

There were several very important amendments, which I supported, co-sponsored, if I am not mistaken, with the Senator from Maine, and fought to keep in the crime bill. One was a new health care fraud offense, that is in title 18, Criminal Code of the United States, to set up a new offense called health care fraud. Second, we had in the crime bill a forfeiture provision for health care fraud cases. That is where the Government recovered against a defendant where they found a defendant guilty of being engaged in health care fraud, they could go out like they can in drug cases and through the forfeiture process acquire the fruits of that fraud.

Third, it had a new so-called RICO provision, predicate, that we placed in the crime bill.

Fourth, a few other titles including a total of 18 provisions relating to the Criminal Code.

But this amendment—I am not commenting on the merits of the amendment—goes well beyond what was in

the crime bill. Many of the items are things that I personally support and I think we could probably, the bulk of us, reach agreement on. But these provisions I think have to be considered in the context where everybody interested can be involved.

This amendment, for example, includes a provision which creates a special fund for the proceeds of health care fraud to be used by other agencies without further appropriations. I am not sure that is a bad idea. I think that is probably a pretty good idea. In my experience that usually causes apoplexy around here when we set up separate funds which bypass appropriators. It creates a new interagency enforcement structure.

Conceptually I think that is a good idea because we have so much overlapping that goes on. Quite frankly the Justice Department does not know nearly enough about this area, whereas HHS and the others do know a great deal, and to call on the multiple talents of the interagency structure I think would make sense.

It also refuses many of the medically related fraud provisions which the Finance Committee needs to consider. It does some other things as well.

Again, the second purpose of my rising today is to suggest that, to answer the question at least half a dozen of my colleagues have asked me on both sides of the aisle: "Hey, Joe, why did you drop this in the crime bill?"

Mr. COHEN. Will the Senator yield?

Mr. BIDEN. Certainly. I yield to the Senator.

Mr. COHEN. I believe all the provisions in this amendment that are made to title 18 were added to the crime bill on the floor.

Mr. BIDEN. That is correct. But I understand the Senator goes beyond the title 18 provision.

Mr. COHEN. That is true. But those provisions were dropped in conference because I understand the House objected. They wanted to wait to consider the provisions as part of health care reform.

Mr. BIDEN. That is correct. Both the Republicans and the Democrats in the House side wanted it dropped. And, quite frankly, a number of people on this side, and leadership on both sides, wanted it dropped because at the time they all wanted it included in a large health care bill.

As the Senator from Maine knows, I share his view. I was, skeptical that would occur and, thought we should not waste any time anyway whether or not they would be included later.

The only point I wish to make is, it is not a criticism but an explanation, I hope a clarification. What the Senator is offering goes well beyond the title 18 provisions which were dropped.

The third point I wish to make is, regardless of what the outcome of this vote will be—and if the Senator is

going to keep it on this bill and vote on it or another bill, I do not know what his preference is—but regardless of what happens, if it fails or succeeds, I can assure him that it is my intention—and this is not in any way to dissuade people from supporting the Senator but to make the point that I think that we must, and the Senator from Maine has introduced a bill as well as I have in the Judiciary Committee—if this does not move forward we must create enough of an awareness and a consensus on acting on dealing with health care fraud in the beginning of the next term. So it is my intention to hold hearings in the Judiciary Committee. Again I do not say this as a way to delay action to tell the Senator I am going to do this anyway. I would only do it with his help, input, and cooperation as a member of the Judiciary Committee.

So I just want to make the three points. One, I compliment him for being so vigilant and persistent on this multibillion-dollar issue; second, much of what the Senator suggests in his amendment is noteworthy but was not of part of the crime bill; third, regardless of the outcome of this vote whenever it takes place on this amendment, I, as Chair, assuming that will be the case next year, will continue to pursue this with him.

Mr. COHEN. If the Senator will yield—

Mr. BIDEN. I am happy to yield the floor.

Mr. COHEN. Mr. President, to make it very clear, this legislation that I am proposing basically is endorsed by everyone. President Clinton has the same provisions in his legislation with health care reform. Senator MITCHELL has the same provisions. Senator DOLE has the same provisions. The mainstream coalition has the same provisions. There is no disagreement in terms of the necessity of this legislation.

The Senator is correct. I attached the criminal provisions to the crime bill. Those were dropped. This amendment goes beyond that.

But even this large amendment is supported by virtually everyone. I know of no dissent. I am simply suggesting time is running out. We lost \$100 billion this year to health care fraud and we cannot afford to delay further.

What I am saying is we do not have a health care bill. We are still losing money, \$11.5 million an hour every day. We have an opportunity to correct that with no dissension that I am aware of in this body.

Mr. BIDEN. If the Senator will yield for just a moment, Mr. President, I do not take issue with that at all. I do not disagree with anything the Senator just said. I just was clarifying because so many people asked me whether all of this had been considered.

I yield the floor.

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

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

Mr. HARKIN. Mr. President, if I might, I have tried to listen to the explanation of the Senator from Maine of his amendment. Evidently, it has to do with waste, fraud, and abuse. I will take the time momentarily to go through the provisions in our bill that we have already done on waste, fraud, and abuse.

I would say to the Senator from Maine that this amendment, as I understand it, is 58 pages long. It is a major piece of legislation. I say to the Senator from Maine that this is part of health care reform. I hope the Senator will not want to open that can of worms. I thought we had all kinds of admonitions from the Republican side and the Republican leader that we should not bring up health care reform, that other things may happen. If this happens here, I can tell you there are a bunch of health care reform amendments on this side. If the Senator wants to, we will start the health care reform debate and we will be here for the next week and a half on it.

Mr. COHEN. That is fine with me. I am trying to get a forum where we get this legislation passed. We have delayed year after year. Nothing has been done with this issue in a substantive fashion. There is no disagreement. If you want to take the time to go through the 58 pages, that is fine with me. This proposal is contained in President Clinton's proposal and in Senator DOLE's proposal. There is no disagreement on this. Yet, it is not simply a health care reform proposal, it is anticrime as well. This is criminal activity that is taking place on an hourly basis and we are being robbed; being robbed blind. We simply say, "Well, we will get to it sometime next year, maybe."

Mr. HARKIN. I will simply respond that we have addressed a lot of these issues in our bill. As I said, this is a major piece of legislation that should not find its way on an appropriations bill.

I understand the Senator's frustration. I happen to be frustrated too. We have been debating health care reform for years around here. We are spending \$1 trillion a year. What the Senator is talking about is peanuts compared to what he says about being robbed from the public out there day after day with all kinds of fraud, all kinds of prices with all kinds of discrimination, pre-existing condition clauses, lack of

portability. All of those things are happening out there day after day. We are not addressing those.

I sympathize with the Senator from Maine. A lot of things out there we ought to be addressing this year on health care reform. But we did not get it done.

Again, we have been through that debate before. I had my say on that yesterday. I do not mean to say it again. This is the appropriations bill to fund the Department of Education and the Department of Health and Human Services and the Department of Labor; the National Institutes of Health, biomedical research.

There are some things we can do on waste, fraud, and abuse. We have done it every year. Senator SPECTER and I every year have had hearings on this. We figured out what we could do within the confines of the appropriations process to go after waste, fraud, and abuse. We have done a lot in the last 3 or 4 years that we have worked together on it.

For example, the administration proposed some cuts in the Medicare payments safeguard activities. We held hearings that showed that for every \$1 we spent on payment safeguards, we saved \$14 in catching the very waste, fraud, and abuse items that the Senator from Maine is talking about. So we put money back in there for that. We also added \$3 million for Medicaid fraud demonstration projects. This bill also suspends workers compensation benefits to individuals who have been in prison for a felony offense. We hear a lot of talk about that. We took care of it in here. This bill provides for increased monitoring of SSI beneficiaries disabled by drug addiction and alcoholism, to prevent fraud and abuse. We heard a lot of stories about that where people were supposed to go to alcoholism programs and drug treatment programs. They did not do it, and in some cases used Federal funds to support substance abuse. So we tightened down on it in this bill.

So I think Senator SPECTER and I and the members of this subcommittee have worked very hard and very diligently to go after waste, fraud, and abuse and save the taxpayers tens of millions of dollars in each of the last several years.

Every year we confront this. We have hearings to find out what else we can do to cut down on it.

Again, I am sure there are other things in the whole health care field that can be done and should be done to cut down on further waste, fraud, and abuse.

That is not in the purview of this appropriations committee, not at all. It would be an apt subject for a health reform bill. I daresay in the last couple of weeks I proposed a piece of legislation on health care reform and it had these provisions in it, too. But this is not the place for it.

Again, we are going to have health care reform next year. I suggest that is the place for the Senator from Maine to work to try to get his provisions in that bill, not on this appropriations bill.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at the outset I compliment my distinguished colleague from Maine for the work which he has done culminating in the legislation which he is proposing here today. He has argued the need for all of these items, and I agree with him totally. I serve with him on the Aging Committee where he has held these hearings which have produced this evidence leading to this legislation. He is the ranking member of that committee and has done extraordinary work there.

This is a very, very important piece of legislation. I have been working with him, along with Senator CHAFEE and others, on the so-called Chafee task force" which has produced legislation, where these provisions are a part. It is true that he brought several of the provisions them forward on the crime bill, and they were passed successfully. The difficulty which is presented here, on this bill, which I have talked to Senator COHEN about privately, is that it will delay the passage of this appropriations bill on Labor, Health, and Human Services, and Education.

The distinguished Senator from Maine quite accurately says he wants to see this bill passed this year. I agree with him. But I think the reality is it will not be passed this year because it will go back to the House and the House will object to it as the House did when these provisions were on the crime bill.

And the reason they will object is that it is within the jurisdiction of the Ways and Means Committee and it is legislation on an appropriations bill, although in a broad sense it is certainly relevant or germane or within the context of this general category of legislation.

What happens, as those of us who are working on the floor today know, is that we are in the very last few days of this session and there are a number of amendments which a number of other Senators wanted to offer which did not relate to health care, as do the provisions of Senator COHEN's amendment. So to that extent, it is a more logical spot here than on some of the other amendments to which other Senators want to add.

Those other Senators have been persuaded not to bring their amendments to this bill, but instead there will be a vehicle which the majority leader has set aside, the appropriations bill for the District of Columbia, where there is already an amendment pending to an amendment in disagreement which may have to go back to the House of

Representatives. And it is the thought of the ranking Republican on the full committee, Senator HATFIELD, who has discussed this matter also with Senator COHEN, that Senator COHEN's amendment be offered to an amendment in disagreement on the District of Columbia appropriations bill.

The concern that I had and have just expressed to the Senator from Maine is there are other Senators who want to add health care amendments to this pending bill. Frankly, I would like to add Senate bill 18, my health care reform bill, because I certainly am not happy to see the session end without reform legislation. But I think it is plain that at this stage, we are not going to be able to deal with health care generally.

So that is where we are. If the distinguished Senator from Maine presses the issue, I think he will succeed; I think he will succeed. The HUD appropriations bill had, I think 43 votes in support of amendments which were not nearly as attractive as what the distinguished Senator from Maine is offering. He has offered it before, and I have supported it, and it is a very difficult amendment to disagree with on the substance and on the merits.

But the consequence will be, I think, that we will have a continuing resolution on Labor, Health, and Human Services, and Education, and the consequence of that is that there may be less appropriated for those important items because a continuing resolution often takes the lesser of the 1994 bill, which is in existence now and the conference report, correct? We always turn to learned staff to be absolutely sure on these technical matters. That is what likely will happen, and that will result in the reduction of appropriations for Health, Education, Human Services, and Labor, which I know the distinguished Senator from Maine would not want to see happen.

So that is the procedural posture we are in. Senator COHEN has every right to proceed with his amendment here. There is no doubt about that. It is a very, very important amendment, and it should have been accepted long ago. And he is right when he talks about \$100 billion in waste, fraud, and abuse, and it ought to be enacted. And, as the distinguished Senator from Iowa, Senator HARKIN, has pointed out, we have dealt with it within the confines of this appropriations bill to the extent we could. But the fact, too, is that we have not done as much as a new substantive bill on this subject would do.

So it is my hope that the distinguished Senator from Maine will not press the issue. I think if it is pressed, and again I repeat, he has every right to press it, we are going to have Senators coming to the floor with other health care amendments and Senators on other issues, and then the ranking member, Senator HATFIELD, is talking

about taking the bill down in the hope that these amendments will be offered somewhere else.

So we are just a hair's breadth away from getting this bill passed, and I leave it to my distinguished colleague from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, during my service here in the Senate, I tried not to be an obstructionist, as some of us are frequently labeled. I have tried always to make some constructive proposals, and that is simply what I am trying to do in this particular case.

If I were allowed by Senate rules to do so, I would hold up a little 6-by-8-inch waterproof dressing to show the American people that this item which is being used to treat a scratch or a cut less than an inch long is costing them \$3,800. I would bring over a leg prosthesis that I used during a press conference to try to draw the public's attention to what is taking place. It was remarkable. It was a leg prosthesis, but it looked like it came off a mannequin in Macy's department store window. It was a shell, plastic; it was from the knee down, for someone who has lost the lower part of their leg. What was interesting about this particular device, this prosthesis, I should say, is that it had a right calf and a left foot. Pretty extraordinary for someone who might have to wear that because he or she has lost a leg.

The leg prosthesis was shoddily made and totally useless. But guess what the supplier billed you and me for? Take a wild guess. This thin piece of plastic, this piece of trash, was billed to the Federal Government to the tune of \$8,800.

The Health Care Financing Administration approved payment of \$1,400. When I held it up and looked at it, I thought it was not worth even 14 cents if it couldn't be used. But we were billed \$8,800 and the Federal Government approved \$1,400 as a reasonable price for something that was completely worthless.

Then, we have the issue of blood sugar monitoring kits for those who suffer from diabetes. In the Washington Post, there is an ad saying you can buy this at such-and-such store, and with a manufacturer's rebate, you can purchase the kit for roughly \$10 to \$12.

You know what the suppliers are billing you and me and all the taxpayers in this country? Roughly \$250 per kit. And how are they able to do this? They take each item in the kit, the lance and the other items in the kit, and they bill us separately. It is called unbundling. So each item gets billed separately, and the total comes up to roughly \$250 for an item that would cost \$10 to \$12 off the shelf.

There is an explosion of this type of fraud taking place. That is why I felt compelled to offer this amendment. I

introduced the bill last year and no action was taken on it. I offered—and I believe the Senator from Delaware is correct in clarifying this—I offered the criminal provisions of this amendment to the crime bill, when it was on the Senate floor and accepted unanimously, but then stripped out by the House for the same reasons that Senator BIDEN expressed. The House Ways and Means Committee said this is a finance matter, a tax matter; it is our jurisdiction. I would like them to explain to the American people why there has been no action taken.

I have been told, well, just wait until the health care bill comes along. We have no health care bill. Now we are told wait until next year. A familiar expression up in New England, when we are still waiting for the Boston Red Sox, to win that pennant again, is: Wait until next year; we will be back next year.

I am not sure how much longer we can afford to wait. I am not sure how much longer the American people are going to tolerate us not taking action. We lost \$100 billion last year and the year after, and now we will lose another \$100 billion this year. I do not know how long it is going to take to get a health care bill next year. We come back toward the end of January. We go out for the Lincoln Day recess. We are out most of February. We get serious about March or April. And then, the debate starts all over again. We will have either the mainstream coalition proposals as a basis to start off with, or maybe the DOLE proposal. Or we will have another, probably, a sequel to Senator MITCHELL's proposal, perhaps in another form. And we are off in debating, and all the interest groups start lobbying us. We start taking more and more time to work our way through the complexities of the health care system. In the meantime, I dare say we are probably into late next year, and still no health care bill, no antifraud provisions.

So this is not intended as a major proposal to amend our health care system. What this is designed to do is to give our prosecutors a health care fraud statute. Right now, they have to prosecute these individuals by going through mail fraud and wire fraud. It is very complicated and time consuming. They want a statute they can go right to and say: We are going to prosecute you if you try to defraud the Federal taxpayers and the private health insurance. We are going to prosecute you, and we have the law here to do it.

They do not have that now. We can talk about procedure, or other people having amendments that they can come forward with to offer tonight and kill the bill. But someone is killing our system. And if there is anger out in America today directed toward us, this is another classic example of it. We say, well, our procedure does not allow

for it. The House wants it to go through Ways and Means. They have to have hearings. It does not matter that the President wants it, or the majority leader wants or the minority leader wants it. It does not matter. We have to have the jurisdiction all sorted out. That may take some time.

So, Mr. President, I must say that we have waited too long. This is something that I think the American people should be justifiably outraged about, saying: Do something. If we cannot pass a reform bill because of complexity, this is pretty straightforward; this is pretty simple. This gives a tool to the prosecutors of our Federal Government to go after those who would defraud us, day in and day out—\$11.5 million an hour, \$275 million a day, \$100 billion a year—and we are sitting around saying, well, this isn't in the committee's jurisdiction; overlap; delay. You have to wait until next year.

I do not think the American people are going to accept that, not on our part. I do not think they should accept it. If we are going to be met with their anger at the polls in November, I think it is justified. They will look at this and see we had an opportunity and we passed up that opportunity with the invocation of: Let us just wait for next year; we will get it a year from now.

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

Mr. COHEN. Yes.

Mr. HARKIN. First of all, I cannot find anything I disagree with the Senator on. As a matter of fact, we have had hearings on this, almost everything he mentioned, except the prosthesis. For example, we looked excessive payments for such items as blood glucose monitors, bandages, and TENS units. We have all kinds. And every year, we have hearings to expose wasteful spending and how we can combat it.

And so with the mechanisms in our bill, we try to put more emphasis on activities such as the payment safeguards program. This is where Medicare hires investigators, accountants, and auditors to go after fraud, waste, and abuse. They are woefully understaffed. And as I mentioned in my comments, we have proven from GAO and from the inspector generals that for every dollar we put into these activities, we have actually saved, in real, hard cash dollars in that given year, \$14 for every dollar we put in. In every administration, this was no different from the one before. Both administrations were asked to put in the payment safeguard program.

We are in the odd position of trying to put money into the program. Talk about spending around here. This is one program we put money into that actually pays the taxpayers back. I assume at some point there, the cost-benefit ratio is not that great. But we have not even approached that yet.

I have not read the Senator's amendment. My staff tells me that much of what is in the Senator's amendment was in amendments offered by myself and others in different, various health reform bills that come through the Labor Committee. Much of this was in the Labor Committee's bill. And some was in the Dole bill. So there is broad general agreement, I think, for what the Senator is trying to do.

But, again, I just have one question. Take the blood glucose monitors. We know what the prices were on that, and they were way out of line. How does the Senator's bill get at that? How would you prevent that from happening? What is the mechanism in your bill that would prevent durable medical equipment, such as blood glucose monitors, or TENS units, from being overpriced in the beginning, in the future?

Mr. COHEN. It does several things. No. 1, it gives the Justice Department a single statute to go to to prosecute those individuals who, in fact, are engaging in fraudulent behavior.

The amendment will also address the problem by getting more people conducting oversight and policing the system. As I understand it, we have a caseload problem in going after those who are fraudulently overbilling our system. In the two major Federal law enforcement agencies, only 450 Federal positions investigate health care fraud. This works out to about one investigator for about 8 million claims. One investigator has to oversee 8 million claims that are coming through the pipeline. With enforcement and oversight capacity as low as this, catching fraud is almost impossible.

We simply do not have enough people. But what we ought to be doing is creating a system sending forth a signal saying, if you engage in fraud, we have a single statute the Justice Department is going to turn to, we are going to penalize you, collect it, and we are also going to expand the oversight ability on the part of the Federal Government.

Mr. HARKIN. If the Senator will yield further, I understand. The problem is, as I understand it—and we looked into this in great detail—take the blood glucose monitor, for example, which was drastically overpriced. I sent a staff person down to a drug store and bought one for \$39. Yet HCFA was allowing payment as high as \$500 for one. Just ridiculous. But it turned out that the overpricing was not fraudulent because it is allowed under the fee schedules set up under Medicare.

So I suggest to the Senator, you might want to turn this over to the Justice Department. They go in there and, lo and behold, they find out that is part of the law.

What we have to do is get in there and change the kind of fee schedules that we have in there by which these

people cannot overprice us for these things. That is the problem. Once we get our fingers on it, then we can do something about it. But it is those initial overpricings we have a problem getting at.

I suggest to the Senator what we really need in Medicare is to get away from that old fee schedule we used to have and perhaps we ought to have more competitive bidding. I suggest that to the Senator. That might take care of a lot of this.

There is fraud. There are other frauds happening. Fraud is where perhaps a doctor would submit a bill for services that he did not render, or a hospital would submit a bill for items that they never provided. That is fraud. A company that makes a product and says, "Hey, this is worth \$500." Well, that is what the fee schedule allows, and so they bid it in. That is why they are not being prosecuted for fraud. We need to change that underlying provision to provide for more competitive bidding.

Having said that, the Senator is right on target in terms of giving the Justice Department more authority to go after the fraudulent activities that are happening out there day after day.

But some of these other things that he brings up, I think we have to go under the underlying law itself and change the way that Medicare is able to buy these things. I just ask the Senator if he had any further thoughts on that?

Mr. COHEN. This problem is the combination of two parts. It is correct that we pay far too much legally for some items that can be purchased for much less off the shelf, but we also should never tolerate the kind of billing that is taking place now where the supplier unbundles the glucose monitoring kit, thereby increasing the price from \$12 to \$250, or even \$500.

If that is not fraudulent activity, I do not know what is. That is a fraud upon the Government, and they are getting away with it. We do not have enough people: How can one investigator possibly investigate 8 million claims?

I am trying to create a system whereby we fund greater oversight, greater investigative ability on the part of the Federal Government than we are currently doing. There is no doubt in my mind there have to be changes as far as the fee schedule is concerned. But we also have providers who are upcoding. They simply upcode what they are supplying, even though it is a fraudulent upcoding, in order to get a higher price for something they are not furnishing.

So there is a lot to be done. What I am suggesting is we have a statute, very clear, very specific, have civil monetary penalties that act as a deterrent, and an enforcement mechanism by the Justice Department that will try and discourage this. It will not catch everybody, but it will discourage

a lot of people from engaging in the kind of conduct they have been engaging.

I hear the health care industry, frankly, does not like this particular provision. They are worried about it. I had to explain to them we are talking about intentional fraudulent behavior, not innocent mistakes. But when a doctor or a hospital unit starts billing for thousands of psychotherapy sessions that never occurred, something is wrong. That is fraud. When you have ghost patients or patients who have died and you are still getting reimbursed for services rendered to them, when you are selling pacemakers that are dead and having them implanted in the human body, there is something wrong with that, or intended for animal use only. That is what we are really trying to get at with this particular statute.

Frankly, again, the Justice Department does not oppose it. They support this. The President supports this. Everybody supports it. But we cannot take any action: It is the end of the session, the House will object, jurisdictional toes will be stepped upon. In the meantime, we are out \$100 billion.

Mr. President, I think it is a pretty straightforward amendment. It enjoys broad bipartisan support. I think it is long overdue. It was not right for the crime bill. It was not right for the health care bill, because we do not have one. So we are just told to wait for the pennant until next year.

Mr. President, I yield the floor.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. COHEN. Mr. President, I have had discussions with my friend, the Senator from Oregon, Senator HATFIELD, with Senator DOLE, and with other members of the Appropriations Committee. I am persuaded that, No. 1, the amendment, if pressed to a vote, will pass; that, No. 2, we will send this bill back to conference where it will be dropped because of objections from the House, and we will then have the entire conference report brought back with a day or two of delay. As I indicated before, that is not my intent.

My intent is not to obstruct or to delay but to try and pass legislation that everybody seems to be in favor of. As a matter of fact, just this afternoon I spoke with Director Freeh of the FBI, and he also assured me he would work diligently as possible to get this legislation passed because it is in the interest of our justice system to curb the fraud and waste and abuse taking place right now.

One of the suggestions made is that, well, we still have the D.C. appropriations coming up. Frankly, I do not think, from my perspective, that that is the appropriate vehicle to start debating health care fraud, on the D.C. appropriations. But it appears that may be the only option available to me.

I have discussed this matter with the Senator from Oregon, the ranking member on appropriations. He has indicated to me that he would be willing to urge my colleagues to make sure that I have an opportunity to offer this amendment once again on the D.C. appropriations bill, which I have agreed to do.

I do that in the interest of accommodating not only him, since I have the highest respect for the Senator from Oregon, and I know of his interest in seeing to it that as many, if not all, of the appropriations bills are passed and that we not be required to go to a continuing resolution if at all possible.

So I do not intend to press this to a vote this evening and I will, in a moment, withdraw the amendment. But I must say I want to address this to my colleagues. We keep talking about the anger that is out in the countryside. We keep looking at the poll numbers of how low we are in the public's opinion. We look with astonishment at some of the Members who have very richly deserved reputations in this Chamber and elsewhere but are being defeated. We ask the question why? I think this is an example of why, because we have something that virtually everyone agrees upon and yet it cannot be passed.

So the taxpayer looks at the accumulation of the national debt and it is now some \$4 trillion, and climbing. Annual deficits of \$200 billion, tax increases going up. They see their tax dollars being wasted day after day after day and they watch us on C-SPAN or elsewhere and say "What are they doing? Why is somebody not trying to put a finger in the dike?" This may not be a panacea but it is virtually something everybody wants—from the White House, to the House, to the Senate. Yet, because of procedural reasons or because time is running out and we are at the end of the session, I week to go, we cannot pass something as straightforward as a bill designed to combat fraud.

I think that is just one of the reasons why there is such great public disenchantment, that we do not seem to be making any progress in this regard and in many others.

So I will, for the moment, withdraw the amendment, Mr. President, and indicate to my colleagues that as soon as the D.C. appropriations bill is brought to the floor, at an appropriate time, I will, once again, seek recognition to introduce this amendment and hope that it enjoys the bipartisan support of

my colleagues who have indicated that they cannot find anything to disagree with about the amendment except it does not belong on this bill. It does not belong on the crime bill and we have no health care bill to put it on. It does not belong on health and human services appropriations. "Try D.C. appropriations, or try whatever else is left." So they say try again next year, which in all probability is going to be the case.

So I think the losers are the American taxpayers. They are the losers, and we are all the losers. The disenchantment and cynicism will continue to grow.

I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The amendment (No. 2593) was withdrawn.

Mr. HATFIELD. Mr. President, I want to make an observation on this action taken by the Senator from Maine, [Mr. COHEN]. What he reported here to the floor relating to my request to him to withhold this amendment at this time is absolutely accurate.

I could not help but think as he described his amendment, which he has so valiantly and eloquently and frequently presented here on the floor, in which the Senate has agreed to in the past, of an experience I had as a younger Member of this body. The senior Senator from Mississippi, John Stennis, was managing a bill and I found myself offering an amendment which he had described as not belonging to that particular bill. I recited, much like the Senator from Maine, that it had been tried on another bill and did not belong there and I felt like it was truly an orphan amendment. He responded and said, well, I will tell you what it is like. It is like a half-drowned rooster running around in a chicken yard looking for shelter. Well, that was typical of Senator Stennis's graphic description of things we get involved with here in parliamentary procedure.

I want to assure the Senator again that even though there could be a question of germaneness raised on the D.C. bill, as against this particular bill, there is still a point of order of legislating on an appropriation bill that coequally would be raised on the D.C. bill as well as this bill. We would like to accommodate the Senator, of course, in any way, not foreclosing his right by withdrawing the amendment here to offer it on another vehicle.

Senator COATS of Indiana, who has what has commonly been referred to as his trash amendment, which he has offered on different vehicles, has also agreed to withhold his amendment. Senator HANK BROWN of Colorado has also agreed to withhold his amendment on this bill so that we can finalize action on the bill, knowing that we do have another bill with amendments of disagreement. This will let us concentrate any extraneous amendments

on that bill and let us expedite this procedure, because, Mr. President, when it comes Friday night at midnight, I need not remind the Senate that we are facing the deadline of the fiscal year.

We have a half a dozen conference reports still pending. We are going to have a tremendous backlog and logjam at that moment. Let us move these bills through now and reserve these amendments to attach or at least to raise and debate on the D.C. appropriations bill.

I understand from our leadership that in discussion with the Democratic leadership we are not going to be put in the bind of waiting to bring up the D.C. conference report at midnight or quarter to midnight on Friday, but that the D.C. conference report will follow the conference report on agriculture which follows this conference report. So we have four more reports after that.

But, nevertheless, all I am saying is we have another vehicle with amendments in disagreement which will be open to amendments. While I commend Senator HARKIN of Iowa and Senator SPECTER of Pennsylvania for trying to expedite this bill, bear in mind, any amendment on this bill goes back to conference or goes back to the House. This bill includes funding for Low-Income Home Energy Assistance and has some of the most important health and welfare and educational programs. We cannot afford in any way to delay beyond Friday night at midnight.

So I plead with my colleagues on both sides. Since we have demonstrated good faith on this side of the aisle in withholding these amendments at this time on this bill to expedite the Labor-HHS and Education bill, I hope that the leadership can move this bill rapidly and complete it so we can take up the agriculture appropriations conference report and then the D.C. conference report before we take up Interior, Treasury, and a number of the other conference reports down the line.

Mr. COHEN. Will the Senator yield for a moment?

Mr. HATFIELD. Yes.

Mr. COHEN. I want to respond about what the Senator said about his experience with Chairman Stennis and being told it is not the appropriate place. I see several of my colleagues here on the floor—Senator COCHRAN from Mississippi, who came to the House with me at the same time. I gave my maiden speech in the House of Representatives back in 1973. It was a speech pertaining to an amendment I offered to the energy bill. I offered an amendment to the energy bill to provide tax credits for people who conserve energy. The senior Members of the House of Representatives at that time got up and objected to the amendment saying that it was not germane under the House rules, that on the one hand by providing incentives for people to drill for oil

was relevant and germane but providing tax incentives for people to save energy was completely nongermane. It was ruled out of order. It took 4 years before we finally passed that measure to provide tax credits for people to conserve energy. I feel the same sense here. It has been 2 years now, and maybe another year before we finally pass this bill dealing with health care fraud.

So it is a measure of my own frustration. I have been at this nearly 22 years now finding the same kinds of arguments being raised saying, well, wait until the next bill, not germane to this bill, we will get it next year with a little more patience.

I yield the floor.

Mr. HATFIELD. Mr. President, knowing Senator COHEN as I do I know he will persevere. I only say that I know his frustration. It took me 25 years to get an underground test ban enacted. But perseverance won out. I wish him well. I hope it is not 25 years for him.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized, Mr. METZENBAUM.

Mr. METZENBAUM. Mr. President, I would like to address myself to this question of going forward with amendments on this bill and using some other bill as an appropriate vehicle. The Senator from Ohio has been waiting and has attempted on previous occasions to bring to the floor of the U.S. Senate the bill having to do with baseball and the antitrust exemption that exists with respect to baseball and the fact that if the amendment were to be adopted—the amendment that has been submitted by myself and Senator HATCH—I do not know that the baseball season could be completed this year but certainly the players would indicate their being willing to go back to work for spring training.

The argument is made, well, use some other bill as an appropriate vehicle to which you might attach an amendment. It so happens that the amendment that we are talking about offering on this bill in our opinion is germane to an amendment of the House and therefore not subject to a point of order. If we were to attach it to some other bill, it is not at all unlikely that a point of order could and would be raised.

The Senator from Ohio attempted to bring a bill having to do with baseball to the floor a week or 10 days ago and asked unanimous consent to move forward, and an objection was made. It was perfectly appropriate to make the objection. I had no problem with that. But if there is to be a baseball season in 1995, then, as I see it, either the players or the owners are going to have to come to some agreement or we are going to have to pass legislation in the

Congress that deals with the fact that there is now an antitrust exemption for the baseball owners.

That exemption, in my opinion, should never be in the law. It is one of only two businesses in this country that are exempt from the law—the insurance industry being the other one. And we have now drafted this in such a manner that it is not a total repeal of the exemption but rather an effort on our part to just deal with the exemption as it applies to the contract we are talking about and the very limited question of the right of the players to go into court when the owners attempt to impose unilaterally a cap on their salaries or any other kind of imposition of terms of a contract unilaterally.

So the Senator from Ohio is not happy about the fact that there are many who would like to bring this bill to a conclusion. I do not care to be an obstructionist. I do not see that we need to have a lengthy debate on this, although some of my colleagues have indicated that they would like to debate the issue. But I would be willing to agree to some limited time either tonight or tomorrow morning, although I think tonight would be unfair because it would not be giving fair notice to some of those who may have an interest in it. But I would be willing to agree to a 2-hour limit tomorrow morning on the issue. I think we can lay down our amendment tonight. The issue of germaneness can then be raised. I would not want anyone to be taken unaware or not be prepared for it. But I am trying to lay out the picture as I see it.

I do not know of any alternative the Senator from Ohio has in order to bring this matter before the U.S. Senate for a vote. I think the American people want to see baseball played in this country. I believe that if we pass this amendment, the House has already indicated through Chairman BROOKS that if the Senate sends something over, he will act immediately to bring it to the floor of the House so that it may become law before we conclude this session.

So I say to my colleagues, I do not have any better friends in this body than the manager of the bill, that I regret the fact that I am not being cooperative, and that I am prepared to offer an amendment on this subject. But I do not know that I have any other alternative. Therefore, I suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withhold?

Mr. METZENBAUM. Yes.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, let me plead with the Senator from Ohio to offer his amendment on another vehicle just so we can get this HHS bill and

the Agriculture appropriations bill out. As the Senator from Oregon pointed out, Friday is the deadline. September 30 we have to have all of these appropriations bills finished or have a continuing resolution. The issue is perfectly legitimate. The antitrust provision the baseball owners enjoy is a legitimate issue for debate.

I must say I think the Senator tried to get this out of the committee two or three times without success, and I must also say that in the right atmosphere I would very seriously consider the Senator's amendment. In the atmosphere of this evening when we are trying to pass very important appropriations bills totaling probably in the vicinity—I cannot speak for the HHS bill. Our bill is about \$70 billion. HHS is probably \$300 billion. We are trying to get these out so we can keep the Government running and do what we have been sent here to do.

If I had to vote on the Senator's amendment at this point, frankly, during this session of Congress, I would be constrained to vote no because I have not really studied the issue. I have the same, what I shall say, not necessarily revulsion, but aversion to antitrust exemptions. I know the Senator feels the antitrust laws in this country have not been very well enforced in the past.

But I plead with the Senator, No. 1, to postpone the offering of this amendment until the next session of Congress. The only problem with that is the Senator is not going to be here the next session of Congress.

Mr. METZENBAUM. It makes it a little difficult.

Mr. BUMPERS. I do not expect him to agree with that request but at least offer it on the D.C. appropriations bill tomorrow. The Senator has suggested 2 hours. He can make that request tomorrow—or 3 hours—whatever the Senator wants. But the Senator can accommodate some of his friends in the Senate by allowing us to go forward with these two appropriations bills tonight and bring that amendment up tomorrow. The Senator is not losing anything.

Mr. METZENBAUM. Yes. I am.

Mr. BUMPERS. I think the Senator and the Senate would be well served.

Mr. HARKIN. Mr. President, I want to thank the Senator from Arkansas for his comments on this, and to say to my friend from Ohio, Senator METZENBAUM, that this Senator has no closer personal friend in the Senate and there is no Senator with whom I have greater admiration than Senator METZENBAUM. He knows that. He knows I wish he were going to be here next session, too. I probably would, like the Senator from Arkansas, vote with him on the antitrust exemption, although I do not know the issue that well, to tell you the truth. But I am usually on the same side of Senator METZENBAUM on these kinds of issues.

But I must again reiterate what the Senator from Oregon said, who is of course our ranking minority member on the full Appropriations Committee. Members on the minority side, on the Republican side, withheld their amendments on this bill. I think there were at least three amendments that could have been offered on this bill, and it caused a lot of problems. That would have caused a lot of problems. This bill would have bounced to the House, they would not have accepted it, it probably would have bounced back here, and it would have bounced back to the House. The deadline is Friday.

I point out to my friend from Ohio that if we go to a Continuing Resolution on this bill, it is the very people for whom he has fought and voted for all of these years who are going to be hurt. We have increases, to name just a few, in immunization, Head Start, breast cancer, AIDS prevention under the Ryan White Act—\$2.2 billion over what we had last year.

The Senator may say that will not happen. Well, it has happened before. I do not know how contentious his amendment is on baseball. I do not know. But I daresay if the Senator does this, I do not know that I, in good faith, could then go to my friends on the Republican side and say please withhold your amendments. It would be open season. And this whole bill could become bogged down in extraneous matters that have nothing to do with funding for education, health, job training, and medical research.

So while I know the Senator feels strongly about his amendment and about the antitrust exemption for baseball, I join the Senator from Arkansas asking my friend from Ohio to think about what has transpired here earlier. I know how he may feel about this. Sometimes we all get caught in these things, but the Republicans have acted in good faith on this bill and they have withheld their amendments in good faith to offer them on the D.C. appropriations bill. I must say that in good faith I have to then strenuously object or ask the Senator from Ohio to please withhold his amendment on this bill. I hate to be in that position because I have such great respect for him.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. HARKIN. I yield the floor.

Mr. METZENBAUM. Mr. President, I find myself in a very difficult position because it is a fact that two Members of the Senate for whom I have tremendous respect are friends of mine.

Certainly Tom HARKIN and I have been very close over the period of years.

But let me tell you the dilemma in which I find myself. By happenstance this amendment is germane because the House had an amendment providing \$12 million for the national youth sports program, and so I am informed

by the Parliamentarian under those circumstances the amendment would not be ruled out of order, but the question of germaneness would be before the body.

I do not have such a vehicle, at least I do not know of it at this moment on the D.C. appropriations bill or on any other bills that are coming up. It just is a peculiarity that this one particular House amendment included this provision and, therefore, instead of offering an amendment which would be legislation on an appropriations bill which would be subject to a point of order, this amendment would not be subject to a point of order, and the only question would be the question of germaneness which is a totally different issue.

So I would say that I want to be cooperative. I do not want to put the bill in jeopardy. Let us face it. I am not talking about any filibuster, I am not talking about even engaging in lengthy debate. I am talking about a very limited time in which to consider this amendment, or particularly the amendment as it pertains to germaneness.

The Senator from Nebraska, who is on the floor at the moment and speaking with the Senator from Iowa, was the one who objected to my moving forward the other evening when I asked unanimous consent to bring the bill up separately, independently, and just move forward with it. So I had an objection there and I respect his right and I hold no personal grudge against him for doing that. He was fully within his rights. But in this instance we have examined the legislation in order to find an amendment to which we could attach our amendment so that it would not be out of order, and I find myself in the dilemma that if I do not put it on this point or off it at this point and give my colleagues who wish to be heard on the subject an opportunity to be heard, then we are running out of time and I have no other vehicle to which I can attach the amendment.

So I would just say that unless someone can come up with a better solution, the Senator from Ohio would intend to proceed forward, notwithstanding the fact that I know both of my colleagues from Iowa and Arkansas would prefer that I not do so.

Mr. HARKIN. If the Senator will yield I will just point out that this amendment would still be subject, if I am not mistaken, to a rule 16 point of order that it is legislation on appropriations.

Mr. METZENBAUM. I do not believe so.

Mr. HARKIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARKIN. Mr. President, would an amendment dealing with doing away with the antitrust exemption that is now in law, be considered legislation on appropriations?

The PRESIDING OFFICER. The Chair has not been able to review the amendment. There is a possibility that the question might be raised.

Mr. HARKIN. I appreciate the Chair's position. I know the Chair has not seen it. That probably was an unfair parliamentary inquiry. But I believe that it is; then again, we just have a vote on whether or not it is a point of order and that is just as simple.

Mr. METZENBAUM. May I respond?

Mr. HARKIN. Yes.

Mr. METZENBAUM. Mr. President, it would not. I am advised by the Parliamentarian that it would not be subject to a point of order because it relates to an amendment adopted by the House. But it would be subject to raising the question of germaneness, which could then be decided by the body; is the amendment germane or is it not? That is a totally different issue for the Senator from Ohio than the question of appealing the decision of the Chair would be the case if I offer legislation on an appropriations bill unless there is something in the amendment from the House that permits me to do so. By happenstance there is in these circumstances.

Mr. HARKIN. If the Senator will yield, we have two things here: We are concerned about germaneness and legislation on an appropriations bill. The national youth sports program was simply an appropriation. It is my feeling that while the Senator's amendment meets the test of germaneness, I do not know if it meets the test of not being legislation on an appropriations bill. We still could have a point of order. Whether the vote were subsequently on germaneness or appealing the ruling of the chair, it is still 51 votes, majority vote, anyway you look at it.

Mr. METZENBAUM. I believe, Mr. President, that the Chair would rule that it is not subject to a point of order. I think that the Chair would rule that the question of germaneness would be before the body.

Now, I would suggest the absence of a quorum—

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON] is recognized.

Mr. EXON. Mr. President, I rise once again to become involved in this debate on the efforts by my friend and colleague from Ohio to change the antitrust exemption of baseball.

This matter came up some time last week when the Senator from Ohio asked unanimous consent, and I objected to that unanimous consent request. I said at that time I knew of the keen interest by the Senator from Ohio in this issue. I said at that time that I had not made up my mind. I have not studied the issue enough to know whether or not I believe there should be a temporary, partial, or a total ex-

emption from change in the present exemption that organized baseball has.

I think there are some pros and cons on this issue. I would simply point out to my friend from Ohio, as has been pointed out by the Senator from Arkansas and the Senator from Iowa, that regardless of the matter of germaneness, the measure that he suggested we bring up is essentially not different from what the Senator from Ohio and others attempted to do with a measure that was turned down earlier this year, as I understand it, by the Judiciary Committee.

I see the chairman of the Judiciary Committee on the floor of the Senate. He may like to address that, but I believe I am correct in that the Judiciary Committee turned down the form of a change that the Senator from Ohio had sought.

I rise again in opposition. I would hope that the Senator from Ohio, regardless of what he has a right to do to try to bring this up on this bill—I think it is a wrong bill at the wrong time when we are trying to wind down some very important appropriations measures. I would simply advise the Senator from Ohio that at least this one Senator would raise objection to any time agreements on such an amendment. Extended debate could follow.

I simply say to my friend from Ohio once again that I think this the wrong time and the wrong place for the U.S. Senate in conjunction with a few people in the House of Representatives who are trying to immediately involve themselves in a side in a very intense labor dispute between the owners of the baseball franchises and the very talented players that make baseball go and make baseball grow.

Again, Mr. President, I think there probably is no one in this body who is a better baseball fan, there is no one in this body I think who is more disturbed, distraught, upset, at the interruption in the middle of a very exciting season. I say a plague on both the houses, of the ownerships and of the players. Obviously the Senator from Ohio has made no secret of the fact that the players association feel that if some kind of an amendment as he has offered would become law, that then they would begin to agree to start playing baseball again if the owners would let them. I simply say that I am so discouraged. I believe that organized baseball is bringing down on that great American pastime, a cleavage that is going to be long felt by the baseball fans of the United States of America.

I think it is wrong, it is improper and it is not wise, for the Congress of the United States to begin choosing up sides at this particular moment.

Therefore, I say that I think I would certainly oppose the amendment offered by the Senator from Ohio, as it was opposed by his colleagues on the

Judiciary Committee. I think this is the wrong place, the wrong time, and the Congress of the United States would be doing a very wrong action to try to involve the Congress of the United States in this labor-management matter.

I simply say that I really believe it is a time for the baseball players and the baseball owners to slug it out, if that is what it takes, and to delay the start of the baseball season this year, the elimination of the World Series, the playoffs and maybe it goes into next year and from there on out. But I happen to think that the selfish owners and the selfish players who kiss off the organized fans of the United States of America who are very dedicated to baseball; I am going to object; I will continue to object to any kind of a shortcut action as suggested by my friend from Ohio.

I know he is very sincere. I do not quarrel with his motives. But I believe it is the wrong time, and I will do everything that I can to oppose this. I would urge my friend from Ohio not to offer the amendment, as has been requested by the Senator from Arkansas and the Senator from Iowa. And I would simply say that if the Senator persists at least this Senator will object to any time agreements on any kind of an amendment as suggested by the Senator from Ohio.

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

UNANIMOUS-CONSENT REQUEST

Mr. BUMPERS. Mr. President, I ask unanimous consent that the pending conference report and any amendments thereto be temporarily laid aside in order for Senator COCHRAN and me to offer the agriculture appropriations bill on which there is no controversy, which will probably be disposed of in 10 minutes. And immediately upon the disposition of that conference report, the Senate return immediately to the pending matter on HHS.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, reserving the right to object, would the Senator modify his request to give me a minute and a half so I could just speak to Senator METZENBAUM's amendment?

Mr. BUMPERS. I am happy to.

Mr. DOMENICI. Mr. President, reserving the right to object, and I do not know whether I will at this point, but let me just ask a couple questions.

I ask Chairman BUMPERS whether there are amendments in disagreement on his bill.

Mr. BUMPERS. There are not.

Mr. DOMENICI. No amendments in disagreement?

Mr. BUMPERS. No amendments in agreement. There is nothing on the conference report. We can dispose of it in 5 minutes.

Mr. DOMENICI. I have no objection.

Mr. COCHRAN. Mr. President, reserving the right to object, I have just been

advised by staff that there is a Senator on this side of the aisle who has to object to that request. I certainly do not want to object to that request. But I hope the Senator will withhold for a minute and let the Senator from Utah proceed with his comments, and then make a renewal of the request to proceed without objection.

There is no objection.

Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI] is recognized.

Mr. DOMENICI. Mr. President, I do not say this in any manner other than to clarify something. I understand there are amendments in disagreement.

Mr. BUMPERS. That is all. That is what I want the floor to say. I misspoke myself. There are.

Mr. DOMENICI. I wonder, I do not choose to unduly delay the bill, but I would like just about 10 minutes to go talk to the leadership about a matter that has not yet been arranged to be called up. I would like to see if we can arrange it.

If not, I might have to use the appropriations bill to put it on. I object at this point, but it will not be longer than 10 minutes.

Mr. BUMPERS. Mr. President, I withdraw my unanimous-consent request.

The PRESIDING OFFICER. The Senator has a right to withdraw his unanimous-consent request.

The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, I appreciate your recognizing me. I will just take a minute because I am one of the Senators who voted to keep the antitrust exemption alive in the Judiciary Committee. I have had a very difficult time voting to take the exemption away through the years, and I have always voted to keep it alive. If my recollection is correct, I cast a deciding vote on that matter.

It was more than a deciding vote, because some other people voted with me, but literally had I gone the other way, it would have changed the dynamics.

The reason the distinguished Senator from Ohio is bringing this up and, frankly, with my support, is not to cloud this issue but merely to solve a problem in labor law that really exists and in antitrust law that exists, something that would be more fair to both sides.

Under our labor laws, when you have a strike and there is an impasse, the management has the power to impose unilaterally terms and conditions of employment upon the players in this case. Ordinarily, that is a right that they should have in labor law. The problem is they are going to impose their contractual provisions, or their sought-after contractual provisions, on

the players while hiding behind an antitrust exemption that is greatly to the disadvantage of the players.

I have said to the baseball owners that I think they would be better off if the exemption were lifted because then it comes down to a court litigation and they can resolve these matters without these types of strikes.

I cannot blame either side. They both have arguments that are worthy of consideration. But all the distinguished Senator from Ohio and I am trying to do is to say to the owners of those teams, "You can unilaterally impose, if you want to, any terms and conditions you want to under the law. But if you do, then you lose the antitrust exemption until this matter is resolved." It is a temporary loss, but it would give the players the right to have some rights as well in this matter.

To me, that is a fair way of doing it. To me, it is an intelligent way of handling it. Neither side would have a major advantage. If they want to continue to strike, they can; if the owners want to unilaterally impose terms and conditions, they can, but then they are going to be subject to an antitrust suit by the players if they do. So there will be a disincentive to do that.

I do think it would end the strike. I do think it would push both sides together. I do think they would resolve this. I really believe unless you do it, they are not going to resolve it, and we may face the same problems next year.

So I want to commend the distinguished Senator from Ohio for at least trying to get this thing resolved in a fair and equitable manner. Normally, he and I do not agree on labor law, but in this particular case, I think it is in both sides' interest to do it this way, although I have to say, those representing the owners of the baseball teams do not like it because it takes away a super advantage that they have—two advantages, because they have an advantage to unilaterally impose their conditions and they have an advantage of not having to suffer from litigation under the antitrust laws.

So some feel all the cards are in the hands of the owners, while really all they have is their ability to play ball. If the owners will not let them play, then that ability is gone as well.

These players have forsaken a billion dollars in salaries and in contract terms because they feel so strongly about this and they do not want salary caps unless there are some other things that are done.

I do not know what the final negotiations will result in, but what the amendment by the distinguished Senator from Ohio does is it gives both sides a chance to sit down without all of the fuss and fury and bother and really get this matter resolved. From that standpoint, I think it is a worthwhile thing to do, and I support the

Senator from Ohio. I do think it is probably going to be very difficult for him to get it done in this context, but I support him and I hope we can get this matter resolved in the interest of everybody, but above all, especially the fans.

I took a little longer than a minute and a half. I apologize to my colleagues. I did want to make that statement for the RECORD.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending conference report and the amendment in disagreement—one amendment in disagreement left—be temporarily set aside, and that we move to the consideration of the Department of Agriculture conference report; that on the disposition of that conference report, we return to the conference report on Labor Health, Human Services, Education, and related agencies.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. DOMENICI. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I was not present. I apologize for that. I gather you are going to do what Senator BUMPERS asked a while ago when I was present?

Mr. HARKIN. Yes.

Mr. DOMENICI. That means we are going to accept the amendments in disagreement?

Mr. BUMPERS. En bloc.

Mr. DOMENICI. Mr. President, I am not going to object, because I know the hard work that the subcommittee put into this. I notice both the chairman and the ranking Republican are on the floor. But I would just like to make a comment. I note the chairman of the Appropriations Committee is also on the floor.

While we agree on a lot of things, I say to Chairman BYRD, we do not agree on the issue of congressional reform as reported out by the bipartisan commission that then went to the Rules Committee and was, obviously, altered by way of the Rules Committee suggestions.

I do want the leadership to know—and I have told Senator DOLE and I have left word with Senator MITCHELL—that I do not think it is right that

we recess this year without being able to offer the congressional reform bill. That does not mean the Senator from New Mexico is confident that it is going to pass as the commission reported it out, but I think we deserve an opportunity to offer it.

While I am going to give up one opportunity now, because the Senator from New Mexico could amend one of the amendments in disagreement and offer the commission-reported congressional reform bill, I do not choose to do that. But I think the leadership should know there are a couple of other opportunities where appropriations may have amendments in disagreement, or anything else that comes down the line.

Senator BOREN and I feel a few hours of good debate on why we are not adopting what was recommended might be in order after all the work that was spent, the time spent, the witnesses heard from, and meeting our deadline under the mandate of the Senate, not even using all the money they gave us; we are ready to have a vote.

I just want to make a case tonight that congressional reform, as reported by the bipartisan commission, that the Senator from New Mexico wants to at least get that measure up. We will get it up one way or another. I hope the leadership will find 4 or 5 hours in the remaining days to let us bring that up as a freestanding measure. We will ask them that again in the morning. That is why I was thinking of objecting.

I will not object. I do not object, and I yield the floor.

The PRESIDING OFFICER. Is there objection to the unanimous consent request by the Senator from Iowa to lay aside the conference report on Labor-HHS? Without objection, it is so ordered.

AGRICULTURAL, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report on H.R. 4554.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4554), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 20, 1994.)

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I move that the Senate adopt the conference report on H.R. 4554.

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

So the motion was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate concur en bloc with the amendments of the House to the amendments of the Senate in disagreement, and that all the preceding motions be considered en bloc and tabled.

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

The amendments are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4554) entitled "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes."

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 5, 18, 24, 29, 58, 83, 95, 96, and 101 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: "\$475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; \$8,990,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 4501(c));"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$433,438,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$443,651,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

In fiscal year 1995 the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such

that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert: "Provided, That until October 1, 1995, the Secretary of Agriculture may collect and use such sums as may be necessary for the delivery of catastrophic risk protection under subsections (b) and (c) of section 508 of the Federal Crop Insurance Act, as that Act would be amended by section 6(a)(3) of H.R. 4217 as passed by the House on August 5, 1994, if such provision or similar provision is enacted into law: *Provided further*, That in addition to amounts otherwise appropriated in this Act, there are hereby appropriated such sums as may be necessary to carry out the purposes of the crop insurance fund established under section 516 of the Federal Crop Insurance Act, as that Act would be amended by sections 8 (b) and (c) of H.R. 4217, if such provision or similar provision is enacted into law".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

DISASTER ASSISTANCE

Such sums as may be necessary from the Commodity Credit Corporation shall be available, through July 15, 1995, to producers under the same terms and conditions authorized in chapter 3, subtitle B, title XXII of Public Law 101-624 for 1994 crops, including aquaculture and excluding ornamental fish, affected by natural disasters: *Provided*, That these funds shall be made available upon enactment of this Act: *Provided further*, That such funds shall also be available for payments to producers for 1995 through 1996 orchard crop losses, if the losses are due to freezing conditions incurred between January 1, 1994 and March 31, 1994, and Federal crop insurance is not available for affected orchard crop producers: *Provided further*, That such funds shall also be available to fund the costs of replanting, reseeding, or repairing damage to commercial trees, including orchard and nursery inventory, as a result of 1994 weather-related damages: *Provided further*, That the terms and conditions of section 521, paragraph (a)(3) and (4), paragraph (b)(3), subparagraph (c)(2)(C), and subsections (d) and (e), as amended in section 201 of S. 2095 (as reported by the Committee on Agriculture, Nutrition, and Forestry on June 22, 1994) shall apply to all claims for assistance made under this paragraph: *Provided further*, That such amounts and uses of funds made available under the paragraph are designated by Congress as emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, and that such funds and uses shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "\$556,062,000, and the unobligated and uncommitted portion of the fiscal year 1994 appropriation for the Conservation Reserve Program shall be transferred to this account".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: "(of which \$10,000,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented); *Provided*, That, for fiscal year 1995 only, not to exceed 10 per centum of the foregoing amounts shall be available for allocation to any one State".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$2,200,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$244,720,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert:

RURAL WATER AND WASTE DISPOSAL GRANTS

Notwithstanding any other provision of law, the Secretary may use 1980 or 1990 census information for grant eligibility of projects submitted to the agency prior to the availability of 1990 census information in amounts not to exceed total project cost overruns.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment insert: "\$500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "and section 601 of Public Law 96-597 (48 U.S.C. 1469d), \$28,830,710,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: "*Provided further*, That none of the funds in this Act shall be used to cash out food stamp benefits beyond a total of 25 projects and the total participation in such projects shall not exceed 3 per centum of the estimated national household level participating in the Food Stamp Program".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

The stay (published at 58 Fed. Reg. 47962) of the 1987 food additive regulation relating to selenium (21 Code of Federal Regulations 573.920) is suspended until December 31, 1995.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: "*Provided*, That the Commission is authorized to charge reasonable fees to attendees of Commission sponsored educational events and symposia to cover the Commission's costs of providing those events and symposia, and notwithstanding 31 U.S.C. 3302, said fees shall be credited to this account, to be available without further appropriation".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "", unless additional acres in excess of the 100,000 acre limitation can be enrolled without exceeding \$93,200,000;

Provided, That the unobligated portion of the fiscal year 1994 appropriation shall be transferred to and merged with the appropriation for the Soil Conservation Service, Conservation Operations".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 94 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment, insert: "\$25,650,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with the following amendments:

Delete the matter inserted by said amendment, and on page 61, line 12, of the House engrossed bill strike "\$94,500,000" and insert in lieu thereof \$84,500,000, and on page 79, line 18, of the House engrossed bill strike "\$850,000,000" and insert in lieu thereof \$800,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 725. The Secretary shall take reasonable steps to ensure that no funds made available under this Act be used to provide any direct individual Federal benefit or assistance to any individual applying for such benefit or assistance unless said individual meets all eligibility criteria for the benefit or assistance.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 102 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 727. REPAYMENT OF DEFICIENCY PAYMENTS.—In any case in which the Secretary of Agriculture finds that the farming, ranching, or aquaculture operations of producers on a farm have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary of Agriculture shall not require any repayment under subparagraph (G) or (H) of section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the 1993 crop of a commodity prior to March 1, 1995.

Mr. BUMPERS. Mr. President, I am pleased to bring before the Senate, the conference report on H.R. 4554, the appropriations bill for agriculture, rural development, and related agencies for fiscal year 1995. I hope my colleagues will support it.

As was the case when we considered the bill on the Senate floor, it is an extremely tight bill. So tight that, in my opinion, it does not do justice to agriculture programs in this country. We have devastated conservation programs. We have slashed rural housing programs. We have drastically reduced the farm loan programs. Rural electrification and telephone programs are cut back significantly. The P.L. 480 program is below this year's level by 16 percent.

None of these cuts are popular. In my opinion, they are not wise either.

The only programs that did well are the nutrition programs. And that is because they are either mandatory programs, or very politically popular. Food stamp funding is at an all-time high of \$29 billion. Child nutrition programs take up \$7.5 billion of the total. The WIC program is funded as proposed by both the House and Senate at \$3.47 billion, a \$260 million increase to the 1994 level.

Mr. President, I want to stress that well over half of the funding in this bill—58 percent—or \$40.3 billion is for domestic food programs that go predominantly to urban areas.

The conference agreement provides funding levels similar to the Senate bill for agricultural research, rural development, conservation, extension, and inspection programs.

The food Safety and Inspection Service is funded at exactly this year's level, which is \$17 million less than what the President proposed. I don't know exactly how this agency will make it through the year at this level, but I hope it figures it out while still maintaining the safety of the Nation's meat and poultry supply.

Probably the most significant change the conferees made to the Senate bill affects the Food and Drug Administration. The bill does not require the additional \$163 million in user fees that the Senate bill originally contained. Total salaries and expenses of FDA are set at \$905,894,000. This amount represents an increase of \$36,271,000 to the 1994 level, but a reduction of \$18.6 million to the overall level the Senate had proposed.

In order to accommodate this change to the Senate level of funding, other changes had to be made. The Commodity Supplemental Food Program is funded at \$84.5 million instead of \$94.5 million in both the House and Senate bills. Instead of capping funding at \$90 million for the Market Promotion Program, the conferees agreed to a level of \$85.5 million. Similarly, the Export Enhancement Program is capped at a level of \$800 million, instead of \$850 million as proposed by both the House and Senate. The Sunflower and Cottonseed Oil Assistance Program is capped at \$25,650,000—a level lower than what was proposed by either the House or the Senate.

Another reduction to both the House and Senate levels was made in the rural housing section 502 program. The direct loan level is set at \$1.2 billion in the conference agreement. The House level was \$1.3 billion and the Senate level was \$1.4 billion. This is a cut that is particularly troublesome and, in my opinion, unwise. But, as I stated earlier, the conferees were constrained in our options and we had to make many unpopular and unwise decisions.

Finally, the conservation operations account of the Soil Conservation Service has a direct appropriation of \$556 million. However, we have provided for the transfer of unused balances in both the Wetlands Reserve Program and the Conservation Reserve Program to conservation operations. We expect the level for this account to be at approximately \$587 million—about \$4 million less than this year.

In summary, the conference bill totals \$69 billion in total new obligational authority.

I commend the conference report to my colleagues and recommend that it be accepted.

Mr. President, I want to thank everybody who cooperated in allowing us to submit this conference report tonight.

I will make about 30 seconds' worth of observations and say that this is only the second year I have chaired this subcommittee. But I can tell you, this has been one of the most trying experiences I ever had.

We were required under the allocation system of the Senate, to make very dramatic cuts from what we have been allowed to do in the past. We had numerous requests from Senators wanting money for projects in their States. Obviously, we all like to accommodate Senators on both sides of the aisle.

I might say—and without any real denigration of anybody—that sometimes the Senators who plead the longest and the hardest for projects in their States get them and wind up voting against the bill. I must say I take exception to people who play that game of getting something in the bill and then voting against the bill and going home and telling their constituents

what great fiscal conservatives they are by voting against the bill, when they were at the trough.

Having said that, I consider this to be a truly fine bill, within the limits of the amount of money we had to spend. We had to make some draconian cuts, even in 550 and housing. We made other cuts in TEFAP; for example, which is a commodities program for poor people, and it is always very difficult to cut programs like that. We had to cut the export promotion program and others that have almost universal support in the Senate.

In any event, I will close by saying that I sincerely appreciate and publicly thank my distinguished colleague from Mississippi, Senator COCHRAN, for his usual courtesies and fine spirit of cooperation in getting this bill passed and getting it out of conference and here this evening.

I yield the floor.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Arkansas for his kind comments and also for his excellent work, his hard, and effective work in getting this bill to this point where we tonight present a conference agreement that totals \$68 billion in funding for the next fiscal year for the programs and activities under the jurisdiction of this subcommittee.

I might point out to the Senate that this is nearly \$3 billion below the fiscal year 1994 enacted level and \$461 million below the level requested by the President for these programs. If people are interested in our exercising some fiscal restraint and imposing reductions in spending, they can point to this bill as an example of just that.

Including congressional budget scorekeeping adjustments and prior-year spending actions, this conference agreement provides total discretionary spending for fiscal year 1995 of \$13.4 billion in budget authority and \$13.9 billion in outlays. These amounts are within the subcommittee's revised 602(b) discretionary spending allocations.

The committee of conference on this bill considered 102 amendments in disagreement between the two Houses. While not all issues were settled as I would have preferred, I believe we have reached an agreement which meets the many funding requirements covered by the bill within the limited resources available. The conference committee did not have an easy task. Major funding differences between the House and Senate bills had to be compromised to achieve a total net reduction in discretionary spending of \$1.2 billion below the fiscal year 1994 level.

Approximately \$40.2 billion, close to 60 percent of the total new budget authority provided by this bill, is for domestic food programs administered by the U.S. Department of Agriculture. This represents a net increase of \$805

million above the fiscal year 1994 level for these programs, which include food stamps; the special supplemental food program for Women, Infants, and Children [WIC]; the school lunch and breakfast programs; and the Emergency Food Assistance Program.

The \$260-million increase above fiscal year 1994 for the Women, Infants, and Children [WIC] Program, as recommended in both the House and Senate bills, remains the single largest program funding increase provided by this bill.

For the Emergency Food Assistance Program, the conference agreement provides \$65 million, \$15 million below the House bill recommendation for commodity purchases and \$25 million above the budget request level recommended in the Senate bill. The conference agreement also reduces the Commodity Supplemental Food Program \$10 million below the Senate bill level in light of the anticipated balance of carryover funds which will be available for the program at the beginning of the new fiscal year.

The conference agreement provides \$144.8 million above the Senate bill appropriation for salaries and expenses of the Food and Drug Administration. As my colleagues will recall, the bill, as passed by the Senate, assumed that new FDA user fee collections, as requested by the President, would be available to partially fund these FDA costs in fiscal year 1995. The House lodged a constitutional objection to this user fee provision and returned the bill to the Senate. To get this bill into conference, the Senate dropped the objectionable provision, leaving a gap of \$160 million between the House and Senate recommended appropriation levels for FDA salaries and expenses.

The conferees have provided \$819.971 million, \$6.6 million above the fiscal year 1994 level and \$15 million below the House bill level for FDA's salaries and expenses appropriation. As I said, this is \$145 million above the Senate-passed bill level.

To get where we are, to keep this bill within its spending targets, many agriculture and rural development programs have suffered funding reductions.

Total funding for agricultural programs has been reduced by \$2.6 billion below the fiscal year 1994 level; funding for USDA conservation programs has been reduced a total of \$654 million below current levels; Farmers Home and Rural Development programs by a total of \$297 million; and USDA's foreign assistance activities, including Public Law 480, have been reduced by a total of \$216 million below fiscal year 1994 levels.

The USDA conservation programs have been hit particularly hard. Funding of \$6.6 is provided for the Forestry Incentives Program, 52 percent below the program's current funding level.

Funding of \$4.5 million is provided for the Colorado River Basin Salinity Control Program, 33 percent below the fiscal year 1994 level. The watershed and flood prevention program has been reduced 32 percent, from a fiscal year 1994 appropriation level of \$220.8 million to \$70 million. I would like to add here that I am hopeful the administration will maximize funding for this particular program in fiscal year 1995 by supplementing this appropriation with any of the fiscal year 1994 supplemental funds not required for emergency work, as directed by both the House and Senate.

Other reductions in agriculture and rural development programs below the levels recommended in the Senate-passed bill include: \$2.5 million for Alternative Agricultural Research and Commercialization; \$2.4 million for the Agricultural Research Service; \$17.2 million for the Food Safety and Inspection Service; \$200 million in authority for direct Section 502 rural low-income housing loans; and \$71.3 million in direct rural water and sewer facility loan authorizations.

In addition, the Senate bill limitation on funding for the Market Promotion Program has been reduced from \$90 million to \$85.5 million; the limitation on Export Enhancement Program subsidies has been reduced from \$850 million to \$800 million; and the limitation on cottonseed and sunflower oil assistance subsidies [COAP and SOAP] from \$27 million to \$25.65 million.

Mr. President, I realize that sacrifices are required of everyone if we are to reduce the Federal budget deficit. However, I regret that the resources allocated for this bill prevent us from maintaining and increasing funding for the FDA and our Nation's feeding programs as well as these programs so essential to agriculture and to rural America. These are beneficial programs. They help America's farmers to be competitive both here and abroad; they provide essential services to people in rural towns and communities across this Nation; they work to conserve and protect our Nation's natural resources.

Mr. President, again, I would point out to my colleagues that there are genuine cuts in this bill. Senators and others have heard criticism and cynical comments about how you hear about spending reductions or cutting spending, but you never see it really happen. I am here to tell you tonight that it really happened in this bill. There are substantial reductions in spending, and many that were very difficult for us to agree upon.

Mr. President, I want to thank our hardworking staff members. They have done an outstanding job, and without their help, we would not have been successful in getting this conference agreement, this legislation, to this point.

Mr. BUMPERS. Mr. President, I echo Senator COCHRAN's comments about the hardworking staff. They have done an excellent job on this, and I also echo what he said about the \$3 billion that we have cut out of this bill this year.

People—if they are really serious about deficit reduction—have to do these things, painful and unpleasant as they are. We have done it. I dare say that if every committee or subcommittee of the Appropriations Committee had to take the same kind of percentage cut we did, you would see the deficit down to less than it is this year or going to be next year. That concludes our statements.

AGRICULTURAL RESEARCH FACILITIES CLOSURE

Mr. LEAHY. Mr. President, I rise today to express my great disappointment and frustration with actions taken by the Committee of Conference on the Agriculture, Rural Development and Related Agencies appropriations bill.

I have been fighting for years to bring some sanity to the way we fund agricultural research facilities. The plain and simple truth is that too many USDA research facilities are underutilized, falling apart, and ill-equipped to carry out modern scientific research.

Just 2 months ago, the Senate approved, by a vote of 76 to 23, an amendment offered by Senator LUGAR and myself to close 19 USDA research facilities, as recommended in the President's budget.

The conference report before us today, however, keeps open 10 of those facilities for another year, for further evaluation.

I want to make sure it is perfectly clear what we are talking about here. These are Federal laboratories—paid for with Federal tax dollars, staffed with Federal employees, and designed to meet national research objectives—that the Federal government wants to close. If the President and the USDA have concluded they are no longer justifiable, how can we possibly insist on keep them open?

We do not need to keep these facilities open for another year—we do not even need to keep them open for another day—and we certainly do not need any further evaluation. The facilities proposed for closure were identified after an extensive evaluation process spanning two administrations. We have all the information we need.

Let me give you just one graphic example. One of the facilities that the conference report recommends keeping open has only five scientists and 89 separate buildings. That's almost 18 buildings per scientist.

We have all agreed that the Department of Agriculture must be restructured and downsized. The Senate made clear its commitment to reform on April 13, 1994 when it passed our major USDA reorganization bill 98 to 1. It re-

confirmed that commitment just last month when it again passed the USDA reorganization bill as an amendment to our crop insurance reform bill.

Everyone supports reform, but when it comes down to actually doing the work—when we start on the road to reform—roadblocks are thrown up before us.

It is this kind of action that makes the American people so disillusioned about the Federal Government. This is a test of whether we are serious about budget reform. If we cannot support the President and shut down these 10 outdated research facilities, how will we ever cut a \$200 billion deficit?

Closing these 10 facilities makes good sense. It would save more than \$7.5 million per year, and allow USDA to direct its limited resources to higher priority research programs. We all know the value of agricultural research—and that is why we must get a handle on facilities spending.

We can spend our money on research that is going to take us into the next century, or we can spend it on buildings that were built a half century ago. But we cannot do both.

I realize that this appropriations bill is critical to American farmers and I will not hold it hostage over this issue. But refunding these research facilities is an outrageous and infuriating waste of millions of dollars—and let me assure you, and all our colleagues, that you have not heard the last of this. I will not give up this fight.

Mr. LUGAR. Mr. President, I share the chairman of the Senate Agriculture Committee's deep disappointment with the conference committee's decision to reject our amendment and recommend continuation of 10 Agricultural Research Service facilities proposed for closure by the Department of Agriculture.

Mr. President, the Agriculture appropriations bill passed by the other body recommended only five ARS facilities for continuation. The Senate voted overwhelmingly against placing any limits on the Secretary's authority to close all 10 research facilities for continuation. This conference agreement ignores the guidelines passed by both bodies and recommends continuation of 10 facilities.

Mr. President, this conference agreement has broader implications. It's not just a matter of the conference agreement adding facilities instead of subtracting. Congress has failed a key test in our ability to oversee the downsizing of the U.S. Department of Agriculture.

Earlier this year, this body voted 98 to 1 in favor of reorganizing and streamlining the Department of Agriculture. When the chairman and I offered the Senate a concrete opportunity to further this effort by affirming the Secretary's authority to close ARS facilities, members voted 76 to 23 in support of our amendment to the

bill before us. The Senate has spoken clearly on this issue.

I want to remind my colleagues that the facilities the Department of Agriculture recommended for closure were not chosen at random. Two different administrations, representing two different political parties, thoroughly reviewed ARS facilities using objective criteria. And yet that is apparently not good enough for some in Congress.

By rejecting the chairman's and my amendment, Congress is telling the Department and the taxpayers that it wants to hang on to virtually every outpost of the Federal Government's agricultural research network, no matter how outdated, no matter how duplicative. I do not believe that is the message the voters want to hear.

Mr. GRASSLEY. Mr. President, I would like to enter into a brief discussion with the Senator from Mississippi regarding the establishment of an important research center in the Midwest. I had urged the Senate Appropriations Subcommittee on Agriculture to consider funding the establishment of the center in this year's appropriation, but I understand the numerous projects competing for funding. It is my hope that the project could be a priority in next year's funding legislation. I would also encourage the administration to include the project in future budget proposals.

There is great interest in utilizing vegetation in filter strips along streams, around sink holes, in buffer strips around cropland, as cover crops to reduce surface runoff and as vegetative terraces in breaking long erosive slopes. I believe that the establishment of a Plant Materials Center at the University of Northern Iowa would be a great asset to the Midwest in the research and development of appropriate vegetation to most fully accomplish these goals. I know that the Senator from Mississippi shares my concern for providing beneficial information and practices to our Nation's farmers and would ask whether he would join me in my support for the development of the center.

Mr. COCHRAN. Mr. President, I commend the Senator from Iowa for his interest in improving the information available to our Nation's farmers. I know that a center for the development of plants in the upper Midwest area would be beneficial in enhancing the available knowledge in the field and would be a worthy project. I would be glad to give every consideration to the establishment of a Plant Material Center in Iowa in next year's funding legislation. I would also think that the administration might consider including the project in next year's budget. I know that all citizens in the upper Midwest would benefit from the research and development that could be accomplished at such a center.

Mr. GRASSLEY. I thank my friend for his interest in the development of

the Plant Material Center. I feel that the research from such a center could be put to use by Federal, State and county agencies as well as private individuals. It could be utilized for roadside native prairie planting, CRP prairie planting, prairie reconstruction projects and wet prairie plantings in the Wetland Reserve Program. I believe the benefits derived would be widespread and the knowledge gained invaluable in better utilizing the plant species available for use in the region. I again thank my colleague for his cooperation. I know that he will give his full attention and consideration to the establishment of this important center.

LAKE CHAMPLAIN-RELATED PROVISIONS

Mr. LEAHY. Mr. President, I address my remarks to the Senator from Arkansas, the floor manager of this conference report. I very much appreciate the two Lake Champlain-related provisions the subcommittee included in the Agricultural Stabilization and Conservation Service section of Senate Report 103-290. These two provisions—one relative to the Water Quality Incentives Program and the other to Agricultural Conservation Program cost share assistance—are authorized under the Lake Champlain Special Designation Act of 1990. Both are central to long-term efforts to stabilize and improve the water quality of this large, magnificent lake.

Neither of these provisions are referred to directly in House Report 103-734, the measure presently under consideration. However, it is my understanding that in the absence of conference report language to the contrary, the two provisions I have cited in Senate Report 103-290 remain in effect. Does the Senator share this interpretation?

Mr. BUMPERS. In response I would direct my friend's attention to the first sentence of the second paragraph under Congressional Directives on page 7 of the conference report. It states: "Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference are approved by the committee of conference."

Mr. LEAHY. I appreciate my friend's response, and his consideration for the concerns I and several of our colleagues have expressed in Senate report language.

CHILD AND ADULT CARE FOOD PROGRAM

Mr. LEAHY. Several years ago, the Congress authorized demonstration projects for proprietary day care centers within the USDA-funded nutrition programs. These Child and Adult Care Food Program projects have been conducted in Iowa and Kentucky for the last 4 years.

Since 1992, the Department has continued to operate them under guidance from the Appropriations Committee.

They are very worthwhile demonstration projects which the Department

will continue to operate in fiscal year 1995. The evidence shows that the projects are well-targeted nutrition programs that help low-income working families whose children are in child care.

Is it the Senator's understanding that the Department will continue to operate these important projects?

Mr. BUMPERS. I expect USDA to continue to operate these projects as they have been. This act provides the fiscal year 1995 appropriation requested for the Child and Adult Care Food Program which I understand includes funding to continue these projects.

Mr. COCHRAN. I agree with the Senator from Arkansas [Mr. BUMPERS], that USDA has accounted for this demonstration project in its budget, and this project will continue to be funded.

Mr. HARKIN. I appreciate the Senators' position, Senator BUMPERS and Senator COCHRAN, since these projects meet important needs and have been successful. I likewise understand that these projects are included in USDA's budget and will receive funding for fiscal year 1995.

Mr. MCCONNELL. I, too, agree with these assertions. As Senator LEAHY mentioned, the projects have reached thousands of low-income children in Kentucky and Iowa. Because of this demo child care centers have improved the nutritional quality of the meals they serve to the children. It is my understanding as well that USDA has accounted for this project in their baseline, and the project will continue to be funded.

REPAYMENT OF ADVANCE DEFICIENCY PAYMENTS

Mr. HARKIN. Mr. President, I wish to clarify a matter of interest with the chairman of the Agriculture Subcommittee. Section 727 of H.R. 4554 would mandate that deficiency payments provided to producers affected by a natural disaster for the 1993 crop year would not become due before March 1, 1995. Accordingly, I would like to clarify that CCC would continue to have discretionary authority to begin the set off demand process for collections under the CCC Charter Act for those not covered by section 727, and that there is no scorekeeping effect for collections made on or after March 1, 1995, provided they are made within the fiscal year.

Mr. BUMPERS. The Senator from Iowa is correct. Section 727 would not restrict or limit the authority for beginning the collections process provided under the CCC Charter Act.

Mr. HARKIN. I thank the chairman for the consideration he has given to farmers and ranchers who have experienced hardship in recent years.

Mr. DOMENICI. Mr. President, I rise in support of the Agriculture, Rural Development, and related agencies conference report.

The conference report provides \$67.5 billion in new budget authority and

\$43.2 billion in new outlays for the Department of Agriculture, Food and Drug Administration, and related agencies for fiscal year 1995.

When outlays from prior-year budget authority and other completed actions are taken into account, the Senate-reported bill totals \$58.1 billion in budget authority and \$50.3 billion in outlays for fiscal year 1995.

Based on CBO estimates, the Senate subcommittee is \$1.5 billion in budget authority below its 602(b) allocation and essentially at its outlays allocation. The conference report is \$295.7 million in budget authority below and \$25.7 million in outlays above the President's request.

It is \$65.8 million in budget authority and \$1.0 million in outlays above the House-passed bill. The conference report is \$90.8 million in budget authority and \$66.3 million in outlays above the Senate-passed bill.

Mr. President, the conference report also includes report language which states: "The conferees expect the Office of Management and Budget and the Congressional Budget Office to continue to provide conservation reserve program costs in their baselines . . ."

If this would have been statutory in nature, the bill would have been subject to a 60 vote budget-point-of-order.

Since the language is not statutory it will not determine the CBO baseline.

I bring this up today because the budget committee has a uniform set of rules and procedures and we should not change those rules and procedures in a piecemeal fashion.

I commend the distinguished subcommittee chairman and ranking member for their support of \$3.47 billion for the WIC Program, an increase of \$260 million over the 1994 level.

I appreciate the subcommittee's support for a number of ongoing projects and programs important to my home State of New Mexico as it has worked to keep this bill within its budget allocation.

I urge the adoption of the bill.

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

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

MORNING BUSINESS

Mr. METZENBAUM. Mr. President, on behalf of the majority leader I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 3 minutes each.

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

THE AMERICAN INDIAN RELIGIOUS FREEDOM ACT

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of H.R. 4230, a bill to amend the American Indian Religious Freedom Act, that the Senate then proceed to its immediate consideration, that the bill be read a third time, passed, and the motion to reconsider be laid upon the table.

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

There being no objection, the Senate proceeded to consider the bill to amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

So the bill (H.R. 4230) was deemed read the third time, and passed.

MEASURE PLACED ON THE CALENDAR—H.R. 4008

Mr. METZENBAUM. Mr. President, I ask unanimous consent that H.R. 4008, the National Oceanic and Atmospheric Administration Authorization Act, received from the House and at the desk be placed on the calendar.

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

ROY M. WHEAT POST OFFICE ACT

AUBREY C. OTTLEY POST OFFICE ACT

CANDACE WHITE POST OFFICE ACT

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Nos. 627 and 628, that the bills be read three times, passed and the motions to reconsider be laid upon the table, en bloc; further that the consideration of these items appear individually in the RECORD; and any statements relative to these calendar items appear at the appropriate place in the RECORD; provided further that upon disposition of these measures, the Governmental Affairs Committee be discharged from further consideration of H.R. 4177, designating the Candace White P.O., and that the Senate proceed to its immediate consideration; that the bill be read three times, passed and the motion to reconsider be laid upon the table.

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

ROY M. WHEAT POST OFFICE ACT

The bill (H.R. 3839) to designate the U.S. Post Office located at 220 South 40th Avenue in Hattiesburg, MS, as the

Roy M. Wheat Post Office was considered, ordered to a third reading, deemed read the third time, and passed.

AUBREY C. OTTLEY POST OFFICE ACT

The bill (H.R. 4191) to designate the U.S. Post Office located at 9630 Estate Thomas in St. Thomas, VI, as the Aubrey C. Ottley United States Post Office was considered, ordered to a third reading, deemed read the third time, and passed.

Mr. BRADLEY. Mr. President, I rise in support of the passage of legislation to rename the Middletown Post Office in memory of Candace White, a courageous letter carrier who died at far too young an age.

Candy White was an extraordinarily dedicated worker at the Middletown Post Office for 3 years when, at a mere 24 years of age, Ms. White entered the hospital because of heart problems. Candy White was told by doctors that she needed a heart transplant immediately, but after 3 weeks of waiting for a donor and a progressively worsening situation, Candy had to settle for a ventricular-assist device, a heart outside her body. Finally, a donor became available and Candy received her new heart in the May of 1992. After only 4 months of recovery, Candy returned to work for the Post Office in September. Her unbelievably fast return to work showed how dedicated this woman was to her job. Sadly, she did not work long, as her body rejected her new heart and Candy White's all too short life ended in May of 1993.

Candy White was both dedicated to, and loved by, the workers and customers of the Middletown Post Office. While in the hospital, Candy received daily visits from her co-workers, who donated hundreds of hours of leave to their beloved friend. A bowling telethon and other programs organized by the letter-carriers of the Middletown Post Office raised money to help pay for Candy's medical bills and the salary she lost while in the hospital. When at the age of 26, Candy White passed away, her funeral was attended by every carrier who had had the chance to meet her as well as by over 200 local customers.

Mr. President, naming the Middletown Post Office after Candy White will not bring back this wonderful young woman. But it will keep her memory alive for those who knew and loved her, and remind those who never had the chance to know Candy of the importance of courage, a loving heart, and a devotion to public service.

Mr. President, I ask unanimous consent that a letter from the deputy mayor of Middletown, Joan Smith, be printed in the RECORD at this point to clarify several points related to the naming of this post office.

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

THE TOWNSHIP OF MIDDLETOWN,
MIDDLETOWN, NJ,
September 27, 1994.

Senator WILLIAM BRADLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BRADLEY: The Township Committee has reviewed Federal Bill 4177 and applauds the spirit of the Bill and the intent to honor the exemplary life of Candice White.

In order to dissuade the concerns of some residents and customers of the Middletown Post Office we request that the following clarifying language be included as part of the Bill when adopted.

It is understood that this Bill is in accordance with Sec. 518.124 of the Administrative Support Manual of the United States Post Office which provides a procedure to honor an individual. This Bill, when enacted, will have no effect on local addresses, mail processing, or delivery operations. The Middletown Post Office will continue to serve residents of the 07748 Zip Code service. The last line of the mailing address will continue to be Middletown, NJ 07748. Letter carriers and clerks will remain employees of the Middletown Post Office and letters posted at that office still will receive Middletown Postmarks.

It is further understood that signage on the Post Office will continue to be the Middletown Post Office.

Thank you for your consideration and cooperation in this matter.

Very truly yours,

JOAN A. SMITH,
Deputy Mayor.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 103-37 AND TREATY DOCUMENT 103-38

Mr. METZENBAUM. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from two treaties transmitted to the Senate on September 26, 1994, by the President of the United States:

Treaty Between the United States of America and Ukraine Concerning the Encouragement and Reciprocal Protection of Investment, with Annex, and related exchange of letters, done at Washington on March 4, 1994. (Treaty Document 103-37);

Treaty Between the Government of the United States of America and the Government of the Republic of Estonia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex, done at Washington on April 19, 1994. (Treaty Document 103-38);

I also 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.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Estonia for the Encouragement and Reciprocal Protection of Investment, with Annex, done at Washington on April 19, 1994. Also transmitted for the information of the Senate is the report of the Department of State with respect to this Treaty.

This bilateral investment Treaty with Estonia is the first such Treaty between the United States and a Baltic state. This Treaty will protect U.S. investors and assist the Republic of Estonia in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthening the development of the private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to international law standards for expropriation and compensation for expropriation; free transfer of funds associated with investments; freedom of investments from performance requirements; fair, equitable and most-favored-nation treatment; and the investor or investment's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty, with Annex, at an early date.

WILLIAM J. CLINTON,
THE WHITE HOUSE, September 26, 1994.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and Ukraine Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and related exchange of letters, done at Washington on March 4, 1994. Also transmitted for the information of the Senate is the report of the Department of State with respect to this Treaty.

This bilateral investment Treaty with Ukraine is the seventh such Treaty between the United States and a newly independent state of the former Soviet Union. This Treaty will protect U.S. investors and assist Ukraine in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthening the development of the private sector.

The Treaty is fully consistent with U.S. policy toward international and

domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to international law standards for expropriation and compensation for expropriation; free transfer of funds associated with investments; freedom of investments from performance requirements; fair, equitable and most-favored-nation treatment; and the investor or investment's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty, with Annex, and related exchange of letters at an early date.

WILLIAM J. CLINTON,
THE WHITE HOUSE, September 26, 1994.

THE JACOB K. JAVITS SENATE FELLOWSHIP PROGRAM

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 269, a resolution related to the Jacob K. Javits Senate Fellowship Program submitted earlier today by the majority leader and the Republican leader, that the resolution be agreed to, and that the motion to reconsider be laid upon the table.

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

There being no objection, the Senate proceeded to consider the resolution.

So the resolution (S. Res. 269) was agreed to.

The resolution is as follows:

S. RES. 269

Resolved, That Senate Resolution 75 (103d Congress, 1st Session), agreed to March 3, 1993, is amended—

(1) in section 2, by adding at the end thereof the following:

“(c) The Jacob K. Javits Foundation, Incorporated shall—

“(1) broadly publicize the availability of the fellowship program;

“(2) develop and administer an application process for Senate fellowships;

“(3) conduct a screening of applicants for the fellowship program; and

“(4) select participants without regard to race, color, religion, sex, national origin, age, or disability.”;

(2) in section 3, by amending subsection (c) to read as follows:

“(c) The Secretary, after consultation with the Majority Leader and the Minority Leader of the Senate, shall assist with the placement of eligible participants in positions in the Senate that are, within practical considerations, supportive of the fellowship participants' academic programs. Fellows shall be considered as employees of the office or committee in which they are placed.”; and

(3) in section 5, by inserting “the Minority Leader of” before “the Senate”.

BANNING THE USE OF UNITED STATES PASSPORTS IN LEBANON

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 618, Senate Concurrent Resolution 74, a concurrent resolution concerning the ban on the use of United States passports in Lebanon; that the concurrent resolution and preamble be agreed to; the motions to reconsider be laid upon the table en bloc; and that any statements thereon appear in the RECORD at the appropriate places as though read.

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

There being no objection, the Senate proceeded to consider the concurrent resolution.

So the concurrent resolution (S. Con. Res. 74) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 74

Whereas, on January 26, 1987, the United States Department of State issued a prohibition on the use of United States passports in Lebanon, creating in effect a ban on travel to Lebanon by United States citizens;

Whereas the ban on travel to Lebanon was instituted during a time of civil war, anarchy, and general lawlessness in Lebanon, when the safety and well-being of United States citizens were at particular risk as evidenced by the bombings of the United States Marine barracks and the United States Embassy in Beirut, in which a total of 258 United States citizens were killed, as well as by the taking of United States hostages by terrorists;

Whereas the civil war in Lebanon ended in 1990 and the last United States hostage held in Lebanon was freed on December 2, 1991;

Whereas the security situation in Lebanon has improved demonstrably since the end of the civil war;

Whereas the United States returned its Ambassador to Lebanon on November 28, 1990, and the United States maintains an economic and military assistance program in Lebanon;

Whereas it is estimated that more than 40,000 United States citizens traveled safely to Lebanon in 1993 either in defiance of the ban or under current United States regulations which permit the use of passports by dual Lebanese-United States nationals and in urgent humanitarian cases;

Whereas the Government of Lebanon has made considerable progress in reasserting sovereignty and control over significant portions of Lebanon despite the fact that the Taif accords have yet to be fully implemented;

Whereas the Lebanese Government has initiated a 10-year \$18,000,000,000 reconstruction effort, and in 1993 awarded more than 100 contracts worth \$2,400,000,000 to business firms for development, reconstruction, and consulting projects;

Whereas the ban on the use of United States passports in Lebanon creates a major impediment to United States firms that wish to bid for contracts in Lebanon;

Whereas it is in the United States national interest for United States firms to participate in the reconstruction of Lebanon, as United States participation will bring eco-

nomically benefit to the United States and help to create a stable and sound infrastructure in Lebanon;

Whereas the United States Secretary of State must give paramount consideration to the safety and security of United States citizens in regulating their travel abroad; and

Whereas, in regulating the travel of United States citizens abroad, the United States Secretary of State has a variety of options, including instituting a travel advisory for countries where United States citizens are deemed at risk or have been attacked, as has been done for such countries as Bosnia, Rwanda, Somalia, Haiti, Colombia, Peru, the Philippines, and Turkey: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) in determining whether to restrict the use of United States passports in any country, the Secretary of State should apply consistent criteria;

(2) in deciding whether to extend the ban on the use of United States passports in Lebanon, the Secretary of State should—

(A) give paramount consideration to the need to ensure the safety of United States citizens;

(B) give full consideration to the improved security situation in Lebanon, the effect of the ban on the opportunities for United States businesses, and the impact of the ban on United States interests in Lebanon and the Middle East; and

(C) give full consideration to whether United States interests would be more effectively served by removing the ban on the use of United States passports in Lebanon, and instituting instead of a travel advisory for Lebanon; and

(3) the Secretary of the Senate shall transmit a copy of this concurrent resolution to the Secretary of State.

CONDEMNING THE CRUEL AND TORTUOUS PRACTICE OF FEMALE GENITAL MUTILATION

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Resolution 263, a resolution to condemn the cruel and tortuous practice of female genital mutilation, and that the Senate then proceed to its immediate consideration, that the resolution and preamble be agreed to, en bloc, the motions to reconsider be laid upon the table, en bloc; that any statements relating thereto appear in the RECORD at the appropriate place.

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

There being no objection, the Senate proceeded to consider the resolution.

So the resolution (S. Res. 263) was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

S. Res. 263

Whereas the Senate recognizes the importance of traditions and ritual rites of passage in the cultures of all nations;

Whereas such traditions and rites should not impede or violate the human rights of any person;

Whereas the practice of female genital mutilation of girls and young women under the

age 18 represents an act of cruelty and a basic violation of a person's human rights.

Whereas the aftereffects of female genital mutilation include shock, infection, psychological scarring, hemorrhaging, and death;

Whereas the practice of female genital mutilation represents a threat to the health of girls and young women who undergo the procedure; and

FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS ACT

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 604, S. 922, a bill relating to State Court modifications to orders requiring payment of child support.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 922) to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child consents to the seeking of the modification in that court support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court.

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 the Judiciary, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Full Faith and Credit for Child Support Orders Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there is a large and growing number of child support cases annually involving disputes between parents who reside in different States;

(2) the laws by which the courts of different jurisdictions determine their authority to establish child support orders are not uniform;

(3) those laws, along with the limits imposed by the Federal system on the authority of each State to take certain actions outside its own boundaries—

(A) encourage noncustodial parents to relocate outside the States where their children and the custodial parents reside to avoid the jurisdiction of the courts of such States, resulting in an increase in the amount of interstate travel and communication required to establish and collect on child support orders and a burden on custodial parents that is expensive, time consuming, and disruptive of occupations and commercial activity;

(B) contribute to the pressing problem of relatively low levels of child support payments in interstate cases and to inequities in child support payments levels that are based solely on the noncustodial parent's choice of residence;

(C) encourage a disregard of court orders resulting in massive arrearages nationwide;

(D) allow noncustodial parents to avoid the payment of regularly scheduled child support payments for extensive periods of time, resulting in substantial hardship for the children for whom support is due and for their custodians; and

(E) lead to the excessive relitigation of cases and to the establishment of conflicting orders by the courts of various jurisdictions, resulting in confusion, waste of judicial resources, disrespect for the courts, and a diminution of public confidence in the rule of law; and

(4) among the results of the conditions described in this subsection are—

(A) the failure of the courts of the States to give full faith and credit to the judicial proceedings of the other States;

(B) the deprivation of rights of liberty and property without due process of law;

(C) burdens on commerce among the States; and

(D) harm to the welfare of children and their parents and other custodians.

(b) STATEMENT OF POLICY.—In view of the findings made in subsection (a), it is necessary to establish national standards under which the courts of the various States shall determine their jurisdiction to issue a child support order and the effect to be given by each State to child support orders issued by the courts of other States.

(c) PURPOSES.—The purposes of this Act are—

(1) to facilitate the enforcement of child support orders among the States;

(2) to discourage continuing interstate controversies over child support in the interest of greater financial stability and secure family relationships for the child; and

(3) to avoid jurisdictional competition and conflict among State courts in the establishment of child support orders.

SEC. 3. FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Chapter 115 of title 28, United States Code, is amended by inserting after section 1738A the following new section:

“§ 1738B. Full faith and credit for child support orders

“(a) GENERAL RULE.—The appropriate authorities of each State—

“(1) shall enforce according to its terms a child support order made consistently with this section by a court of another State; and

“(2) shall not seek or make a modification of such an order except in accordance with subsection (e).

“(b) DEFINITIONS.—In this section:

“‘child’ means—

“(A) a person under 18 years of age; and

“(B) a person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a State.

“‘child’s State’ means the State in which a child resides.

“‘child support’ means a payment of money, continuing support, or arrearages or the provision of a benefit (including payment of health insurance, child care, and educational expenses) for the support of a child.

“‘child support order’—

“(A) means a judgment, decree, or order of a court requiring the payment of child support in periodic amounts or in a lump sum; and

“(B) includes—

“(i) a permanent or temporary order; and

“(ii) an initial order or a modification of an order.

“‘contestant’ means—

“(A) a person (including a parent) who—

“(i) claims a right to receive child support;

“(ii) is a party to a proceeding that may result in the issuance of a child support order; or

“(iii) is under a child support order; and

“(B) a State or political subdivision of a State to which the right to obtain child support has been assigned.

“‘Court’ means a court or administrative agency of a State that is authorized by State law to establish the amount of child support payable by a contestant or make a modification of a child support order.

“‘Modification’ means a change in a child support order that affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to the child support order.

“‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country (as defined in section 1151 of title 18).

“(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made is made consistently with this section if—

“(1) a court that makes the order, pursuant to the laws of the State in which the court is located—

“(A) has subject matter jurisdiction to hear the matter and enter such an order; and

“(B) has personal jurisdiction over the contestants; and

“(2) reasonable notice and opportunity to be heard is given to the contestants.

“(d) CONTINUING JURISDICTION.—A court of a State that has made a child support order consistently with this section has continuing, exclusive jurisdiction over the order if the State is the child’s State or the residence of any contestant unless the court of another State, acting in accordance with subsection (e), has made a modification of the order.

“(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may make a modification of a child support order with respect to a child that is made by a court of another State if—

“(1) the court has jurisdiction to make such a child support order; and

“(2)(A) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because that State no longer is the child’s State or the residence of any contestant; or

“(B) each contestant has filed written consent to that court’s making the modification and assuming continuing, exclusive jurisdiction over the order.

“(f) ENFORCEMENT OF PRIOR ORDERS.—A court of a State that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to nonmodifiable obligations and unsatisfied obligations that accrued before the date on which a modification of the order is made under subsection (e).

“(g) CHOICE OF LAW.—

“(1) IN GENERAL.—In a proceeding to establish, modify, or enforce a child support order, the forum State’s law shall apply except as provided in paragraphs (2) and (3).

“(2) LAW OF STATE OR ISSUANCE OF ORDER.—In interpreting a child support order, a court shall apply the law of the State of the court that issued the order.

“(3) PERIOD OF LIMITATION.—In an action to enforce a child support order, a court shall apply the statute of limitation of the forum State or the State of the court that issued the order, whichever statute provides the longer period of limitation.”

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738A the following new item:

“1738B. Full faith and credit for child support orders.”

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the com-

mittee substitute amendment be agreed to; that the bill be deemed read a third time, passed; that the motion to reconsider be laid upon the table, and any statements thereon be placed in the RECORD at the appropriate place and as if read.

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

So the bill (S. 922) was deemed read a third time and passed.

SMALL BUSINESS ADMINISTRATION AMENDMENTS OF 1994

Mr. METZENBAUM. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 2060) to amend the Small Business Act and the Small Business Investment Act of 1958, 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. 2060) entitled “An Act to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes”, do pass with the following amendments:

Strike out all after the enacting clause and insert:

That this Act may be cited as the “Small Business Reauthorization and Amendment Act of 1994”.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking all of such section after subsection (k), as added by section 115(a) of the Small Business Credit and Business Opportunity Enhancement Act of 1992, and by inserting in lieu thereof the following:

“(1) The following program levels are authorized for fiscal year 1995:

“(1) For the programs authorized by this Act, the Administration is authorized to make \$142,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make \$12,000,000 in loans as provided in section 7(a)(10) and \$130,000,000 in loans as provided in section 7(m).

“(2) For the programs authorized by this Act, the Administration is authorized to make \$11,535,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

“(A) \$9,315,000,000 in general business loans as provided in section 7(a);

“(B) \$2,200,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958; and

“(C) \$20,000,000 in loans as provided in section 7(m).

“(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

“(A) \$23,000,000 in purchases of preferred securities;

“(B) \$244,000,000 in guarantees of debentures, of which \$44,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

“(C) \$400,000,000 in guarantees of participating securities.

“(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$1,800,000,000, of which not more than \$600,000,000 may be in

bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) For the Service Corps of Retired Executives program authorized by section 8(b)(1) of this Act, the Administration is authorized to make grants or enter cooperative agreements not to exceed \$3,500,000, and for the small business institute program authorized by section 8(b)(1) of this Act, the Administration is authorized to make grants or enter cooperative agreements not to exceed \$3,000,000.

"(m) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(n) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by this Act, the Administration is authorized to make \$198,000,000 in direct and immediate participation loans; and of such sum the Administration is authorized to make \$13,000,000 in loans as provided in section 7(a)(10) and \$185,000,000 in loans as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make \$13,465,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) \$10,935,000,000 in general business loans as provided in section 7(a);

"(B) \$2,500,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958; and

"(C) \$30,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) \$24,000,000 in purchases of preferred securities;

"(B) \$256,000,000 in guarantees of debentures, of which \$46,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) \$650,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$1,800,000,000, of which not more than \$600,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) For the Service Corps of Retired Executives program authorized by section 8(b)(1) of this Act, the Administration is authorized to make grants or enter cooperative agreements not to exceed \$3,675,000, and for the small business institute program authorized by section 8(b)(1) of this Act, the Administration is authorized to make grants or enter cooperative agreements not to exceed \$3,150,000.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(p) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by this Act, the Administration is authorized to make \$264,000,000 in direct and immediate participation loans; and of such sum the Administration is authorized to make \$14,000,000 in loans as

provided in section 7(a)(10) and \$250,000,000 in loans as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make \$17,215,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) \$14,175,000,000 in general business loans as provided in section 7(a);

"(B) \$3,000,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958; and

"(C) \$40,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) \$25,000,000 in purchases of preferred securities;

"(B) \$268,000,000 in guarantees of debentures, of which \$48,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) \$900,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$1,800,000,000, of which not more than \$600,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) For the Service Corps of Retired Executives program authorized by section 8(b)(1) of this Act, the Administration is authorized to make grants or enter cooperative agreements not to exceed \$3,860,000, and for the small business institute program authorized by section 8(b)(1) of this Act, the Administration is authorized to make grants or enter cooperative agreements not to exceed \$3,310,000.

"(q) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration."

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

SEC. 201. MICROLOAN FINANCING PILOT.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding the following new paragraph at the end:

"(12) DEFERRED PARTICIPATION LOAN PILOT.—During fiscal years 1995 through 1997, on a pilot basis, in lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), the Administration may participate on a deferred basis of up to 100 percent on loans made to intermediaries by a for-profit or non-profit entity or by alliances of such entities subject to the following conditions:

"(A) NUMBER OF LOANS.—The Administration shall not participate in providing financing on a deferred basis to more than ten intermediaries in urban areas per year and to more than ten intermediaries in rural areas per year.

"(B) TERM OF LOANS.—The term of such loans shall be ten years. During the first five years of the loan, the intermediary shall be required to pay interest only; and during the second five years of the loan, the intermediary shall be required to fully amortize principal and interest payments.

"(C) INTEREST RATE.—The interest rate on such loans shall be the rate specified by paragraph (3)(F) for direct loans."

SEC. 202. MICROLOAN STATE LIMITATION.

Section 7(m)(7)(C) of the Small Business Act (15 U.S.C. 636(m)(7)(C)) is repealed.

SEC. 203. LIMIT ON PARTICIPATION.

Section 7(m)(7)(A) of the Small Business Act (15 U.S.C. 636(m)(7)(A)) is amended to read as follows:

"(A) NUMBER OF PARTICIPANTS.—During this demonstration program, the Administration is authorized to fund, on a competitive basis, not more than 240 microloan programs."

SEC. 204. EQUITABLE DISTRIBUTION.

Section 7(m)(8) of the Small Business Act (15 U.S.C. 636(m)(8)) is amended to read as follows:

"(8) EQUITABLE DISTRIBUTION OF INTERMEDIARIES.—In approving microloan program applicants, the Administration shall select participation by such intermediaries as will ensure appropriate availability of loans to small businesses located in urban areas and in rural areas."

SEC. 205. AMOUNT OF LOANS TO INTERMEDIARIES.

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended to read as follows:

"(C) LOAN LIMITS.—In determining the amount of funding which the Administration may provide to one intermediary, it shall take into consideration the small business population in the area served by the intermediary."

SEC. 206. LOANS TO EXPORTERS.

Section 7(a)(14)(A) of the Small Business Act (15 U.S.C. 636(a)(14)(A)) is amended to read as follows:

"(A) The Administration may provide extensions, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable."

SEC. 207. WORKING CAPITAL INTERNATIONAL TRADE LOANS.

Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended to read as follows:

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed \$1,250,000, of which not more than \$750,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and"

SEC. 208. GUARANTEES ON INTERNATIONAL TRADE LOANS.

Section 7(a)(2)(B)(iv) of the Small Business Act (15 U.S.C. 636(a)(2)(B)(iv)) is amended to read as follows:

"(iv) not less than 85 percent nor more than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (14) or under paragraph (16)."

SEC. 209. ACCREDITED LENDERS PROGRAM.

(a) Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 507. ACCREDITED LENDERS PROGRAM.

"(a) The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies which meet the requirements of subsection (b).

"(b) The Administration may designate a qualified State or local development company as an accredited lender if such company—

"(1) has been an active participant in the development company program for at least the last 12 months;

"(2) has well-trained, qualified personnel who are knowledgeable in the Administration's lending policies and procedures for the development company program;

"(3) has the ability to process, close, and service financing for plant and equipment under section 502 of this Act;

"(4) has a loss rate on its debentures that is acceptable to the Administration;

"(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

"(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment as provided in section 502 of this Act.

"(c) The Administration shall expedite the processing of a loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that the development company has not continued to meet the criteria for eligibility under subsection (b) or that the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law. Suspension or revocation shall not affect any outstanding debenture guarantee.

"(e) For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e)."

(b) The Administration shall promulgate regulations to carry out this section within 90 days of the date of the enactment of this Act.

(c) The Administration shall report to the Small Business Committee of the United States Senate and to the Small Business Committee of the United States House of Representatives within one year, and annually thereafter, on the implementation of this section, specifically including data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, and the average processing time on their guarantee applications, along with such other information as the Administration deems appropriate.

SEC. 210. PREMIER LENDERS PROGRAM.

(a) Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is further amended by adding at the end the following new section:

"SEC. 508. PREMIER LENDERS PROGRAM.

"(a) The Administration is authorized to establish a Premier Lenders Program for certified development companies which meet the requirements of subsection (b).

"(b) The Administration may designate a participant in the accredited lenders program as a premier lender if such company—

"(1) has been an active participant in the accredited lenders program for at least the last 12 months: Provided, That prior to January 1, 1996, the Administration may waive this provision if the applicant is qualified to participate in the accredited lenders program;

"(2) has a history of submitting to the Administration adequately analyzed debenture guarantee application packages; and

"(3) agrees to assume and to reimburse the Administration for 5 percent of any loss sustained by the Administration on account of default by the certified development company in the payment of principal or interest on a debenture issued by such company and guaranteed by the Administration under this section.

"(c) Upon approval of an applicant as a premier lender, the certified development company shall establish a loss reserve in an amount equal to the anticipated losses to the certified development company pursuant to subsection (b)(3) based upon the historic loss rate on debentures issued by such company, or 3 percent of the ag-

gregate principal amount of debentures issued by such company and guaranteed by the Administration under this section, whichever is greater. The loss reserve shall be comprised of segregated assets of the development company which shall be securitized in favor of the Administration or of such unqualified letters of credit or indemnity agreements from a third party as the Administration deems appropriate.

"(d) Upon designation and qualification of a company as a premier lender, and subject to such terms and conditions as the Administration may determine, and notwithstanding the provisions of section 503(b)(6), the Administration may permit a premier lender to approve loans to be funded with the proceeds of and to authorize the guarantee of a debenture issued by such company. The approval by the premier lender shall be subject to the final approval as to eligibility of any such guarantee by the Administration pursuant to subsection 503(a) of this Act, but such final approval shall not include decisions by the company involving creditworthiness, loan closing, or compliance with legal requirements imposed by law or regulation.

"(e) The designation of a qualified State or local development company as a premier lender may be suspended or revoked if the Administration determines that the company—

"(1) has not continued to meet the criteria for eligibility under subsection (b);

"(2) has not established or maintained the loss reserve required under subsection (c); or

"(3) is failing to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

"(f) Suspension or revocation shall not affect any outstanding debenture guarantee."

(b) The Administration shall promulgate such regulations to carry out this section within 180 days of the date of the enactment of this Act.

(c) The Administration shall report to the Small Business Committee of the United States Senate and to the Small Business Committee of the United States House of Representatives within one year, and annually thereafter, on the implementation of this section, specifically including data on the number of development companies designated as premier lenders, their debenture guarantee volume, and the loss rate for premier lenders as compared to accredited and other lenders, along with such other information as the Administration deems appropriate.

(d) Section 508 of the Small Business Investment Act of 1958 is repealed on October 1, 1999.

(e) The table of contents contained in section 101 of the Small Business Investment Act of 1958 is amended by adding at the end the matter relating to title V the following:

"Sec. 507. Accredited lenders program.

"Sec. 508. Premier lenders program."

SEC. 211. SSBIC ADVISORY COUNCIL.

(a) COUNCIL ESTABLISHED.—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Small Business Administration shall appoint an Investment Advisory Council for the Specialized Small Business Investment Company Program. The Council shall consist of not less than 12 individuals from the private sector, including individuals—

(1) who have experience in providing venture capital to small business, particularly minority small business;

(2) who are current participants in the Specialized Small Business Investment Company Program;

(3) who are former participants in the Specialized Small Business Investment Company Program; or

(4) who are or who represent small business concerns.

(b) CHAIRMAN AND STAFF.—The Administrator shall designate one of the members of the Coun-

cil as chairperson. The Investment Division of the Small Business Administration shall provide such staff, technical support, and information as shall be deemed appropriate. Council members shall be deemed to be an advisory board pursuant to section 8(b)(13) of the Small Business Act for purposes of reimbursement of expenses.

(C) REPORT.—Within six months of the date of appointment, the Council shall make a written report with findings and recommendations on the venture capital needs, including debt and equity, of socially or economically disadvantaged small business concerns and any needed Federal incentives to assist the private sector to meet such needs. The report shall specifically address—

(1) the history of the Specialized Small Business Investment Company program in providing assistance to such concerns and the impact of such assistance on the economy;

(2) the appropriateness and ability of the Specialized Small Business Investment Company Program to meet these needs;

(3) the problems affecting the Specialized Small Business Investment Company Program; and

(4) the effectiveness of the Specialized Small Business Investment Company Program and its administration by the Small Business Administration.

SEC. 212. PARTICIPATING SECURITIES FOR SMALLER SBICS.

Section 303(g) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)) is amended by adding the following new paragraph at the end:

"(13) Of the amount of the annual program level of participating securities approved in Appropriations Acts, 50 percent shall be reserved for funding Small Business Investment Companies with private capital of less than \$20,000,000; except that during the last quarter of each fiscal year, the Administrator may, if he determines that there is a lack of qualified applicants with private capital under such amount, utilize all or any part of the securities so reserved."

SEC. 213. REPORT ON SBIC PROGRAM.

The Small Business Administration shall provide the Committee on Small Business of the House of Representatives and Senate with a comprehensive report on the status and disposition of all Small Business Investment Companies, active or in liquidation, and a complete accounting of the assets in and the basis of their portfolios, the projected and actual loss rates for all portfolios in liquidation or active, and a detailed accounting of valuation of the SBIC program's investments. This report shall be delivered to the respective Committees on Small Business no later than April 15, 1995.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

SEC. 301. COMPETITIVE DEMONSTRATION PROJECT SIZE STANDARDS.

Section 732 of the Business Opportunity Development Reform Act of 1988 (Public Law 100-656) is amended by repealing the second sentence of such section.

SEC. 302. SIZE STANDARD CRITERIA.

Section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is amended to read as follows:

"(2) In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act. Such standards may utilize number of employees, dollar volume of business, net worth, net income, or a combination thereof. Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business

concern as a small business concern, unless such proposed size standard—

"(A) is being proposed after an opportunity for public notice and comment;

"(B) provides for determining—

"(i) the size of a manufacturing concern as measured by its average employment based upon employment during each of the concern's pay periods for the preceding twelve calendar months;

"(ii) the size of a concern providing services on the basis of the annual average gross receipts of the concern over a period of not less than 3 years; and

"(iii) the size of other concerns on the basis of data over a period of not less than 3 years; and

"(C) is approved by the Administrator if it is not being proposed by the Small Business Administration."

SEC. 303. SUNSET ON PREFERRED SURETY BOND GUARANTEE PROGRAM.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (Public Law 100-590) is amended by striking "September 30, 1994" and by inserting in lieu thereof "September 30, 1997".

SEC. 304. VERY SMALL BUSINESS CONCERNS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 30 as section 41 and by inserting after section 29, as redesignated by section 606 of this Act, the following:

"SEC. 30. PILOT PROGRAM FOR VERY SMALL BUSINESS CONCERNS.

"(a) **ESTABLISHMENT.**—The Administration shall establish and carry out a pilot program in accordance with the requirements of this section to provide procurement opportunities to very small business concerns.

"(b) **SUBCONTRACTING OF PROCUREMENT CONTRACTS.**—

"(1) **IN GENERAL.**—In carrying out the program, the Administration is authorized to enter into procurement contracts with the United States Government and to arrange for the performance of such contracts through the award of subcontracts to very small business concerns.

"(2) **TERMS AND CONDITIONS.**—The authority of the Administration under paragraph (1) shall be subject to the same terms and conditions as apply to the authority of the Administration under section 8(a), except that—

"(A) the Administration may make such modifications to such terms and conditions as the Administration determines necessary; and

"(B) all contract opportunities offered for award under the program shall be awarded on the basis of competition restricted to eligible program participants.

"(c) **PROGRAM PARTICIPATION.**—Very small business concerns participating in the program shall be subject to the same terms and conditions for program participation as apply to program participants under sections 7(f) and 8(a); except that—

"(1) the Administration may make such modifications to such terms and conditions as the Administration determines necessary; and

"(2) eligibility shall be determined on the basis of qualifying as a very small business concern as defined in subsection (g), in lieu of the requirements contained in paragraphs (4), (5), and (6) of section 8(a).

"(d) **TECHNICAL AND FINANCIAL ASSISTANCE.**—In order to assist very small business concerns participating in the program, the Administration is authorized—

"(1) to provide technical assistance to such concerns in the same manner and to the same extent as technical assistance is provided to small business concerns pursuant to section 7(j); and

"(2) to provide pre-authorization to such concerns for the purpose of receiving financial assistance under section 7(a).

"(e) **PROGRAM TERM.**—The Administration shall carry out the program in each of fiscal years 1995, 1996, and 1997.

"(f) **REPORT TO CONGRESS.**—On or before December 31, 1996, the Administration shall transmit to Congress a report containing an analysis of the results of the program, together with recommendations for appropriate legislative and administrative actions.

"(g) **DEFINITIONS.**—For the purposes of this section, the following definitions apply:

"(1) **PROGRAM.**—The term "program" means the program established pursuant to subsection (a).

"(2) **VERY SMALL BUSINESS CONCERN.**—The term "very small business concern" means a small business concern that—

"(A) has 10 employees or less; or

"(B) has average annual receipts that total \$1,000,000 or less."

TITLE IV—MANAGEMENT ASSISTANCE

SEC. 401. SUNSET ON COSPONSORED TRAINING.

(a) The authority of the Small Business Administration to cosponsor training as authorized by section 5(a) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is hereby repealed September 30, 1997.

(b) Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended by striking the second sentence.

SEC. 402. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.

Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended to read as follows:

"(4) The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 per centum cash and not more than 50 per centum of indirect costs and in-kind contributions: Provided, That this matching amount shall not include any indirect costs or in-kind contributions derived from any Federal program: Provided further, That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a national program based upon the population to be served by the Small Business Development Center as compared to the total population in the United States, plus \$125,000, or \$200,000, whichever is greater, per year. The amount of the national program shall be—

"(A) \$70,000,000 through September 30, 1995;

"(B) \$77,500,000 from October 1, 1995 through September 30, 1996; and

"(C) \$85,000,000 beginning October 1, 1996.

The amount of eligibility of each Small Business Development Center shall be based upon the amount of the national program in effect as of the date for commencement of performance of the Center's grant."

SEC. 403. FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21(a)(5) of the Small Business Act (15 U.S.C. 648(a)(5)) is amended to read as follows:

"(5) A Small Business Development Center may enter a contract with a Federal department or agency to provide specific assistance to small business concerns if the contract is approved in advance by the Deputy Associate Administrator of the Small Business Development Center program. Approval shall be based upon a determination that the contract will provide assistance to small business concerns and that its performance will not hinder the Center in carrying out the terms of its grant from the Administration. The amount of any such contract shall not be subject to the matching funds requirements of

paragraph (4) nor shall the amount of eligibility under such paragraph: Provided, That notwithstanding any other provision of law, such contracts for assistance to small business concerns shall not be counted toward any Federal department or agency's small business, women-owned business, or socially and economically disadvantaged business contracting goal as established by section 15(g) of the Small Business Act (15 U.S.C. 644(g))."

(b) Section 21(a)(6) of the Small Business Act (15 U.S.C. 648(a)(6)) is amended by striking "paragraphs (4) and (5)" and by inserting in lieu thereof "paragraph (4)".

SEC. 404. CENTRAL EUROPEAN SMALL BUSINESS DEVELOPMENT.

Section 25(i) of the Small Business Act (15 U.S.C. 652(i)) is amended by striking "and \$2,000,000 for each of fiscal years 1993 and 1994" and by inserting in lieu thereof ", \$2,000,000 for each of fiscal years 1993 and 1994, and \$1,000,000 for fiscal year 1995".

SEC. 405. MOBILE RESOURCE CENTER PILOT PROGRAM.

(a) **ESTABLISHMENT.**—The Administrator of the Small Business Administration may establish and carry out in each of fiscal years 1995, 1996, and 1997 a mobile resource pilot program (in this section referred to as the "program" in accordance with the requirements of this section.

(b) **MOBILE RESOURCE CENTER VEHICLES.**—Under the program, the Administration may use mobile resource center vehicles to provide technical assistance, information, and other services available from the Small Business Administration to traditionally underserved populations. Two of such vehicles should be utilized in rural areas and 2 of such vehicles should be utilized in urban areas.

(c) **REPORT TO CONGRESS.**—If the Administrator conducts the program authorized in this section, not later than December 31, 1996, he shall transmit to Congress a report containing the results of such program, together with recommendations for appropriate legislative and administrative actions.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for fiscal year 1995 \$900,000 to carry out this section. Of such sums—

(1) \$800,000 may be made available for the purchase or lease of mobile resource center vehicles; and

(2) \$100,000 may be made available for studies, startup expenses, and other administrative expenses.

Such sums shall remain available until expended.

TITLE V—RELIEF FROM FFB DEBENTURE PREPAYMENT PENALTIES

SEC. 501. CITATION.

This title may be cited as the "Small Business Prepayment Penalty Relief Act of 1994."

SEC. 502. MODIFICATION OF DEVELOPMENT COMPANY DEBENTURE INTEREST RATES.

(a) **IN GENERAL.**—Upon the request of the issuer and the concurrence of the borrower, the Small Business Administration is authorized to transfer to the Federal Financing Bank such sums as may be necessary to carry out the provisions of this section in order to reduce the interest rate on a debenture issued by a certified development company. The reduction shall be effective January 2, 1995 and shall apply for the remainder of the term of the debenture.

(b) **INTEREST RATE MODIFICATION.**—Upon receipt of such payment, the Federal Financing Bank shall modify the interest rate of each debenture for which the payment is made. No other change shall be made in the terms and conditions of the debenture, and the modification in the interest rate shall not be construed as a new direct loan or a new loan guarantee.

(c) **DEFINITIONS.**—For the purposes of this section—

(1) the term "issuer" means the issuer of a debenture pursuant to section 503 of the Small Business Investment Act of 1958 which has been purchased by the Federal Financing Bank if the debenture is outstanding on the date of enactment of this Act, and neither the loan that secures the debenture nor the debenture is in default on such date; and

(2) the term "borrower" means the small business concern whose loan secures a debenture issued pursuant to such section.

(d) **OTHER RIGHTS.**—A modification of the interest rate on a debenture as authorized in this section shall not affect any rights or options of the issuer or borrower which are otherwise authorized by contract or by law.

(e) **REFINANCING.**—Debentures authorized by sections 504 and 505 of the Small Business Investment Act of 1958 may be used to refinance debentures issued under section 503 of such Act if the amount of the new financing is limited to such amounts as are needed to repay the existing debenture, including any prepayment penalty imposed by the Federal Financing Bank. Any such refinancing shall be subject to all of the other provisions of sections 504 and 505 of such Act and the rules and regulations of the Administration promulgated thereunder, including, but not limited to, rules and regulations governing payment of authorized expenses and commissions, fees and discounts to brokers and dealers in trust certificates issued pursuant to section 505: Provided, however, That no applicant for refinancing under section 504 of this Act need demonstrate that the requisite number of jobs will be created or preserved with the proceeds of such refinancing: Provided further, That a development company which provides refinancing under this subsection shall be limited to a loan processing fee not to exceed one-half of one percent to cover the cost of packaging, processing and other nonlegal staff functions.

SEC. 503. MODIFICATION OF SMALL BUSINESS INVESTMENT COMPANY DEBENTURE INTEREST RATES.

(a) **IN GENERAL.**—Upon the request of the issuer, the Small Business Administration is authorized to transfer to the Federal Financing Bank such sums as may be necessary to carry out the provisions of this section in order to reduce the interest rate on a debenture issued by a Small Business Investment Company under the provisions of title III of the Small Business Investment Act of 1958. The reduction shall be effective January 2, 1995 and shall apply for the remainder of the term of the debenture.

(b) **INTEREST RATE MODIFICATION.**—Upon receipt of such payment, the Federal Financing Bank shall modify the interest rate of each debenture for which the payment is made. No other change shall be made in the terms and conditions of the debenture, and the modification in the interest rate shall not be construed as a new direct loan or a new loan guarantee.

(c) **DEFINITIONS.**—For the purposes of this section, the term "issuer" means the issuer of a debenture pursuant to section 303 of the Small Business Investment Act of 1958 which has been purchased by the Federal Financing Bank if the debenture is outstanding on the date of enactment of this Act, and is not in default on such date.

(d) **OTHER RIGHTS.**—A modification of the interest rate on a debenture as authorized in this section shall not affect any rights or options of the issuer which are otherwise authorized by contract or by law.

SEC. 504. MODIFICATION OF SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY DEBENTURE INTEREST RATES.

(a) **INTEREST RATE MODIFICATION.**—Upon the request of the issuer, the Small Business Admin-

istration is authorized to modify the interest rate on a debenture issued by a Small Business Investment Company licensed under the provisions of section 301(d) of the Small Business Investment Act of 1958 and which is held by the Administration. No debenture which has been sold to a third party shall be eligible for modification under this section. The reduction shall be effective January 2, 1995 and shall apply for the remainder of the term of the debenture. No other change shall be made in the terms and conditions of the debenture, and the modification in the interest rate shall not be construed as a new direct loan or a new loan guarantee.

(b) **DEFINITIONS.**—For the purposes of this section, the term "issuer" means a Specialized Small Business Investment Company licensed under the provisions of section 301(d) of the Small Business Investment Act of 1958 which has issued a debenture which has been funded by the Small Business Administration, providing the debenture is outstanding on the date of enactment of this Act and is not in default on such date.

(c) **OTHER RIGHTS.**—A modification of the interest rate on a debenture as authorized in this section shall not affect any rights or options of the issuer which are otherwise authorized by contract or by law.

SEC. 505. INTEREST RATE REDUCTIONS.

(a) **IN GENERAL.**—Upon enactment of an Appropriations Act providing funds to carry out the provisions of this Act and limited to amounts specifically provided in advance in Appropriations Acts, the Small Business Administration shall evaluate the outstanding portfolio of debentures which are eligible for interest rate relief under this Act. The Administration shall apply the funds appropriated to carry out this Act in order to reduce the highest interest rate on all eligible debentures to a uniform rate.

(b) **AUTHORIZATION.**—There are authorized to be appropriated \$30 million to carry out the provisions of this Act in fiscal year 1995.

TITLE VI—DEVELOPMENT OF WOMEN-OWNED BUSINESSES

SEC. 601. STATUS OF COUNCIL.

Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is redesignated as section 405 of such Act and, as redesignated, is amended—

(1) in the heading by inserting "**OF THE COUNCIL**" after "**ESTABLISHMENT**"; and

(2) by striking the period at the end and inserting the following: "which shall serve as an independent advisory council to the Interagency Committee on Women's Business Enterprise, to the Administrator of the Small Business Administration, and to the Congress of the United States. The Council, in order to carry out its function as an independent advisory council to the Congress, is authorized and directed to report independently of the Interagency Committee directly to the Congress at such times and on such matters as it, in its discretion, deems appropriate."

SEC. 602. DUTIES OF NATIONAL WOMEN'S BUSINESS COUNCIL.

Section 402 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is redesignated as section 406 of such Act and, as redesignated, is amended to read as follows:

"SEC. 406. DUTIES OF THE COUNCIL.

"The Council shall meet at such times as it determines necessary in order to advise and consult with the Interagency Committee on Women's Business Enterprise on matters relating to the activities, functions, and policies of such Committee as provided in this title. The Council shall make annual recommendations for consideration by the Committee. The Council also shall provide reports and make such other recommendations as it deems appropriate to the

Committee, to the Administrator of the Small Business Administration, and to the Small Business Committee of the United States Senate and to the Small Business Committee of the United States House of Representatives."

SEC. 603. MEMBERSHIP OF THE COUNCIL.

Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is redesignated as section 407 of such Act, and, as redesignated, is amended to read as follows:

"SEC. 407. MEMBERSHIP OF THE COUNCIL.

"(a) The Council shall be composed of 15 members who shall be appointed by the Administrator of the Small Business Administration and who shall serve at the Administrator's discretion. In making the appointments, the Administrator shall include racial, geographic and economic diversity, and representation from diverse sectors of the economy, including manufacturing, high technology, services and credit institutions, and shall give priority to include representation of major women's business organizations.

"(b) Only the owner, operator or employee of a woman-owned business shall be eligible for appointment, and not more than eight appointees shall be members of the same political party. If any member of the Council subsequently becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Council for not longer than the thirty-day period beginning on the date such individual becomes such an officer or employee.

"(c) The Council annually shall select one member to serve as its Chairperson. The Chairperson of the Council, or her designee, shall be the representative of the Council to all meetings of the Interagency Committee on Women's Business Enterprise.

"(d) The Council shall meet not less than four times per year. Meetings shall be at the call of the Chairperson at such times as she deems appropriate.

"(e) Members of the Council shall serve without pay for such membership, except they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Council, in the same manner as persons serving on advisory boards pursuant to section 8(b) of the Small Business Act."

SEC. 604. INTERAGENCY COMMITTEE.

Title IV of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by striking section 404 and by inserting the following new sections prior to section 405 as redesignated by section 601 of this Act:

"SEC. 401. ESTABLISHMENT OF THE COMMITTEE.

"There is established an Interagency Committee to be known as the 'Interagency Committee on Women's Business Enterprise' (hereinafter in this title referred to as the Committee).

"SEC. 402. DUTIES OF THE COMMITTEE.

"The Committee shall—

"(1) promote, coordinate and monitor the plans, programs and operations of the departments and agencies of the Federal Government which may contribute to the establishment, preservation and strengthening of women's business enterprise. It may, as appropriate, develop comprehensive interagency plans and specific program goals for women's business enterprise with the cooperation of Federal departments and agencies;

"(2) promote the better utilization of the activities and resources of State and local governments, business and trade associations, private industry, colleges and universities, foundations, professional organizations, and volunteer and women's business enterprise, and facilitate the coordination of the efforts of these groups with those of Federal departments and agencies;

"(3) consult with the Council to develop and promote new initiatives designed to foster women's business enterprise, and to develop policies, programs, and plans intended to promote such development;

"(4) consider the Council's recommendations and public and private sector studies of the problems of women entrepreneurs, and promote further research into such problems; and

"(5) design a comprehensive plan for a joint public-private sector effort to facilitate the development and growth of women-owned businesses. The Committee should submit the plan to the President for review within six months of the effective date of this Act.

SEC. 403. MEMBERSHIP OF THE COMMITTEE.

"(a) The Committee shall be composed of representatives of the following departments and agencies: The Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Education, Housing and Urban Development, Interior, Justice, Labor, Transportation, Treasury, the Federal Trade Commission, General Services Administration, National Science Foundation, Office of Federal Procurement Policy, and the Director of the Office of Women's Business Ownership of the Small Business Administration, who shall serve as Vice Chairperson of the Committee. The head of each such department and agency shall designate a representative who shall be a policy making official within the department or agency.

"(b) The Committee shall have a Chairperson appointed by the President, after consultation with the Administrator of the Small Business Administration and the Chief Counsel for Advocacy of the Small Business Administration. The Chairperson shall be the head of a Federal department or agency. If the Chairperson is the head of one of the departments or agencies enumerated in subsection (a), he or she shall also serve as the representative of such department or agency.

"(c) The Committee shall meet not less than four times per year. Meetings shall be at the call of the Chairperson at such times as he or she deems appropriate.

"(d) The members of the Committee shall serve without additional pay for such membership.

"(e) The Chairperson of the Committee may designate a Director of the Committee, after consultation with the Administrator of the Small Business Administration and the Chief Counsel for Advocacy of the Small Business Administration.

"(f) The Chief Counsel for Advocacy is authorized to appoint to his staff under the provisions of section 204 of Public Law 94-305 (15 U.S.C. 634(d)) the person so designated under subsection (e). He or she is also authorized to provide additional staff and administrative support for the Committee.

"(g) The Director of the Office of Women's Business Ownership of the Small Business Administration is authorized to provide additional staff and administrative support for the Committee.

SEC. 404. REPORTS FROM THE COMMITTEE.

"The Committee shall transmit to the President and to the Small Business Committee of the United States Senate and to the Small Business Committee of the United States House of Representatives a report no less than once in every twelve-month period. The first such report shall be submitted no later than March 31, 1995. Such reports shall contain any recommendations from the Council and any comments of the Committee thereon, a detailed statement on the activities of the Committee, the findings and conclusions of the Committee, together with its recommendations for such legislation and administrative actions as it considers appropriate to promote the development of small business concerns owned and controlled by women."

SEC. 605. REPEALER.

Sections 404 through 407 of the Women's Business Ownership Act of 1988, as in effect on the day before the date of the enactment of this Act, are repealed and the following new section is added at the end of title IV of such Act:

SEC. 408. DEFINITIONS.

"For the purposes of this Act, the term—
 "(1) 'woman-owned business' shall mean a small business which is at least 51 percent owned by a woman or women who also control and operate it;

"(2) 'control' shall mean exercising the power to make policy decisions;

"(3) 'operate' shall mean being actively involved in the day-to-day management; and

"(4) 'women's business enterprise' shall mean a woman-owned business or businesses or the efforts of a woman or women to establish, maintain, or develop such a business or businesses."

SEC. 606. EXTENSION OF AUTHORITY FOR DEMONSTRATION PROJECTS.

Section 28 of the Small Business Act, as added by section 2 of Public Law 102-191, is redesignated as section 29 and, as so redesignated, is amended by striking from subsection (g) "1995" and by inserting "1997".

SEC. 607. ESTABLISHMENT OF OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act, as redesignated by section 606 of this Act, is amended by adding the following new subsection at the end:

"(h) There is established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises as defined in section 408 of the Women's Business Ownership Act of 1988. The Office shall be headed by a director who shall be appointed by the Administrator."

SEC. 608. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Title IV of the table of contents of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"TITLE IV—DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISE

"Sec. 401. Establishment of the Committee.

"Sec. 402. Duties of the Committee.

"Sec. 403. Membership of the Committee.

"Sec. 404. Reports from the Committee.

"Sec. 405. Establishment of the Council.

"Sec. 406. Duties of the Council.

"Sec. 407. Membership of the Council.

"Sec. 408. Definitions."

(b) The heading to title IV of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"TITLE IV—DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISES"

SEC. 609. AUTHORIZATION.

There is authorized to be appropriated \$200,000 in each of fiscal years 1995 through 1997 to carry out the provisions of title IV of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note).

TITLE VII—MISCELLANEOUS AMENDMENTS

SEC. 701. HANDICAPPED PARTICIPATION IN SMALL BUSINESS SET ASIDE CONTRACTS.

Section 15(c) of the Small Business Act (15 U.S.C. 644(c)) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(2)(A) During each fiscal year, public or private organizations for the handicapped shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed \$50,000,000."; and

(2) by adding the following new paragraph at the end thereof:

"(7) Any contract awarded to such an organization pursuant to the provisions of this subsection may be extended for up to two additional years."

SEC. 702. SBA INTEREST PAYMENTS TO TREASURY.

Section 4(c)(5)(B)(ii) of the Small Business Act (15 U.S.C. 633(c)(5)(B)(ii)) is amended to read as follows:

"(ii) The Administration shall pay into the miscellaneous receipts of the Treasury following the close of each fiscal year the actual interest it collects during that fiscal year on all financings made under the authority of this Act."

SEC. 703. IMPOSITION OF FEES.

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

(1) in paragraph (10) by striking "and" at the end;

(2) in paragraph (11) by striking the period at the end and inserting a semicolon; and

(3) by adding the following new paragraphs at the end:

"(12) impose, retain and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date. The administrator is authorized to impose, retain and utilize, subject to approval in appropriations Acts, the following additional fees—
 "(A) not to exceed \$100 for each loan servicing action requested after disbursement of the loan, including substitution of collateral, loan assumptions, release or substitution of guarantors, reamortizations or similar actions;

"(B) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of the Small Business Act and the Small Business Investment Act of 1958; and
 "(13) to collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations: Provided, That any monies so collected shall be utilized solely to facilitate the administration of the program which generated the excess monies."

"(13) to collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations: Provided, That any monies so collected shall be utilized solely to facilitate the administration of the program which generated the excess monies."

SEC. 704. SBIR VENDORS.

Section 9(q)(2) of the Small Business Act (15 U.S.C. 638(q)(2)) is amended to read as follows:

"(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1). Such selection shall be competitive using merit-based criteria, for a term not to exceed 3 years."

SEC. 705. MANUFACTURING CONTRACTS.

(a) ESTABLISHMENT OF PILOT PROGRAM.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following:

"(p) MANUFACTURING MODERNIZATION PILOT PROGRAM.—

"(1) ESTABLISHMENT.—The Administrator may establish and carry out a manufacturing modernization pilot program (hereinafter in this section referred to as the 'program') for the purpose of promoting the award of Federal procurement contracts to small business concerns that participate in manufacturing application and education centers that are established or certified pursuant to paragraph (2).

"(2) MANUFACTURING APPLICATION AND EDUCATION CENTERS.—The Administrator may establish manufacturing application and education centers which will provide training to small business concerns on new and innovative manufacturing practices in a shared-use production environment and which will assist such concerns in carrying out Federal procurement contracts for the manufacture of components and subsystems. The Administrator may also certify

existing manufacturing application and education centers for participation in the program.

"(3) **USE OF PRIVATE CENTERS AS EXAMPLES.**—In establishing any manufacturing application and education centers pursuant to paragraph (2), the Administrator may use as examples manufacturing application and education centers in the private sector that provide the following services: technology demonstration, technology education, technology application support, technology advancement support, and technology awareness.

"(4) **IDENTIFICATION OF CONTRACTS.**—The Administrator and the head of a contracting agency may identify for additional small business set-asides pursuant to subsection (a) any procurement, and in particular any procurement which is being foreign-sourced or is considered critical, which is susceptible to performance by a small business concern if the concern is assisted by a manufacturing application and education center under the program. Any such procurement shall be subject to the requirements of subsection (a), including requirements relating to any failure of the Administrator and the head of the contracting agency to agree on procurement methods.

"(5) **NONAPPLICABILITY OF PERFORMANCE REQUIREMENT.**—The requirement of subsection (o)(1)(B) shall not apply with respect to any contract carried out by a small business concern under the program with the assistance of a manufacturing application and education center.

"(6) **REGULATIONS.**—Not later than 6 months after the date of the enactment of this subsection, the Administrator shall issue regulations to carry out this subsection if he determines it appropriate to carry out the program authorized by this subsection.

"(7) **REPORTS.**—

"(A) **PROGRESS REPORT.**—Not later than 3 months after the last day of the fiscal year in which final regulations are issued pursuant to paragraph (6), the Administrator shall transmit to the Committees on Small Business of the House of Representatives and the Senate a report on the progress of the program.

"(B) **FINAL REPORT.**—If the Administrator establishes the program authorized herein, not later than March 31, 1999, he shall transmit to the Committees on Small Business of the House of Representatives and the Senate a report on the success of the program in—

"(i) enabling deployment of technology to small business concerns participating in the program, and

"(ii) assisting manufacturing application and education centers in achieving self-sufficiency, together with recommendations concerning continuation, modification, or discontinuance of the program.

"(8) **PROGRAM TERM.**—The Administrator may carry out the program during the period beginning on the date of issuance of final regulations under paragraph (5) and ending on September 30, 1999.

"(9) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this subsection."

SEC. 706. DENIAL OF USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 30, as added by section 304 of this Act, the following:

"SEC. 31. DENIAL OF USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

"None of the funds made available pursuant to this Act may be used to provide any direct benefit or assistance to any individual in the United States when it is made known to the Ad-

ministrator of the Small Business Administration or the official to which the funds are made available that the individual is not lawfully within the United States."

SEC. 707. OFFICE OF ADVOCACY EMPLOYEES.

Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended as follows—

(1) by striking "after consultation with and subject to the approval of the Administrator,"; and

(2) in paragraph (1) by striking "GS-15 of the General Schedule" and all that follows and inserting "GS-15 of the General Schedule: Provided, however, That not more than 14 staff personnel at any one time may be employed and compensated at a rate in excess of GS-15, step 10, of the General Schedule;"

SEC. 708. ADVOCACY STUDY OF PAPERWORK AND TAX IMPACT.

The Chief Counsel for Advocacy of the Small Business Administration shall conduct a study of the impact of all Federal regulatory paperwork and tax requirements upon small business and report its findings to the Congress within 1 year of the date of the enactment of this Act.

SEC. 709. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 31, as added by section 706 of this Act, the following:

"SEC. 32. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

"Each applicant for financial assistance under this Act, including applicants for direct loans and loan guarantees, shall certify, as a condition for receiving such assistance, that the applicant is not in violation of the terms of any administrative order, court order, or repayment agreement entered into between the applicant and the custodial parent or the State agency providing child support enforcement services which requires the applicant to pay child support, as such term is defined by section 462(b) of the Social Security Act."

Amend the title so as to read: "An Act to amend the Small Business Act, and for other purposes."

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate disagree to the House amendments, agree to the request for a conference and that the Chair be authorized to appoint conferees.

There being no objection, the Presiding Officer (Mr. BRYAN) appointed Mr. BUMPERS, Mr. NUNN, and Mr. PRESSLER conferees on the part of the Senate.

VEGETABLE INK PRINTING ACT OF 1994

Mr. METZENBAUM. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 716) to require that all Federal lithographic printing be performed using ink made from vegetable oil, 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. 716) entitled "An Act to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, 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 "Vegetable Ink Printing Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds the following:

(1) More than 95 percent of Federal printing involving documents or publications is performed using lithographic inks.

(2) Various types of oil, including petroleum and vegetable oil, are used in lithographic ink.

(3) Increasing the amount of vegetable oil used in a lithographic ink would—

(A) help reduce the Nation's use of nonrenewable energy resources;

(B) result in the use of products that are less damaging to the environment;

(C) result in a reduction of volatile organic compound emissions; and

(D) increase the use of renewable agricultural products.

(4) The technology exists to use vegetable oil in lithographic ink and, in some applications, to use lithographic ink that uses no petroleum distillates in the liquid portion of the ink.

(5) Some lithographic inks have contained vegetable oils for many years; other lithographic inks have more recently begun to use vegetable oil.

(6) According to the Government Printing Office, using vegetable oil-based ink appears to add little if any additional cost to Government printing.

(7) Use of vegetable oil-based ink in Federal Government printing should further develop—

(A) the commercial viability of vegetable oil-based ink, which could result in demand, for domestic use alone, for 2,500,000,000 pounds of vegetable crops or 500,000,000 pounds of vegetable oil; and

(B) a product that could help the United States retain or enlarge its share of the world market for vegetable oil-ink.

(b) **PURPOSE.**—The purpose of this Act is to require that all lithographic printing using ink containing oil that is performed or procured by a Federal agency shall use ink containing the maximum amounts of vegetable oil and materials derived from other renewable resources that—

(1) are technologically feasible, and

(2) result in printing costs that are competitive with printing using petroleum-based inks.

SEC. 3. FEDERAL PRINTING REQUIREMENTS.

(a) **GENERAL RULE.**—Notwithstanding any other law, and except as provided in subsection (b), a Federal agency may not perform or procure lithographic printing that uses ink containing oil if the ink contains less than the following percentage of vegetable oil:

(1) In the case of news ink, 40 percent.

(2) In the case of sheet-fed ink, 20 percent.

(3) In the case of forms ink, 20 percent.

(4) In the case of heat-set ink, 10 percent.

(b) **EXCEPTIONS.**—

(1) **EXCEPTIONS.**—Subsection (a) shall not apply to lithographic printing performed or procured by a Federal agency, if—

(A) the head of the agency determines, after consultation with the Public Printer and within the 3-year period ending on the date of the commencement of the printing or the date of that procurement, respectively, that vegetable oil-based ink is not suitable to meet specific, identified requirements of the agency related to the printing; or

(B) the Public Printer determines—

(i) within the 3-month period ending on the date of the commencement of the printing, in the case of printing of materials that are printed at intervals of less than 6 months, or

(ii) before the date of the commencement of the printing, in the case of printing of materials that are printed at intervals of 6 months or more;

that the cost of performing the printing using vegetable oil-based ink is significantly greater than the cost of performing the printing using other available ink.

(2) **NOTICE TO CONGRESS.**—Not later than 30 days after making a determination under paragraph (1)(A), the head of a Federal agency shall report the determination to the Committee on Government Operations and the Committee on House Administration of the House of Representatives, and the Committee on Rules of the Senate.

(c) **FEDERAL AGENCY DEFINED.**—In this Act, the term "Federal agency" means—

(1) an executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) an establishment or component of the legislative or judicial branch of the Government.

Mr. METZENBAUM. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio.

The motion was agreed to.

AUTHORITY OF THE SECRETARY OF AGRICULTURE TO SHIFT UNUSED FUNDS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2468, a bill to permit the Secretary of Agriculture to make available certain amounts for FmHA farm ownership, operating or emergency loans, introduced earlier today by Senators CONRAD, LEAHY, and others, that the bill be deemed read three times, passed and the motion to reconsider be laid upon the table, and that any statements relating to this legislation be placed in the RECORD at the appropriate place as if read.

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

So the bill (S. 2468) was deemed read three times and passed, as follows:

S. 2468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVAILABILITY OF AMOUNTS FOR FmHA FARM OWNERSHIP, OPERATING, OR EMERGENCY LOANS.

Notwithstanding any other provision of law, the Secretary of Agriculture—

(1) from the date of enactment of this Act until September 30, 1994, may transfer funds so as to make available—

(A) the amounts that would otherwise be available for gross obligations for the principal amount of direct farm ownership or emergency loans as authorized by sections 308 and 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1928 and 1929); and

(B) the amounts that would otherwise be available for the costs of such direct farm ownership or emergency loans (including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a));

for any gross obligations or costs of farm ownership, operating, or emergency loans or

credit sales, except that the amounts that would otherwise be available for such costs of such emergency loans may be expended only for such costs of guaranteed subsidized operating loans or credit sales; and

(2) after September 30, 1994, may not expend funds, or disburse any new loans, made available by a transfer described in paragraph (1) for fiscal year 1994.

Mr. CONRAD. Mr. President, I am introducing today, on behalf of myself and Senators LEAHY and DORGAN, a bill to allow the Secretary of Agriculture to shift unused funds from various Farmers Home Administration [FmHA] farmer programs to its direct and guaranteed operating loan programs and its credit sale programs. It is identical to an amendment offered by myself and Senators LEAHY and DORGAN that was passed by the Senate as part of the H.R. 4554, the Agriculture, Rural Development, Food and Drug Administration, and related agencies appropriation bill for fiscal year 1995.

FmHA is out of money for direct operating loans for fiscal year 1994. This shortfall is due to very high demand for the program, FmHA's renewed commitment to assisting borrowers, and interest rate changes that have reduced the amount FmHA can lend with the credit subsidy appropriated. This program has been severely cut since 1985, when actual obligations were \$3.6 billion—six times this year's levels.

There remains a very high, unmet demand for these loans. FmHA has no funds available to make approximately 3,000 direct operating loans for which it has already approved applications. In addition, more funding is needed for guaranteed operating loans because of a recent mandatory funding shift to the beginning farmer downpayment loan program, which cannot make use of all of these funds. This bill will allow FmHA to meet some of this demand.

While FmHA has some excess funds available in other programs, such as emergency loans and beginning farmer downpayment loans, it does not have the authority to shift significant amounts between accounts. This bill will give the Secretary the authority to shift these funds as needed to fund direct and guaranteed operating loans and farm ownership loans.

I urge my colleagues to support this bill.

MRS. GEORGE ALLEN CLAUSSEN, A TRUE CIVIC LEADER

Mr. COVERDELL. Mr. President, I rise today to honor Mrs. George Allen Claussen, who died on Monday, September 26, 1994. She was a great Augustan and a great Georgian.

Throughout her 70 years, Mrs. Claussen gave 100 percent of herself to the betterment of her community and to those in need. She was a true civic leader. Many will remember her for her volunteer activities with the Junior

League of Augusta, her work through the Church of the Good Shepherd, and her assistance to the Pendleton King Park Touch and Smell Garden of the Blind.

To her children, she was an inspiration. And to all of Augusta, she was a friend.

We join with her family today in mourning the passing of Mrs. Claussen. But, we share in the joy of her memory and helping hand that she lent to others.

VA, HUD, INDEPENDENT AGENCIES APPROPRIATION

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, and as chairman of the Commerce Subcommittee on Science, Technology and Space, I want to comment on the conference report on H.R. 4624, the fiscal year 1995 Departments of Veterans Affairs and Housing and Urban Development, and independent agencies appropriation bill.

Mr. President, I commend the chairs of the respective House and Senate Appropriations Committees and the other conferees who reached the agreement reflected in this conference report.

And once again, I especially commend Senator MIKULSKI, Chair of the VA-HUD-Independent Agencies Subcommittee for her valiant leadership throughout this process. Thanks to her dedication and acumen, the subcommittee succeeded in making the tough funding choices that were required of them this year, and we now will enact a package that strikes a good and fair balance among programs for veterans, science, housing, and the other important areas covered in this legislation.

I believe America's veterans can feel pleased and grateful towards the fiscal year 1995 appropriations that was secured in this conference agreement for the Department of Veterans Affairs. Despite a particularly difficult budget situation, this conference report addresses many of the VA's highest priority funding needs, programs that truly deserve our support so that we may continue to seek to meet the needs of our Nation's veterans and their dependents and survivors.

Mr. President, I specifically recognize that the conference agreement provides \$252 million for VA medical research. This amount is \$41 million above the amount requested by the administration and allows the funding for research to remain at the fiscal year 1994 level. While this appropriation will not support any new research initiatives, it will salvage some 400 ongoing research projects, covering such critical problems as Alzheimer's disease, AIDS, and alcoholism.

Mr. President, I note with enormous gratitude that the conference report includes many of the specific requests

made by the Senate Committee on Veterans' Affairs concerning the funding of particular items in the medical care account. For a number of medical care programs, the conference report provides additional amounts above the administration's budget request. Specifically, the final agreement provides for increased funding above the amounts requested by the administration for the following purposes: To enhance medical care for women veterans; to increase funding for programs for homeless veterans; to increase funding for blind rehabilitation services; and to support the installation of bedside telephone systems in VA hospitals.

Mr. President, I continue to be concerned about funding for homeless veterans programs. While I am pleased with the increase in the conference agreement of \$10 million above the administration's request, this amount is disproportionately low in relation to overall Federal funding for homeless programs. Veterans represent over one-third of our Nation's homeless population. I certainly am encouraged by the appropriation for VA homeless programs; that funding will allow VA to continue its endeavors to meet the needs of homeless veterans through its own programs. However, I again strongly urge HUD to direct an appropriate level of funding to homeless veterans programs.

Mr. President, the conference agreement's appropriation for VA's general operating expense account is highly commendable as well. The administration proposed cutting 622 full-time employee equivalents from the Veterans Benefits Administration at a time when the Department faces a claims backlog of well over 500,000 pending claims. As I have heard repeatedly from veterans in my own State of West Virginia and around the country, the current situation in the adjudication system is appalling. This cut in staffing not only would hinder VBA's efforts to reduce the backlog, it would likely make an already devastating situation even worse.

The House and Senate conferees clearly recognized the importance of the adjudication process and have appropriated an additional \$16.5 million for additional staffing to help reduce the claims backlog. The conference agreement also provides an additional \$1.6 million specifically to address the backlog of vocational rehabilitation and counseling claims.

The claims adjudication process is a primary function of VA. VA desperately needs adequate funding and staffing to fulfill its obligation to provide all benefits to which veterans are entitled in a timely and efficient manner. While the additional funding will by no means solve the backlog problem, it certainly will help to avoid the situation becoming worse, and perhaps even to begin to alleviate it.

I also note with pleasure that the conference agreement appropriates additional funding for major construction projects. Under the administration's request, VA construction was dealt a significant blow and would have sustained a cut of \$254 million, or 53 percent, from the fiscal year 1994 level. The conference agreement appropriates \$252.9 million above the administration's budget request, almost returning the funding level to that for fiscal year 1994.

Finally, with respect to VA appropriations, I acknowledge that the conference agreement provides an additional \$10 million for grants for the construction of State extended-care facilities. This amount will allow the State home construction program to keep pace with the long-term care needs of veterans. In addition, this funding level will avert a severe backup of projects in those States that are ready to proceed with the acquisition and construction of State extended-care facilities.

Mr. President, as a last note, I express my strong support for the conferees' action to fund the Court of Veterans Appeals Pro Bono Representation Program at a level of \$790,000, the amount requested by the Court. This program is of vital importance to our Nation's veterans. It has been extremely successful in securing pro bono representation for veterans appearing before the Court of Veterans Appeals.

I also support this conference report for its investments in science policy, specifically the National Science Foundation [NSF]. On NASA, I believe that we have found a proper balance of funding to maintain our preeminence in air and space, while insisting that NASA target its efforts more carefully with a stronger emphasis on technology. An example of this commitment to competitiveness is the appropriation for two new American wind tunnels. The lack of modern testing facilities for new aircraft has forced U.S. manufacturers like Boeing to go to Europe for testing of their latest designs. In doing so, we fear that the data of their newest ideas may be compromised. The construction of these tunnels on American soil will assure that our aeronautics industry remains first in the world. As chairman of NASA's authorizing subcommittee with a focus on the science and technology policy, I want to note my strong interest in the wind tunnel initiative and intention to promote the best possible results.

It also has been my privilege to work closely with the distinguished chair on science issues, including a historic effort to jointly sponsor the NSF reauthorization legislation along with Senator KENNEDY who chairs the Senate Labor Committee and shares oversight responsibility of NSF. Such cooperation among committees of jurisdiction and appropriations can forge a strate-

gic plan for investment and development in the critical areas of science and technology, which will play an increasingly important role in our country's future competitiveness.

As a former VISTA worker and a proud cosponsor of President Clinton's National and Community Service Act, I appreciate the efforts to secure as much funding for this program as possible. I was in West Virginia just a few short weeks ago to participate in the program to swear in the first group of AmeriCorp members. This event brought back a flood of personal memories of my own experiences in Emmons, WV, as a VISTA worker about 30 years ago. I know firsthand the importance and lasting effect that community service has on both participants and those they serve, and I believe strongly in this initiative.

While I was not as involved in the efforts on programs in the Department of Housing and Urban Development or the Environmental Protection Agency, they are enormously important for West Virginia and our country.

Mr. President, I applaud the House and Senate Appropriations Subcommittees and full committees for their fine work on the extremely arduous task of crafting this measure under such tight fiscal constraints. This has been a particularly difficult year, filled with tough fiscal choices, and I do not envy the decision process they faced. To the credit of many, the result is a responsive, solid final agreement affecting VA and other agencies. With the necessary leadership and management that we ask of VA, I am confident that in the most critical program areas—medical care, medical research, and claims adjudication—VA will be able to continue fulfilling its many important responsibilities to our Nation's veterans.

And again, I express my deepest gratitude to my esteemed colleague, Senator MIKULSKI, the chair of the Senate VA-HUD Subcommittee, for her continued efforts with respect to veterans' programs. I truly appreciate the extraordinary spirit of cooperation between our respective committees during the appropriations process and throughout the year. Consistently over the years, Senator MIKULSKI has shown strong, unwavering support for veterans and their families, for continued progress in science and space, and for America's housing needs. This year has proven to be no exception, as has been so clearly exhibited by her efforts in reaching this final agreement.

REPORT OF RELATED DOCUMENTS TO IMPLEMENT AGREEMENTS RESULTING FROM THE GENERAL AGREEMENT ON TARIFFS AND TRADE URUGUAY ROUND—MESSAGE FROM THE PRESIDENT—PM 147

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 Finance.

To the Congress of the United States:

I am pleased to transmit legislation and a number of related documents to implement agreements resulting from the General Agreement on Tariffs and Trade (GATT) Uruguay Round of multilateral trade negotiations. The Uruguay Round Agreements are the broadest, most comprehensive trade agreements in history. They are vital to our national interest and to economic growth, job creation, and an improved standard of living for all Americans.

When fully implemented, the Uruguay Round Agreements will add \$100-\$200 billion to the U.S. economy each year and create hundreds of thousands of new, well-paying American jobs. They provide for a reduction in worldwide tariffs of \$744 billion, the largest global tax cut in history.

The United States will be the biggest winner from the Uruguay Round Agreements. We are the world's largest trading nation with the world's most dynamic economy. In 1993, the United States exported \$660 billion in goods and services, accounting for more than 10 percent of the U.S. GDP.

These agreements are the result of bipartisan cooperation and reflect the consensus supporting market-opening trade policies that the United States has enjoyed for decades. The Uruguay Round was launched by President Reagan, continued by President Bush, and concluded by this Administration. Each Administration consulted with the Congress and welcomed congressional participation and guidance throughout the negotiations. Similarly, this Administration has worked closely with the Congress to ensure that the implementing legislation that I am now forwarding enjoys broad bipartisan support.

The United States has led the world on a path of open markets, freer trade, and economic growth. Now we must lead the way in implementing these agreements. The leaders of every major industrialized nation have pledged to take action so that the Uruguay Round Agreements can be implemented by January 1, 1995. Any delay on our part would send a negative signal to our trading partners at a time when their economies are just beginning to recover.

Our economic recovery is now fully underway. As the economies in Europe

and Japan begin again to grow, we must be positioned to reap the benefits of their expansion. As a result of the Uruguay Round Agreements, our major trading partners in Europe and Asia will cut their tariffs to historic lows.

The Asian Pacific economies are the fastest growing economies in the world and are currently the largest market for U.S. exports. United States exports to Latin America, the second fastest growing region in the world, have grown 60 percent since 1989. The Uruguay Round Agreements will ensure that these fast-growing markets will be open to international competition and that all of our trading partners will play by international trading rules.

The Uruguay Round Agreements enjoy very broad and deep support in the United States. Forty of our Nation's governors, numerous eminent economists, and the vast majority of U.S. industrial, agricultural, and services firms support the agreements, as do an array of former Presidents, Secretaries of State, Secretaries of the Treasury, and U.S. Trade Representatives.

Americans are at their best when they face the challenges of their time. Our predecessors did so after World War II when they created a new international trading system that guided global growth for 50 years. Now we must do the same to foster sustained prosperity for the decades to come.

The end of the Cold War and the rise of the global economy have created new challenges and new opportunities. Implementation of the Uruguay Round Agreements will ensure that we rise to the challenges of this new era and lead the world on a path of prosperity.

WILLIAM J. CLINTON.

THE WHITE HOUSE, September 27, 1994.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on September 27, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 2182. An Act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

H.R. 2144. An Act to provide for the transfer of excess land to the Government of Guam, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4008. An Act to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal years 1995 and 1996, and for other purposes.

H.R. 4448. An Act to amend the Act establishing Lowell National Historical Park, and for other purposes.

MESSAGES FROM THE HOUSE

At 2:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4539) A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

At 4:24 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 bill, in which it requests the concurrence of the Senate:

H.R. 5060. An Act to provide for the continuation of certain fee collections for the expenses of the Securities and Exchange Commission for fiscal year 1995.

MEASURES PLACED ON THE CALENDAR

The following bill, was read the first and second times by unanimous consent, and placed on the calendar pursuant to the order of September 27, 1994:

H.R. 4008. An Act to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal years 1995 and 1996, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-635. A concurrent resolution adopted by the Legislature of the State of Mississippi; to the Committee on Armed Services.

“HOUSE CONCURRENT RESOLUTION 13

“Whereas, the smuggling of drugs into the United States is a multi-billion dollar business which destroys numerous lives and has created a plague on our society; and

“Whereas, by using military force the flow of drugs could be drastically reduced and hopefully halted; and

“Whereas, a drug free United States would result in a nation with less crime and would remove the fear of crime which is so prevalent among law abiding citizens; and

“Whereas, drug abuse destroys the fabric of our proud heritage as citizens of the greatest nation in the world; and

"Whereas, it is the policy of this Legislature to make every effort to make our nation a safe and prosperous place for all of our citizens; Now, therefore, be it

Resolved by the House of Representatives of the State of Mississippi, the Senate concurring therein, That we do hereby memorialize the United States Congress to use all available military forces to stop the flow of illegal drugs into the United States; and be it further

Resolved, That copies of this resolution be furnished to the President of the United States Senate, the Speaker of the United States House of Representatives, the Mississippi Congressional Delegation and to the members of the Capitol Press Corps."

POM-636. A resolution adopted by the Legislature of Rockland County, New York relative to the Sterling Forest; to the Committee on Energy and Natural Resources.

POM-637. A resolution adopted by the Municipal Assembly of the City of Aquadilla, Puerto Rico relative to the election of President and Vice President of the United States; to the Committee on Energy and Natural Resources.

POM-638. A resolution adopted by the House of the Legislature of the Commonwealth of Massachusetts; to the Committee on Environment and Public Works.

"RESOLUTION

"Whereas, the communities serviced by the south Essex Sewerage District are faced with meeting the Federal requirements of the Clean Water Act in the construction of a new sewerage treatment facility at a cost of two hundred and sixty million dollars; and

"Whereas, the cost of the project is so overwhelming that there has been a tremendous burden placed on the local ratepayers causing wholesale sewer user charges in the south Essex Sewerage District to triple and communities throughout the commonwealth of Massachusetts are now, or soon will be faced with similar unfunded clean water mandates; and

"Whereas, the new State revolving fund formula contained in the United States Senate bill, S. 2093, properly adopts and undated needs assessment formula which recognizes the changing national priorities in the construction of their important wastewater facilities, including the financial impact of the south Essex Sewerage District project on the communities served by the south Essex sewerage district, as well as other Massachusetts communities faced with similar burdens: Therefore be it

Resolved, That the Massachusetts House of Representatives urges the Congress of the United States to take all actions necessary to ensure the reauthorization of the Clean Water Act in 1994, and to ensure that the south Essex Sewerage District and other communities receive their fair share of funding to offset the cost of Federal clean water projects; and be it further

Resolved, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the presiding officer of each branch of Congress and to the Members thereof from this commonwealth.

POM-639. A resolution adopted by the Legislature of Schuyler County, New York relative to the Uruguay Round of the General Agreement on Tariffs and Trade; to the Committee on Finance.

POM-640. A resolution adopted by the General Assembly of the Presbyterian Church relative to the United Nations International Conference on Population and Development; to the Committee on Foreign Relations.

POM-641. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Foreign Relations.

"Whereas, for Fiscal Year 1994, the Congress of the United States enacted \$12.7 billion in federal foreign aid; and

"Whereas, in the case *Hope Medical Group for Women v. Edwards* the United States District Court, Eastern District of Louisiana has enjoined the state from enforcing R.S. 40:1299.34.5, insofar as it prohibits state funding for abortions to terminate pregnancies resulting from acts of rape or incest, while at the same time accepting Medicaid funds; and

"Whereas, irregardless of Louisiana's participation in the Medicaid program, the citizens and taxpayers of Louisiana would still continue to pay taxes to support both the Medicaid program and, directly or indirectly, the costs of medical treatment for citizens in foreign nations: Therefore be it

Resolved That the Legislature of Louisiana does hereby memorialize the Congress of the United States and in particular the members of the Louisiana congressional delegation to withhold all foreign aid if Medicaid funds are withheld from Louisiana citizens; and be it further

Resolved That copies of this Resolution be transmitted to the secretary of the United States Senate, the clerk of the United States House of Representatives, and to each member of the Louisiana congressional delegation."

POM-642. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Governmental Affairs.

"HOUSE CONCURRENT RESOLUTION 126

"Whereas, in 1995, Texans will commemorate the 150th anniversary of Texas' admission to the union with great pride and patriotic celebrations, paying homage both to statehood and to the unique history and bold traditions that are our heritage; and

"Whereas, Texas was founded by pioneers who were willing to endure any hardship and accept any challenge, for they believed that the fight for freedom was a noble and just cause; after winning their freedom in 1836, these settlers established the Republic of Texas, thus making Texas the only state in this country to exist for nearly a decade as a free and independent nation; and

"Whereas, Texas joined the union in 1845 as the 26th state, and as part of the annexation agreement, the United States included several unique terms for statehood; Texas entered the union as a state, not a territory, was the only state allowed to retain its public domain, and preserved a right to subdivide into additional states; and

"Whereas, Texans wisely chose to keep the Lone Star State intact, however, and in doing so, they ensured that future generations would enjoy a land of immense beauty and contrast; the rugged terrain offers more geographic diversity than many nations, and from the mountains of West Texas to the lush Gulf Coast, from the arid plains of the Panhandle to the fertile Rio Grande Valley, Texas provides a sweeping panorama of the American landscape in all its many forms; and

"Whereas, Similarly, the people of Texas represent a blend of cultures and ethnicities; combining the food, traditions, and languages of Mexico, Spain, Germany, France, and Sweden, as well as many other nations, Texans forged a unique bond and created a distinct culture that celebrates the diversity of its people; and

"Whereas, For many Americans, Texas remains the last frontier, a place where wide

open spaces and the Alamo echo the spirit and adventure of the past, while microchip industries and NASA headquarters herald the promise of the future; the spirit of Texas encompasses those values that Americans hold most dear, such as honor, integrity, courage, and liberty; and

"Whereas, As Texans mark 150 years of statehood, they will celebrate this event with much pride and joy throughout the Lone Star State; the good people of Texas invite all Americans to join in commemorating a century and a half of Texas history and culture, for this auspicious event is of national as well as statewide significance: Now, therefore, be it

Resolved, That the 73rd Legislature of the State of Texas, Regular Session, 1993, hereby request the United States Postal Service to issue a commemorative postage stamp during 1995 in recognition of Texas' 150 years of statehood; and, be it further

Resolved, That the Texas secretary of state forward an official copy of this resolution to the postmaster general as an expression of the sentiment of the Texas Legislature."

POM-643. A concurrent resolution adopted by the Legislature of the State of Utah; to the Committee on Governmental Affairs.

"SENATE CONCURRENT RESOLUTION 1

"Whereas the Tenth Amendment to the Constitution of the United States, part of the original Bill of Rights, reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people";

"Whereas it is the sense of the Legislature of the state of Utah and the Governor, acting on behalf of the people of the state of Utah, that the Tenth Amendment was intended to be a substantive limit on the power of the federal government over the states and that it should be so applied by the state and federal courts in deciding questions concerning the exercise of federal authority over the states;

"Whereas the plain meaning of this important constitutional provision has been abrogated by the United States Supreme Court in the two recent decisions of *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 1985 and *South Carolina v. Baker*, 108 S. Ct. 1355 (1988), wherein the high court held that the limits of the Tenth Amendment are structural rather than substantive, thus inviting further federal preemption of state authority;

"Whereas the states, in light of the rulings discussed above, must look to Congress rather than to the courts for protection from further federal regulation and intrusion into the power previously recognized by the courts as being specifically reserved to the states by the Constitution; and

"Whereas the President of the United States and the Congress should be urged to protect and strengthen the position of the states of our republic, to avoid further intrusion by the federal government upon state prerogatives, and to afford greater protection to the governing authorities of the states: Now, therefore, be it

Resolved, That the Legislature of the state of Utah, the Governor concurring therein, urge the President of the United States and the Congress to reaffirm the powers originally granted to the states by the Tenth Amendment to the U.S. Constitution, to protect and strengthen the position of the states in this republic, to avoid further intrusion by the federal government upon

state prerogatives, and to afford greater constitutional and statutory autonomy to the governing authorities of the states; and be it further

"Resolved, That copies of this resolution be sent to the President of the United States, the Speaker of the United States House of Representatives, the majority and minority leaders of the United States Senate and the members of the Utah Congressional delegation."

POM-644. A joint resolution adopted by the Legislature of the State of Utah; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION 24

"Whereas Congress was originally envisioned by the founding fathers as a non-partisan, part-time legislative body whose members would take time from their normal businesses and professions to attend the congressional session for four to five months annually;

"Whereas the press of the nation's business has forced the Congress to become increasingly a highly structured, professional, and hierarchical institution rather than an informal, flexible gathering of citizens and legal intellects that obtained in the federalist era;

"Whereas the power of the incumbency has grown over time and, with the institution of electronic media, to the point that the incumbent is nearly unassailable in any normal election;

"Whereas the seniority system in the Congress, though recently reformed, still places disproportionate stress on electoral longevity;

"Whereas innovative ideas and rejuvenated vigor are more likely to come to the Congress through new members fresh from association with the American people;

"Whereas the most common complaint that the public makes about congressional service is that congressmen spend more of their time running for office than attending their duties;

"Whereas the power of incumbency makes biennial congressional elections an expensive, exasperating, and ultimately rather meaningless waste of each congressman's time and talents; and

"Whereas under Article V of the Constitution of the United States, an amendment to the Constitution may be proposed by Congress, which shall become part of the Constitution when ratified by three-fourths of the several states: Now, therefore, be it

"Resolved by the Legislature of the State of Utah, That the Congress of the United States is hereby petitioned to propose an amendment to the Constitution of the United States, for submission to the states for ratification, to limit the number of terms a person may serve in the United States House of Representatives to no more than six and to limit the number of terms a person may serve in the United States Senate to no more than two; and be it further

"Resolved, That this application by this Legislature constitutes a continuing application in accordance with Article V of the Constitution of the United States until the Congress has proposed an amendment to the Constitution of the United States similar in subject matter to that contained in this Joint Resolution; and be it further

"Resolved, That certified copies of this resolution be transmitted to the president and the secretary of the United States Senate, to the speaker and the clerk of the United States House of Representatives, to each member of this state's delegation to the Congress, and to the presiding officer of each

house of each state legislature in the United States."

POM-645. A concurrent resolution adopted by the Legislature of the State of Utah; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 3

"Whereas the U.S. Supreme Court decision legalizing the burning of the American flag as a form of symbolic political speech poses a threat to the ideals the flag represents;

"Whereas Americans hold the flag in high respect because it is a symbol of the many freedoms made available to us through our democratic system of government, and stands as a reminder of the men and women who fought and died to protect these freedoms;

"Whereas in the words of the President, 'Flag burning is wrong, dead wrong, the flag is very special to all loyal Americans';

"Whereas in the words of the National Commander of the American Legion, 'Many a Gold Star mother cherishes the carefully folded triangular bundle of red, white, and blue as the closest link to a fallen hero son';

"Whereas Americans in Utah and throughout this great land should not stand silent on this issue, but should let our voice be heard until our elected leaders constitutionally protect the American flag; and

"Whereas many members of Congress give bipartisan support to a constitutional amendment designed to make illegal the physical desecration of the American flag as a form of protected symbolic political speech: Now, therefore, be it

"Resolved, That the Legislature of the state of Utah, the Governor concurring therein, strongly urges Utah's congressional delegation to support a constitutional amendment forbidding the physical desecration of the flag as a form of protected symbolic political speech; and be it further

"Resolved, That copies of this resolution be sent to President Bush, the leadership of the United States Congress, and Utah's congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, with an amendment and an amendment to the title:

S. 2094. A bill to make permanent the authority of the Secretary of Veterans Affairs to approve basic educational assistance for flight training (Rept. No. 103-384).

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2325. A bill to amend certain laws under the jurisdiction of the Secretary of Veterans Affairs to reauthorize programs relating to substance abuse and homeless assistance for veterans, to authorize a demonstration program to provide assistance to homeless veterans, and for other purposes (Rept. No. 103-385).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 457. A bill to provide for the conveyance of lands to certain individuals in Butte County, California.

H.R. 1716. A bill to amend the Act of January 26, 1915, establishing Rocky Mountain National Park, to provide for the protection of certain lands in Rocky Mountain National Park and along North St. Vrain Creek, and for other purposes.

H.R. 2620. A bill to authorize the Secretary of the Interior to acquire certain lands in California through an exchange pursuant to the Federal Land Policy and Management Act of 1976.

H.R. 3050. A bill to expand the boundaries of the Red Rock Canyon National Conservation Area.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 3252. A bill to provide for the conservation, management, or study of certain rivers, parks, trails, and historic sites, and for other purposes.

H.R. 3498. A bill to establish the Great Falls Historic District, and for other purposes.

H.R. 3708. A bill to reform the operation, maintenance, and development of the Steamtown National Historic Site, and for other purposes.

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 4543. A bill to designate the United States courthouse to be constructed at 907 Richland Street in Columbia, South Carolina, as the "Matthew J. Perry, Jr. United States Courthouse".

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 112. A bill to establish the Hudson River Artists National Historical Park in the State of New York, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 471. A bill to establish a new area study process for proposed additions to the National Park System, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1222. A bill to revise the boundaries of the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, and for other purposes.

S. 1324. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1683. A bill to authorize the Secretary of the Interior to provide funds to the Palisades Interstate Park Commission for acquisition of land in the Sterling Forest area of the New York/New Jersey Highlands Region, and for other purposes.

S. 1726. A bill to provide for a competition to select the architectural plans for a museum to be built on the East Saint Louis portion of the Jefferson National Expansion Memorial, and for other purposes.

S. 1998. A bill to provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, and for other purposes.

S. 2001. A bill to improve the administration of the Women's Rights National Historical Park in the State of New York, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 2064. A bill to expand the boundary of the Weir Farm National Historic Site in the State of Connecticut.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2078. A bill to amend the National Trails System Act to designate the Old Spanish Trail and the Northern Branch of the Old Spanish Trail for potential inclusion into the National Trails System, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2121. A bill to promote entrepreneurial management of the National Park Service, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2234. A bill to amend the Mississippi River Corridor Study Commission Act of 1989 to extend the term of the commission established under that Act.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 2249. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes.

S. 2303. A bill to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes.

By Mr. BAUCUS, from the Committee on Environment and Public Works, with amendments and an amendment to the title:

S. 2395. A bill to designate the United States Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and Courthouse", and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment and with a preamble:

S.J. Res. 217. A joint resolution to approve the location of a World War II Memorial.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The United States Army National Guard officers named herein for appointment in the Reserve of the Army of the United States in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

To be major general

Brig. Gen. William E. Murphy, 455-48-5860.

To be brigadier general

Col. Darrel P. Baker, 462-64-3645.

The following-named officer for appointment in the Reserve of the Army of the United States in the grade indicated below, under the provisions of title 10, United States Code, sections 593, 3385, and 3392:

To be brigadier general

Federico Lopez III, 458-70-0744.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Richard M. Scofield, 026-28-8454, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Edward P. Barry, Jr., 029-30-0308, U.S. Air Force.

The following-named officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of title 10, United States Code, section 624:

To be brigadier general

Col. Claude M. Bolton, Jr., 505-58-5880, Regular Air Force.

The following-named officer for appointment in the Reserve of the Army of the United States in the grade indicated below, under the provisions of title 10, United States Code, sections 593, 3385, and 3392:

To be brigadier general

Col. Wayne D. Marty, 458-66-9856.

The following-named officers for appointment in the U.S. Air Force to the grade of major general under the provisions of title 10, United States Code, section 624:

To be major general

Brig. Gen. Jerrold P. Allen, 009-30-6342, Regular Air Force.

Brig. Gen. Allen D. Bunger, 430-80-3653, Regular Air Force.

Brig. Gen. Stewart E. Cranston, 265-70-8502, Regular Air Force.

Brig. Gen. Robert S. Dickman, 150-34-8510, Regular Air Force.

Brig. Gen. William J. Donahue, 401-58-3904, Regular Air Force.

Brig. Gen. Robert W. Drewes, 060-34-6657, Regular Air Force.

Brig. Gen. Patrick K. Gamble, 533-44-2878, Regular Air Force.

Brig. Gen. Francis C. Gideon, Jr., 284-40-8826, Regular Air Force.

Brig. Gen. Edward F. Grillo, Jr., 265-80-7008, Regular Air Force.

Brig. Gen. John W. Handy, 241-68-5379, Regular Air Force.

Brig. Gen. Charles R. Heflebower, 467-68-8234, Regular Air Force.

Brig. Gen. Henry M. Hobgood, 243-72-9213, Regular Air Force.

Brig. Gen. Hal M. Hornburg, 455-72-6836, Regular Air Force.

Brig. Gen. Normand G. Lezy, 035-26-0318, Regular Air Force.

Brig. Gen. Donald E. Loranger, Jr., 517-46-2623, Regular Air Force.

Brig. Gen. John M. McBroom, 223-58-8526, Regular Air Force.

Brig. Gen. George K. Muellner, 340-36-4452, Regular Air Force.

Brig. Gen. Robert F. Raggio, 564-58-7255, Regular Air Force.

Brig. Gen. John B. Sams, Jr., 252-70-6470, Regular Air Force.

Brig. Gen. Michael C. Short, 522-58-9016, Regular Air Force.

Brig. Gen. Rondal H. Smith, 413-72-4443, Regular Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Buster C. Glosson¹, 240-64-4340, U.S. Air Force.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, for the Committee on Armed Services, I report favorably the attached listing of nominations.

¹(Together with minority views) (Exec. Rept. 103-34).

Those identified with a single asterisk [*] are to be placed on the Executive Calendar. Those identified with a double asterisk [**] are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD of January 5, 1993, June 8, July 27, and September 19, 1994, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 5, 1993, June 8, July 27, and September 19, 1994, at the end of the Senate proceedings.)

**In the Army Reserve there are 5 promotions to the grade of colonel (list begins with George D. Baxter) (Reference No. 38-2).

*In the Air Force there is 1 appointment to the grade of brigadier general (Claude M. Bolton, Jr.) (Reference No. 48-5).

*In the Army Reserve there are 2 appointments to the grade of major general and below (list begins with William B. Murphy) (Reference No. 60-2).

*Lieutenant General Edward P. Barry, Jr., USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 811).

*Major General Richard M. Scofield, USAF to be lieutenant general (Reference No. 823).

*In the Air Force there are 21 appointments to the grade of major general (list begins with Jerrold P. Allen) (Reference No. 1104).

**In the Army Reserve there are 8 promotions to the grade of colonel and below (list begins with George R. Allen) (Reference No. 1461).

**In the Army Reserve there are 45 promotions to the grade of lieutenant colonel (list begins with Richard W. Attwood) (Reference No. 1609).

*In the Army Reserve there is 1 appointment to the grade of brigadier general (Federico Lopez III) (Reference No. 1622).

*Colonel Wayne D. Marty, USAF to be brigadier general (Reference No. 1623).

**In the Navy there are 1,657 promotions to the grade of lieutenant commander (list begins with Thor D. Aakre) (Reference No. 1785).

Total: 1,743.

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 103-24 Treaty Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Exec. Rept. 103-32).

Treaty Doc. 103-26 The International Labor Conference Convention No. 150 Concerning Labor Administration (Exec. Rept. 103-33).

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. GLENN (for himself, Mr. DORGAN, Mr. ROTH, Mr. LEVIN, Mr. DECONCINI, Mr. LIEBERMAN, and Mr. STEVENS):

S. 2463. A bill to provide, in accordance with the Federal Advisory Committee Act, for the repeal of advisory committees no longer carrying out the purposes for which they were established; to the Committee on Governmental Affairs.

By Mr. WOFFORD:

S. 2464. A bill entitled the "Congressional Health Insurance Accountability Act"; to the Committee on Governmental Affairs.

By Ms. MOSELEY-BRAUN (for herself, Mr. CHAFEE, Mr. SIMON, and Mr. PELL):

S. 2465. A bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JOHNSTON (for himself and Mr. WALLOP):

S. 2466. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, and Mr. PACKWOOD) (by request):

S. 2467. A bill to approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations; to the Committee on the Judiciary, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Finance, the Committee on Governmental Affairs, and the Committee on Labor and Human Resources jointly, pursuant to the order of 19 U.S.C. 2191(c)(1).

By Mr. CONRAD (for himself, Mr. LEAHY, Mr. DORGAN, and Mr. BUMPERS):

S. 2468. A bill to permit the Secretary of Agriculture to make available certain amounts for FmHA farm ownership, operating, or emergency loans, and for other purposes; considered and passed.

By Mr. FORD:

S. 2469. A bill to amend Title XI of the Energy Policy Act of 1992 to provide for the economic and environmentally acceptable disposal of low-level radioactive waste and mixed waste resulting from the operation of gaseous diffusion plants at Paducah, Kentucky and Piketown, Ohio, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG:

S.J. Res. 222. A joint resolution to designate October 19, 1994, as "Mercy Otis Warren Day", and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. SIMON, Mr. MACK, Mr. BAUCUS, Mr. LEAHY, Mr. D'AMATO, Mr. COCHRAN, Mr. DECONCINI, Mr. BRADLEY, Mr. MOYNIHAN, Mr. GLENN, Mr. WOFFORD, Mr. BIDEN, Mr. CHAFEE, Mr. DODD, Mr. LAUTENBERG, Mr. INOUE, Mr. KERRY, Mr. ROTH, Mr. THURMOND, Mr. PELL, Mr. WARNER, Mr. DURENBERGER, Mrs. BOXER, Mr. SARBANES, Mr. JOHNSTON, Mr. DORGAN, Mr. JEFFORDS, Mr. METZENBAUM, Mr. RIEGLE, Mr. HEFLIN, Mr. MITCHELL, Mr. PACKWOOD, Mr. GRASSLEY, Mr. SPECTER, Mr. DOLE, Mr. LOTT, Mr. MURKOWSKI, Mr. COHEN, Mr. BENNETT, Mr. BOND, Mr. STEVENS, Mr. HELMS, Mr. MCCAIN, Mr. SASSER, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. LEVIN, Mr. AKAKA, Mr. FORD, and Mr. WELLSTONE):

S.J. Res. 223. A joint resolution to designate March 1995 and March 1996 as "Irish-

American Heritage Month"; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. SARBANES, Mr. PELL, Mr. REID, Mr. WOFFORD, Mr. MATHEWS, Mr. BINGAMAN, and Mr. KENNEDY):

S.J. Res. 224. A joint resolution designating November 1, 1994, as "National Family Literacy Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 269. A resolution to amend Senate Resolution 75, 103d Congress, relating to the Jacob Javits Senate Fellowship Program; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GLENN (for himself, Mr. DORGAN, Mr. ROTH, Mr. LEVIN, Mr. DECONCINI, Mr. LIEBERMAN, and Mr. STEVENS):

S. 2463. A bill to provide, in accordance with the Federal Advisory Committee Act, for the repeal of advisory committees no longer carrying out the purposes for which they were established; to the Committee on Governmental Affairs.

THE ADVISORY COMMITTEE TERMINATION ACT OF 1994

• Mr. GLENN. Mr. President, today I am pleased to introduce legislation, proposed by the administration, to give us a start in whittling down the numbers of Federal advisory committees, particularly those created by Congress. This follows significant efforts on the parts of the President and Vice President to eliminate over 280 other advisory committees.

When President Clinton took office, there were over 1,200 such advisory committees, costing at least \$140 million per year. Of that number, there were approximately 800 such committees of a discretionary nature, which are those created by the President directly or, pursuant to general authorization, through heads of executive level agencies. Another 400 advisory committees can be termed as statutory in nature, owing their existence solely to Congress through specific statutory authorization.

I was pleased that one of President Clinton's first acts was to issue an executive order mandating a one-third cut in the numbers of the so-called discretionary advisory committees. Earlier this year—after detailed review and evaluation by Federal agencies, the Committee Management Secretariat of the General Services Administration [GSA], and the Office of Management and Budget [OMB]—the President announced he had exceeded his original

target by terminating 284 of these committees, with approximate savings of \$17 million.

I do not mean to disparage the work of these committees or the efforts of the many qualified individuals who have served on them. I do hope they have fulfilled the purpose for which they were created in exemplary fashion. But I ask you, Mr. President, is anyone in America going to lose sleep over the fact that the National Commission on Sleep Disorders has been put to bed? Or what about the 1610/2483 Mhz Negotiated Rulemaking Committee. Will their frequency be missed? It would seem that the National Advisory Committee on Publications Subvention has had their existence subverted.

I could cite many more, but I use these as examples, not to belittle. The point being that, once these entities are created, they invariably take on a life of their own. It is probably easier to skate across Lake Erie in the dead of winter than it is to keep these numbers under control.

That is not to say that advisory committees, if used properly and judiciously, do not play an important role in our Government. They do. It is an opportunity for us—and more importantly, Government officials—to hear some common sense directly from private citizens, consumers, businesses, industry, and scientific experts alike. Some would say we could always use more of that here. If these advisory committees are created for a limited duration and an explicit purpose, say a report to make recommendations on an issue of public policy, they can bring sound advice at a relatively cheap cost.

But what sometimes happens, is that once these committees get going they don't want to stop. Like weeds, they can proliferate. We need to be able to rake them in once in a while. But to do that—and this is where I give credit to the administration—requires much time and effort. For who sits on these boards? In some cases, the privilege of serving becomes a form of patronage to be dispensed. Who do they represent? While oftentimes there is a broad spectrum of interests, in other cases it can be very narrow and specialized. For those groups, it becomes their channel of communication or participation with an agency. So one can see how hard it is, politically speaking, to try and cut these committees. Frankly, there is more to gain by just going along than there is to take a whack at them. Why make an enemy if you can help it?

Which brings me to the legislation I, and a number of my colleagues—particularly members of the Governmental Affairs Committee—are introducing here today. Previously, I had stated that there were some 400 advisory committees created by Congress. That, unfortunately, is the fastest growing segment in this ballpark. Just

a few years ago, there were only half as many.

Now under the Federal Advisory Committee Act [FACA], there are some provisions which help constrain the growth of advisory committees by making them subject to periodic rechartering and general reviews of their performance. While that is still not perfect—and more teeth need to be put in—at least it is a start. On the other hand, many of the advisory committees created by Congress are not subject to these limitations. Oftentimes, they are exempted. Meaning, that their life—and purpose—are limitless. Further, for the ones which are reviewed periodically, there is always some hesitation on the part of the agency doing the reviewing to recommend their termination. Again, it is politically more expedient.

Which gets me to the point of why we in Congress establish such advisory committees. In some cases, we create them to defer consideration of a particularly contentious issue. In others, we are looking for more guidance and advice from private citizens in the real world. Still more come into existence as the result of agreements made on the floor as compromises in return for not offering time-consuming or delaying amendments to pending legislation.

Again, I certainly do not cast any aspersions on those advisory groups we have created. But the point is: Once they have been statutorily created, it takes an act of Congress to terminate them. That is the bill I am introducing here today.

In the administration's review pursuant to President Clinton's Executive Order 31, congressionally created advisory committees were recommended for elimination and for which we need to pass legislation to do it. Again, it is the agencies themselves which have come up with this list recommending for termination committees whose mandate has been fulfilled, their usefulness outlived, or their duties better performed elsewhere. Each one has a reason of justification.

The estimated savings are not huge. Only \$2.4 million. Even more importantly, however, is the fact it shows we in Congress can do something to cut the numbers of Government boards and commissions. Again, it is only a start. I know we can do better. In fact, I note that the Vice President has again directed all agencies to come up with further reductions and savings. Moreover, he has indicated that the administration will not support new advisory committees unless an existing one is terminated.

I think this makes eminent sense, and is something we should be doing in Congress. My hope is that we can do far better than cutting 31 of the 410 advisory committees we've created. I'd be thrilled if we could emulate the President and make that a one-third cut. So

I will be following up these efforts by asking my fellow committee chairs and ranking members to conduct a similar review and determine which advisory committees are still needed.

I realize this will be a long, hard, and thankless effort. Already, in response to this proposed list, we've heard from some of those who serve on these groups, or professional organizations whose interests are represented on them. Their cases are certainly compelling—they cost very little or accomplish a great deal. This may or may not be the case, but I'll let my colleagues, in looking at this list, decide for themselves.

In closing, let me thank both the President, Vice President, and former OMB Director and now White House Chief of Staff, Leon Panetta, for their work and commitment to this job. Further, I'd like to acknowledge the interest and support of my able colleague, Senator DORGAN, for his continuing efforts in this area.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

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

S. 2463

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 "Advisory Committee Termination Act of 1994."

SEC. 2. REPEAL OF ADVISORY COMMITTEES.

(a) DEPARTMENT OF AGRICULTURE.—

(1) SWINE HEALTH ADVISORY COMMITTEE.—Section 11 of the Swine Health Protection Act (7 U.S.C. 3810), which required the Secretary of Agriculture to appoint a swine health advisory committee or committees, is repealed.

(2) CASCADE HEAD SCENIC-RESEARCH AREA ADVISORY COUNCIL.—Section 8 of the Act of December 22, 1974 (16 U.S.C. 541g), which required the Secretary of Agriculture to appoint a Cascade Head Scenic-Research Area Advisory Council, is repealed.

(3) GLOBAL CLIMATE CHANGE TECHNICAL ADVISORY COMMITTEE.—Section 2404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6703), which required the Secretary of Agriculture to appoint a Global Climate Change Technical Advisory Committee, is repealed.

(4) MONO BASIN NATIONAL FOREST SCENIC AREA ADVISORY BOARD.—Section 306 of the California Wilderness Act of 1984 (16 U.S.C. 543e), which established the Mono Basin National Forest Scenic Area Advisory Board, is repealed.

(5) NEZ PERCE NATIONAL HISTORIC TRAIL ADVISORY COUNCIL.—Section 5(d) of the National Trails System Act, (16 U.S.C. 1244(d)), which required the Secretary of Agriculture to establish an advisory council for the Nez Perce National Historic Trail, is amended in the first sentence by inserting before the period at the end "and the Advisory Council established for the Nez Perce National Historic Trail shall terminate on the effective date of the Advisory Committee Termination Act of 1994."

(b) DEPARTMENT OF DEFENSE.—Section 3306 of the National Defense Authorization Act

for Fiscal Year 1993 (50 U.S.C. 98h-1 note), which authorized the Government-Industry Advisory Committee on the Operation and Modernization of the National Defense Stockpile, is repealed.

(c) DEPARTMENT OF EDUCATION; IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING FUND BOARD.—

(1) FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING ACT.—The Fund for the Improvement and Reform of Schools and Teaching Act (20 U.S.C. 4811 et seq.), which established the Fund Board, is amended—

(A) in section 3231 (20 U.S.C. 4831)—

(i) in the heading by striking "BOARD AUTHORIZED" and inserting "DIRECTOR'S RESPONSIBILITIES";

(ii) by striking subsection (a) and redesignating subsections (b) through (f) as subsections (a) through (e), respectively;

(iii) in subsection (b)—

(I) by amending paragraph (3)(A) to read as follows:

"(A) coordinate the work of the Fund with the work of the Fund for the Improvement of Postsecondary Education,";

(II) by amending paragraph (3)(C) to read as follows:

"(C) identify promising initiatives and solicit proposals,";

(III) by striking paragraph (2); and

(IV) by redesignating paragraph (3) as paragraph (2); and

(v) in subsection (c)—

(I) by striking "PRIORITIES RULE" and inserting "PROJECT SUMMARY"; and

(II) by striking the first two sentences;

(B) in section 3233 (20 U.S.C. 4833), by striking the second sentence; and

(C) in section 3243 (20 U.S.C. 4843)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) TECHNICAL AMENDMENT.—Section 551 of the Higher Education Act of 1965 (20 U.S.C. 1107) is amended—

(A) in subsection (a)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraph (3) as paragraph (2);

(B) by striking subsection (c); and

(C) by redesignating subsections (d) through (k) as subsections (c) through (j), respectively.

(d) DEPARTMENT OF ENERGY.—

(1) TECHNICAL ADVISORY COMMITTEE ON VERIFICATION OF FISSILE MATERIAL AND NUCLEAR WARHEAD CONTROLS.—Section 3151(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. (839)), which authorized the Technical Advisory Committee on Verification of Fissile Material and Nuclear Warhead Controls, is repealed.

(2) TECHNICAL PANEL ON MAGNETIC FUSION.—Section 7 of the Magnetic Fusion Energy Engineering Act of 1980 (42 U.S.C. 9306), which authorized a technical panel on magnetic fusion, is repealed.

(e) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

(1) ADVISORY COUNCIL ON HAZARDOUS SUBSTANCES RESEARCH AND TRAINING.—Section 311(a)(5) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(a)(5)), which authorized an advisory council on hazardous substances research and training, is repealed.

(2) ADVISORY COUNCIL ON TRAUMA CARE SYSTEMS.—Section 1202 of the Public Health Service Act (42 U.S.C. 300d-1), which authorized the Advisory Council on Trauma Care Systems, is repealed.

(3) JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM ADVISORY PANEL.—Section 203(c)(4) of the Family Support Act of 1988 (42 U.S.C. 681 note), which authorized an advisory panel for the evaluation of the Job Opportunities and Basic Skills Training (JOBS) Program, is repealed.

(4) BOARD OF TEA EXPERTS.—Section 4 of the Tea Importation Act (21 U.S.C. 42), which authorized a board of tea experts, is repealed.

(5) DEVICE GOOD MANUFACTURING ADVISORY COMMITTEE.—Section 520(f)(3) of the Federal Food, and Cosmetic Act (21 U.S.C. 360(f)(3)), which authorized a device good manufacturing practice advisory committee, is repealed.

(6) END STAGE RENAL DISEASE DATA ADVISORY COMMITTEE.—The second sentence of section 1881(c)(7) of the Social Security Act (42 U.S.C. 1395rr(c)(7)), which authorized a professional advisory group to assist in formulation of policies and procedures relevant to the management of the end stage renal disease registry, is amended by striking everything after "purpose of such" and inserting "registry and shall determine the appropriate location of the registry."

(7) FEDERAL HOSPITAL COUNCIL.—Section 641 of the Public Health Service Act (42 U.S.C. 291k), which authorized the Federal Hospital Council, is repealed.

(8) NATIONAL ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES ADVISORY BOARD.—Section 442 of the Public Health Service Act (42 U.S.C. 285d-7), which authorized the National Arthritis and Musculoskeletal and Skin Diseases Advisory Board, is repealed.

(9) NATIONAL COMMISSION ON ALCOHOLISM AND OTHER ALCOHOL-RELATED PROBLEMS.—Section 18 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979 (42 U.S.C. 4541 note), which authorized the National Commission on Alcoholism and Other Alcohol-Related Problems, is repealed.

(10) NATIONAL DEAFNESS AND OTHER COMMUNICATION DISORDERS ADVISORY BOARD.—Section 464D of the Public Health Service Act (42 U.S.C. 285m-4), which authorized the National Deafness and Other Communication Disorders Advisory Board, is repealed.

(11) NATIONAL DIABETES ADVISORY BOARD, NATIONAL DIGESTIVE DISEASES ADVISORY BOARD, AND NATIONAL KIDNEY AND UROLOGIC DISEASES ADVISORY BOARD.—Section 430 of the Public Health Service Act (42 U.S.C. 285c-4), which authorized the National Diabetes Advisory Board, National Digestive Diseases Advisory Board, and National Kidney and Urologic Diseases Advisory Board, is repealed.

(12) TASK FORCE ON AGING RESEARCH.—Title III of the Home Health Care and Alzheimer's Disease Amendments of 1990 (42 U.S.C. 242q through 242q-5), which authorized the Task Force on Aging Research, is repealed.

(f) DEPARTMENT OF THE INTERIOR.—

(1) CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA ADVISORY COMMISSION.—Section 106 of Public Law 95-344 (16 U.S.C. 4601i-5), which authorized the Chattahoochee River National Recreation Area Advisory Commission, is repealed.

(2) GULF ISLANDS NATIONAL SEASHORE ADVISORY COMMISSION.—Section 10 of Public Law 91-660 (16 U.S.C. 459h-9), which authorized the Gulf Islands National Seashore Advisory Commission, is repealed.

(3) JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION.—Section 7 of the Act of August 24, 1984 (68 Stat. 98, chapter 204; 98 Stat. 1467; 16 U.S.C. 450j-6), which authorized the Jefferson National Expansion Memorial Commission, is repealed.

(4) POTOMAC HERITAGE NATIONAL SCENIC TRAIL ADVISORY COUNCIL.—The first sentence of section 5(d) of the National Trails System Act (16 U.S.C. 1244(d)), which required the Secretary of the Interior to establish an advisory council for the Potomac Heritage National Scenic Trail, is amended by inserting "except the Potomac Heritage Trail" after "respective trail".

(g) DEPARTMENT OF JUSTICE.—Section 5002 of title 18, United States Code, which authorized the Advisory Corrections Council, is repealed.

(h) DEPARTMENT OF TRANSPORTATION.—

(1) COMMERCIAL MOTOR VEHICLE SAFETY REGULATORY REVIEW PANEL.—Section 31134 of title 49, United States Code, as enacted by Public Law 103-472 (formerly section 209 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2508)), which authorized the Commercial Motor Vehicle Safety Regulatory Review Panel, is repealed.

(2) NATIONAL DRIVER REGISTER ADVISORY COMMITTEE.—Section 209 of the National Driver Register Act of 1982 (23 U.S.C. 401 note), which authorized the National Driver Register Advisory Committee, is repealed.

(3) NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE.—Section 404 of title 23, United States Code, which authorized the National Highway Safety Advisory Committee, is repealed.

JUSTIFICATION FOR THE REPEAL OF ADVISORY COMMITTEES

(a) Department of Agriculture:

(1) Advisory Committee on Swine Health Protection. The duties of this committee—to advise the Secretary of Agriculture on matters within the scope of the Swine Health Protection Act of 1980, including assuring effective coordination between Federal and State programs for regulating the feeding of garbage to swine—have been completed. Ongoing swine health issues can be considered by the Advisory Committee on Foreign Animal and Poultry Diseases, established by the Department.

(2) Cascade Head Scenic-Research Area Advisory Council. The Council has served its intended purposes under its establishing scenic research area legislation and has been inactive since 1982. There have been no recent disputes or substantive issues to be reviewed by the council, and the management of area properties has been proceeding in a cooperative fashion among Federal and local entities concerned.

(3) Global Climate Change Technical Advisory Committee. The purpose of this committee is to provide advice to the Secretary concerning the major study areas required under the global change research program. The Secretary already receives advice from the private sector in this area through other Departmental advisory committees, and also coordinates its research program through a Federal Global Change Research Task Force and other interagency mechanisms of the global change program.

(4) Mono Basin National Forest Scenic Area Advisory Board. Although the board is scheduled to terminate under its establishing scenic area legislation on May 22, 1995, the Department believes early termination would not affect the management of the area. The important planning and management issues have been worked through between the board and the Forest Service, and the normal day-to-day management processes for the area are presently functioning. The board has been only moderately active since 1991.

(5) Nez Perce National Historic Trail Advisory Council. The council, working with the

Forest Service, completed the required comprehensive management plan for this historic trail which was dedicated on July 19, 1991. Since then, the council has been inactive. The newly-formed Nez Perce National Historic Trail Foundation has taken on many of the original roles of the council, and is the catalyst in implementing the comprehensive plan and establishing the trail.

(b) Department of Defense:

(1) Government-Industry Advisory Committee on the Operation and Modernization of the National Defense Stockpile. Section 10(a) of the Strategic and Critical Materials Stock Piling Act of 1939, as amended, gives the President the authority to appoint advisory committees to advise on stockpile matters, but does not require such committees. Most sections of the Stock Piling Act, including section 10, have been delegated to the Secretary of Defense. The Secretary has not chosen to appoint such committees in the past. Information and advice is generally available to Stockpile managers directly from other sources, operationally and contractually, without the need for a formal advisory committee. No members have yet been appointed to this committee.

(c) Department of Education:

(1) Fund for the Improvement and Reform of Schools and Teaching Board. The Secretary of Education can carry out the mandate of the Fund for the Improvement and Reform of Schools and Teaching (FIRST) program without the expense and support of a standing advisory committee. The Department's process for peer review of grant applications obviates the need for recommendations from the board in awarding grants under the FIRST program.

(d) Department of Energy:

(1) Technical Advisory Committee on Verification of Fissile Material and Nuclear Warhead Controls. The purpose of the committee was to make a one-time report primarily on techniques for mutual verification by the United States and the Soviet Union of certain nuclear weapons disarmament actions and to advise the President on the further development of those techniques. The report was provided to the Congress by the President on October 7, 1991. The disarmament environment has changed greatly since this legislation was enacted and the thrust of verification techniques no longer is directed toward mutually verifiable procedures. The necessity for the committee ended with the submission of the required report.

(2) Technical Panel on Magnetic Fusion. The Magnetic Fusion Energy Engineering Act of 1980 provided an accelerated program of magnetic fusion research and development leading to the construction and operation of an engineering test device by 1990 and a demonstration plant before the end of this century. The panel was established under the Department's Energy Research Board primarily to review the conduct of the program and report to the board every three years. However, funds were not appropriated to build and operate the test device or the demonstration plant and, as a result, the panel made only two progress reports to the board on the fusion program. The board was abolished in 1989. The Department currently uses a Fusion Energy Advisory Committee as its ongoing committee to review and recommend directions for this program.

(e) Department of Health and Human Services:

(1) Advisory Council on Hazardous Substances Research and Training. The council has completed its statutory mandate. It has

reviewed and approved the implementation of the basic research program, and endorsed the coordination of the program with other relevant Federal activities authorized under the enabling legislation. The National Advisory Environmental Health Sciences Council can continue reviews of the hazardous substances basic research and professional training program.

(2) Advisory Council on Trauma Care Systems. Although membership nominations for this council have been sought, no appointments have been made and the council has never met. The Department believes that the program has proceeded very successfully for almost two years and has not been impeded by the absence of the council. The Health Resources and Services Administration believes that the participatory intent of an advisory council has been and will continue to be met through working groups and other mechanisms for input. Deletion of the requirement for this council will not delay or detract from the program's implementation.

(3) Advisory Panel for the Evaluation of the Job Opportunities and Basic Skills Training (JOBS) Program. The studies which this panel was designed to evaluate have been conducted under a different authority (section 1115 of the Social Security Act), since funds authorized under the enabling legislation have not been appropriated. This alternate evaluation of the JOBS program by the Department is consistent with the design of the effectiveness studies originally required. Although the panel has been providing advice on the Department's evaluation, this advice can be obtained in other ways, such as directly from the full-time Federal employees who make up about one-half of the panel. The remaining public members can be retained as individual consultants for particular areas on an ad hoc basis. Heretofore the members of the panel have been consulted more as individual experts than as a group from whom consensus advice is required.

(4) Board of Tea Experts. The board, composed of experts in tea tasting, meets annually to advise the Food and Drug Administration (FDA) regarding standards for purity, quality, and fitness for consumption of imported teas. The board can be eliminated since FDA employs tea tasters who are capable of setting the standards mandated under the Act.

(5) Device Good Manufacturing Practice Advisory Committee. Under the enabling legislation, the committee reviews and provides recommendations on proposed medical device good manufacturing practices (GMP) regulations and petitions for exemptions therefrom. Since Food and Drug Administration employees are a major source of expertise on GMPs, the agency has concluded that the functions of the committee can be carried out by Federal staff with the occasional use of outside experts on an ad hoc basis. Affected and interested parties will still have an opportunity to provide input on proposed GMP regulations during the formal rule-making process, which includes public hearings.

(6) End-Stage Renal Disease Data Advisory Committee. Although the committee has been activated to assist the Secretary in the formulation of policies and procedures relevant to the management of the National End State Renal Disease Registry, the operations of the registry are being carried out by Federal employees of the Health Care Financing Administration without the assistance of such standing committee. When additional expertise is needed, the advice of out-

side professionals in the areas of interest can be solicited individually on an ad hoc basis.

(7) Federal Hospital Council. The "Hill-Burton" program established under the original legislation, concerning matters relating to the operation of hospitals and other medical facilities, has not awarded any grants since 1976, nor made any loans since 1978. The council, therefore, has been inactive for close to fifteen years. The concerns of the council were superseded and encompassed by the National Council on Health Planning and Development, which terminated on September 30, 1986. The authority for the council is obsolete.

(8) National Advisory Board for Arthritis and Musculoskeletal and Skin Diseases. Besides the board, the National Institute of Arthritis and Musculoskeletal and Skin Diseases has other bodies of experts which provide advice and assistance to the Institute in carrying out its mandate. Those bodies have many similar functions and authorities, as well as some duplication of membership. Currently, there is the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council, which also reviews any proposed grant, contract and cooperative agreement to be made or entered into by the Institute, as well as two Interagency Coordinating Committees, all required as well by the Public Health Service Act. Assumption of the board's functions by these other entities would reduce duplication and increase cost effectiveness.

(9) National Commission on Alcoholism and Other Alcohol-Related Problems. The commission was activated briefly in 1980 and was to submit a final report within two years after the date on which funds first became available to carry out the authorizing legislation. The commission was then to terminate sixty days after submission of the report. Although funds were authorized, they were never appropriated to enable the commission to carry out its mandate. The commission has remained inactive up to this time and is no longer considered necessary by the Department.

(10) National Deafness and Other Communication Disorders Advisory Board. Besides the board, there is the National Deafness and Other Communication Disorders Advisory Council, also required by the Public Health Service Act. Both the board and the council provide policy advice to the National Institute on Deafness and Other Communication Disorders, but the council also is required to review and recommend the approval of grant applications prior to funding by the Institute. The board's policy advice function can be adequately served by the council. The other specific function of the board, which concerns the updating of the national strategic research plan with regard to this medical area, can be accomplished by other means.

(11) National Diabetes Advisory Board; National Digestive Diseases Advisory Board; and National Kidney and Urologic Diseases Advisory Board. The functions of these three separate boards can be adequately served by the National Diabetes and Digestive and Kidney Diseases Advisory Council, also required by the Public Health Service Act. The council's membership representation is comparable to that of each board as well. The staff of the National Institute of Diabetes and Digestive and Kidney Diseases also arrange periodic scientific conferences and workshops to gain the individual advice of leading investigators of each of these diseases. This further serves to fulfill the functions of the three boards.

(12) Task Force on Aging Research. The task force essentially has fulfilled its prin-

cipal mission with the recently completed final report on its basic mandate to make recommendations concerning the priorities for, and funding of aging research by the Department. The National Advisory Council on Aging, in carrying out its required duties, makes policy recommendations to the National Institute on Aging, and also may make certain recommendations to the Secretary on particular projects and categories of research that should be conducted. Since the duties of the task force overlap with those of the council, the former may be eliminated.

(f) Department of the Interior:

(1) Chattahoochee River National Recreation Area Advisory Commission. This commission is scheduled to terminate under its establishing recreation area legislation on October 30, 1994. However, the commission already has served its intended purposes to advise the National Park Service in the management and operation of the area and in promoting the protection of the river corridor resources. The commission has been inactive since 1989.

(2) Gulf Islands National Seashore Advisory Commission. The work of this commission to advise the National Park Service on the establishment and operation of the Gulf Islands National Seashore has been completed. The commission is scheduled to terminate under its establishing legislation on July 6, 1994. Recently, only one meeting of the commission per year has been necessary.

(3) Jefferson National Expansion Memorial Commission. This commission completed a study which made several recommendations which would result in greater access and recreational opportunities in the St. Louis/East St. Louis area. However, the study was not accepted by the Secretary and, therefore, actions recommended by the study have not been implemented. The commission has fulfilled its principal function of preparing a development and management plan for the East St. Louis addition to the requisite park. Subsequent legislation, however, has removed any further need for action by the commission. The commission has been inactive since 1987 and will terminate under its establishing legislation on August 24, 1994.

(4) Potomac Heritage National Scenic Trail Advisory Council. The purpose for this council under the establishing scenic and recreational trail legislation is no longer deemed necessary by the Department. Activity related to this council in implementing the legislation has been severely restricted due to budgetary constraints over the past few years. The council, moreover, would terminate under its establishing legislation on May 26, 1994.

(g) Department of Justice:

(1) Advisory Corrections Council. The council was formed to hold regular meetings to consider problems of treatment and correction of all offenders against the United States. Although initially active for many years, in recent years the council has not met. Most of the council's duties have been undertaken by the Bureau of Prisons as its administrative functions and research capabilities have grown along with the inmate population. The growth of other public and private entities serving as prison advisory organizations, such as the National Institute of Corrections, the U.S. Sentencing Commission, the Federal Judicial Center, the American Corrections Association, and the American Bar Association, has diminished the need for the council.

(h) Department of Transportation:

(1) Commercial Motor Vehicle Safety Regulatory Review Panel. The panel has completed its duties to assist in the review of existing State laws and regulations affecting commercial motor vehicle safety to determine their consistency with Federal regulations. The panel accomplished its mission with the publication of its report to the Secretary in August 1990.

(2) National Driver Register Advisory Committee. The purpose of the committee is to provide advice and recommendations on issues concerning the efficiency of the maintenance and operation of the National Driver Register (NDR) in assisting States exchanging information on motor vehicle driving records. All States now have, or will soon have fully electronic NDR systems in place for identifying problem drivers, so the committee's mission has been accomplished.

(3) National Highway Safety Advisory Committee. This committee was established to advise the Secretary on matters relating to the activities and functions of the Department in the field of highway safety. However, as a result of prohibitions in annual appropriations acts on expenditures to continue implementing the authorizing legislation, this committee has been inactive since 1986. The committee includes thirty-five members to be appointed by the President, but no appointments have been made since 1987 due to the funding prohibition.●

By Mr. WOFFORD:

S. 2464. A bill entitled the "Congressional Health Insurance Accountability Act."; to the Committee on Governmental Affairs.

THE CONGRESSIONAL HEALTH INSURANCE
ACCOUNTABILITY ACT

● Mr. WOFFORD. Mr. President, 7 weeks ago I warned Members of this Senate that unless we acted to give all Americans the same kinds of affordable, private health insurance that Members of Congress have arranged for themselves, I would seek to disqualify every Member of Congress from participating in the Federal Employees Health Benefits Plan.

I had hoped I wouldn't have to follow through on that promise. I had hoped the voices of reason would be heard above the din of delay.

It is clear now that won't happen. While reasonable men and women on both sides of the aisle have made a good-faith effort to move ahead, the defenders of the status quo have blocked them at every turn. They've played cynically on people's fears and spent mountains of money to block the kinds of changes we all know must be made to improve our health care system.

They have refused to compromise. Time after time, the moderate majority has tried to meet them halfway. And each time, they have taken another step back. The plain truth is, the defenders of the status quo do not want health care reform because it does not serve their political interests. That's an outrage. It's an outrage for Members of Congress to do nothing about health care while they sit here with their own private health insurance, paid for with taxpayer dollars.

Mr. President, it's time for Members of Congress to support the plan they live under, or live under the plan they support. This amendment will force them to do just that. I know it will not be popular in these Chambers, but I think it's the right thing to do. Under this amendment, Members of Congress will lose their tax-paid health care benefits, effective January 1, 1995. They can remain in the Federal Employees Health Benefits Plan for up to 18 months. But the American taxpayers will no longer pick up 72 percent of the bill, as they do now. Congress Members will have to pay the entire costs of their health insurance, as I myself have been doing for the last few months.

Translated into dollars and cents, this amendment means that if a Congress Member or Senator chooses standard Blue Cross family coverage, he or she will pay the full premium, \$405 a month. Right now, Congress Members pay only \$101.25 a month and taxpayers pay the balance, \$303.75.

After 18 months, if Congress still has not been able to agree on real reform, Members of Congress will be dropped from the FEHB rolls entirely. They will no longer enjoy the cost savings and other benefits that come from being part of a large-group plan. They'll have to either purchase their own insurance with no help from their employer, or go without insurance. For those who may think these terms are harsh, let me remind you that this is exactly what taxpayers who lose their jobs get under COBRA. No more, no less.

The Federal Employees Health Benefits Plan is exactly the kind of health insurance that I have been working to get for all Americans. It's not Government-run health care, it's private health insurance. The 9 million Federal workers who are in it choose the plan they want, and the doctor they want. They can't be dropped, and they can't be turned down because of a pre-existing condition. You know how many people it takes to administer such a program—176 people to cover more than 9 million people.

That's the plan Members of Congress have arranged for themselves. If they aren't willing to guarantee that type of private insurance to the American people, then at the very least they should not enjoy such health care themselves, at taxpayer's expense. Since the Senate began debate on health care, 3 million Americans have lost their health insurance. How many Members of Congress have become uninsured? Zero.

If Members of Congress want more time to study—as they claim—let them study what it's like to be a middle-class American caught up in the health care mess. Let them study how difficult it is to pay for health insurance if your employer doesn't contribute a fair share. And let them worry about

what it would be like to try to buy health insurance without the help of their employer, because that's really the problem.

Eighty percent of the people in this country who don't have insurance live in families where at least one family member is working. Every day, they get up and go to work. And every day, they wonder if this is the day their luck is going to run out. Many Members of Congress have pre-existing conditions, some very serious, which may make it difficult to buy health insurance. That's just what millions of Americans experience every day. Many Members of Congress are older; their insurance rates may be high. Millions of Americans face that every day, too.

Why should Members of Congress be the only people in America who don't have to worry about health care? Maybe if Members of Congress had a more profound understanding of what working families go through, they would understand why we must act sooner, rather than later.

There are Members of Congress who say that doing nothing on health care won't hurt them a bit. I hope this amendment will help in some small way to show them that they are wrong. Americans are paying more and more each year to cover fewer and fewer people. Doing nothing about that hurts all of us—every person, every business in this country. I've said it before: health care delayed is health care denied.

Until we act, Americans will continue to face a health insurance maze in which the insurance companies make all the rules and families fall through the loopholes and fine print. Until we act, health care costs will continue to soar out of control, placing an ever greater strain on businesses and devouring an ever greater share of tax dollars. Until we act, America will retain the ignoble distinction of being the only industrialized nation in the world besides South Africa that does not guarantee its citizens the right to see a doctor when they're sick.

Until we act, Americans will continue to suffer and die from diseases that could have been prevented or cured if only they'd been treated sooner.

And until we act, Mr. President, Members of Congress should at least have the decency not to demand of the American people what they will not guarantee for the American people.●

By Ms. MOSELEY-BRAUN (for herself, Mr. CHAFEE, Mr. SIMON, and Mr. PELL):

S. 2465. A bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots; to the Committee on Banking, Housing, and Urban Affairs.

THE 1995 BLACK REVOLUTIONARY WAR PATRIOTS
COMMEMORATIVE COIN ACT

● Ms. MOSELEY-BRAUN. Mr. President, I am today introducing, together

with my distinguished colleagues from Rhode Island, Senator CHAFEE and Senator PELL, and my good friend and senior colleague from Illinois, Senator SIMON, the Black Revolutionary War Patriots Commemorative Coin Act, a bill that I believe is more than two centuries overdue. Identical legislation is being authored in the House of Representatives by my good friend and distinguished Member of Congress, JOHN LEWIS, who has taken a real leadership role in developing this legislation.

In 1986 and again in 1988 Congress passed legislation authorizing the construction of a monument just north of the Reflecting Pool on the Mall to honor the black patriots of the Revolutionary War. More than 5,000 black freedmen, slaves, and runaway slaves fought alongside white colonists in the struggle for independence. This bill proposes the minting of 500,000 commemorative coins, which should raise approximately \$5 million for use in financing the monument.

All proceeds over and above the cost of minting the coin will go toward the construction of the monument. This bill is revenue-neutral; it will cost the Federal Government absolutely nothing. It supports a memorial that both honors and educates. The memorial commemorates the significant contributions made by over 5,000 African-Americans during a critical period of this Nation's history, the American Revolution. Most Americans don't know that among those who fought for our freedom were African-Americans. This memorial honors their role, and their contribution to our Nation's founding.

We have an opportunity to honor and salute the men and women whose actions contributed to the birth of our Nation, a nation whose Constitution now embodies the very ideals of freedom these patriots risked their lives for. Only in the 150 years after their deaths has this Nation begun to secure and enforce the truths we hold to be self-evident: Life, liberty, and the pursuit of happiness for all Americans. This Nation owes an enormous debt of gratitude to them for their courage to stand with little or no hope of seeing the fruits of their accomplishments.

As citizens who enjoy the benefits of their sacrifice, I hope that every Member of this Senate will join Senator CHAFEE and I in expediting the passage of this legislation, so that the construction of this monument can begin promptly, and so that America may bestow upon these patriots the honor they deserve. I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 2465

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 "1995 Black Revolutionary War Patriots Commemorative Coin Act".

SECTION 2. COIN SPECIFICATIONS

(a) **\$1 SILVER COINS.**—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 500,000 1 dollar coins, which shall—

- (1) weigh 26.73 grams;
- (2) have a diameter of 1.500 inches; and
- (3) contain 90 percent silver and 10 percent copper.

(b) **LEGAL TENDER.**—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) **NUMISMATIC ITEMS.**—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 4. DESIGN OF COINS.

(a) **DESIGN REQUIREMENTS.**—

(1) **IN GENERAL.**—The design of the coins minted under this Act shall be emblematic of the Black Revolutionary War Patriots Memorial.

(2) **DESIGNATION AND INSCRIPTIONS.**—On each coin minted under this Act there shall be—

- (A) a designation of the value of the coin;
- (B) an inscription of the year "1995"; and
- (C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) **SELECTION.**—The design for the coins minted under this Act shall be—

- (1) selected by the Secretary after consultation with the Black Revolutionary War Patriots Foundation and the Commission of Fine Arts; and
- (2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) **QUALITY OF COINS.**—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) **MINT FACILITY.**—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) **PERIOD FOR ISSUANCE.**—The Secretary may issue coins minted under this Act only during the period beginning on May 15, 1995, and ending May 15, 1996.

SEC. 6. SALE OF COINS.

(a) **SALE PRICE.**—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

- (1) the face value of the coins;
- (2) the surcharge provided in subsection (d) with respect to such coins; and
- (3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) **BULK SALES.**—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) **PREPAID ORDERS.**—

(1) **IN GENERAL.**—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) **DISCOUNT.**—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) **SURCHARGES.**—All sales shall include a surcharge of \$10 per coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) **IN GENERAL.**—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) **EQUAL EMPLOYMENT OPPORTUNITY.**—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) **IN GENERAL.**—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Black Revolutionary War Patriots for the purpose of raising an endowment to support the construction of a Black Revolutionary War Patriots Memorial.

(b) **AUDITS.**—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Black Revolutionary War Patriots Foundation as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) **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 Act will not result in any net cost to the United States Government.

(b) **PAYMENT FOR COINS.**—A coin shall not be issued under this Act unless the Secretary has received—

- (1) full payment for the coin;
- (2) security satisfactory to the Secretary to indemnify the United States for full payment; or
- (3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

By Mr. JOHNSTON (for himself and Mr. WALLOP):

S. 2466. A bill to amend the Energy Policy and Conservation Act to manage the strategic petroleum reserve more effectively and for other purposes; to the Committee on Energy and Natural Resources.

**THE ENERGY POLICY AND CONSERVATION ACT
AMENDMENTS ACT**

• Mr. JOHNSTON. Mr. President, the purpose of this bill is to amend the Energy Policy and Conservation Act to extend the President's basic authorities for dealing with energy emergencies. The authority of the President to maintain, manage, and withdraw oil from our strategic petroleum reserve expires on September 30, 1994. In addition, key authorities essential for the United States to meet its obligation under programs of the International Energy Agency also expire on September 30, 1994. We need to extend these authorities before Congress adjourns. This legislation provides extensions of those authorities through June 30, 1996.●

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, and Mr. PACKWOOD) (by request):

S. 2467. A bill to approve and implement the trade agreements concluded in the Uruguay round of multilateral trade negotiations; to the Committee on the Judiciary, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Finance, the Committee on Governmental Affairs, and the Committee on Labor and Human Resources, jointly, pursuant to the order of 19 U.S.C. 2191(c)(1).

URUGUAY ROUND AGREEMENTS ACT

Mr. MOYNIHAN. Mr. President, I rise today to inform the Senate of the introduction of a most critical piece of legislation—the Uruguay Round Agreements Act. This legislation, the culmination of months of hard work by the Finance Committee and several other committees, is necessary to implement United States commitments under the Uruguay round agreements, which were signed in Marrakesh last April 15.

Mr. President, it is essential that the Senate now move expeditiously to consider and approve this legislation prior to adjourning for the year. No vote in this Congress will be more important to the economic future of this country, its workers, its industries, and its farmers. And no vote will do more to send a clear signal to the world of the direction in which we are moving—and thereby to reinforce the leadership position of the United States in the post-cold-war world.

The Uruguay round is an historic achievement, the largest and most comprehensive trade agreement in history, the culmination of 60 years of bipartisan trade policy that began with Cordell Hull and the Reciprocal Trade Agreements Act of 1934. An era of unparalleled prosperity, in no small part due to the U.S. commitment to an open world trading system.

The Uruguay round negotiations themselves took more than 7 years to complete, but the effort was worth it. The Uruguay round will cut foreign tariffs on United States manufactured exports by one-third—the largest reduction in history and a great boost to our most competitive industries and workers. Let us recognize these deep tariff reductions for what they are: the world's largest tax cut in history, a tax cut of nearly \$750 billion over the next decade—benefiting our exporters and consumers alike.

The Uruguay round finally will bring agriculture under international trading rules. Any by requiring substantial reductions in distortive export subsidies, it will afford new export opportunities for American farmers, long the most productive and efficient in the world. After years of waiting, we will have new rules to protect the intellectual

property of American innovators and entrepreneurs—always one of our country's greatest strengths. Trade in services—60 percent of our economy and 70 percent of our jobs—now will be subject to internationally agreed rules, to our great advantage. And we also will benefit from stronger dispute settlement rules, which more often work to our advantage than to our detriment.

The legislation introduced today will be considered under fast track procedures and is thus unamendable. I am most aware that some of my colleagues have been critical of these procedures.

But, Mr. President, let me assure the Senate that the process has not been rushed. The Finance Committee has taken great care in constructing its share of this legislation. The committee held four hearings earlier this year to review key issues and concerns—from application of the antidumping laws of treatment of foreign subsidy practices to how the Uruguay round would affect United States sovereignty. The committee then met six times in public markup sessions from mid-July to early August. In those meetings, the committee formulated its recommendations to the President concerning the provisions of the legislation. Subsequently, we spent several weeks working to reach agreement with the Ways and Means Committee—confereencing just as we would with any other piece of legislation.

That conference reached overwhelming agreement, whittling over 100 initial differences down to only four areas of disagreement. We did so in the finest bipartisan tradition, with great credit due to the ranking member of the committee, the senior Senator from Oregon. There was unanimous support for the conference recommendations. And, I can report, the legislation introduced today is faithful to those recommendations.

The Finance Committee now moves to the final stage of its deliberations, having scheduled a markup session for this Thursday, September 29. I fully expect that the legislation will be considered by the full Senate next week.

Mr. President, as we wind down this session, there is a natural tendency for some to focus on what we have not been able to accomplish, for one reason or another, this year. Let us instead, however, direct our attention and energies in these final days to passing this most critical piece of legislation. I am confident that our strong, bipartisan approval of the Uruguay Round Agreements Act will be recognized as one of the great accomplishments of the 103d United States Congress.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2467

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Uruguay Round Agreements Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE URUGUAY ROUND AGREEMENTS

Subtitle A—Approval of Agreements and Related Provisions

Sec. 101. Approval and entry into force of the Uruguay Round Agreements.
Sec. 102. Relationship of the agreements to United States law and State law.
Sec. 103. Implementing actions in anticipation of entry into force; regulations.

Subtitle B—Tariff Modifications

Sec. 111. Tariff modifications.
Sec. 112. Implementation of Schedule XX provisions on ship repairs.
Sec. 113. Liquidation or reliquidation and refund of duty paid on certain entries.
Sec. 114. Modifications to the HTS.
Sec. 115. Consultation and layover requirements for, and effective date of, proclaimed actions.

Sec. 116. Effective date.

Subtitle C—Uruguay Round Implementation and Dispute Settlement

Sec. 121. Definitions.
Sec. 122. Implementation of Uruguay Round Agreements.
Sec. 123. Dispute settlement panels and procedures.
Sec. 124. Annual report on the WTO.
Sec. 125. Review of participation in the WTO.
Sec. 126. Increased transparency.
Sec. 127. Access to the WTO dispute settlement process.
Sec. 128. Advisory committee participation.
Sec. 129. Administrative action following WTO panel reports.

Sec. 130. Effective date.

Subtitle D—Related Provisions

Sec. 131. Working party on worker rights.
Sec. 132. Implementation of rules of origin work program.
Sec. 133. Membership in WTO of boycotting countries.
Sec. 134. Africa trade and development policy.
Sec. 135. Objectives for extended negotiations.
Sec. 136. Repeal of tax on imported perfumes; drawback of tax on distilled spirits used in perfume manufacture.
Sec. 137. Certain nonrubber footwear.
Sec. 138. Effective date.

TITLE II—ANTIDUMPING AND COUNTERVAILING DUTY PROVISIONS

Sec. 201. Reference.

Subtitle A—General Provisions

Sec. 211. Action with respect to petitions.
Sec. 212. Petition and preliminary determination.
Sec. 213. De minimis dumping margin.
Sec. 214. Critical circumstances.
Sec. 215. Provisional measures.
Sec. 216. Conditions on acceptance of suspension agreements.

- Sec. 217. Termination of investigation.
 Sec. 218. Special rules for regional industries.
 Sec. 219. Determination of weighted average dumping margin.
 Sec. 220. Review of determinations.
 Sec. 221. Review determinations.
 Sec. 222. Definitions.
 Sec. 223. Export price and constructed export price.
 Sec. 224. Normal value.
 Sec. 225. Currency conversion.
 Sec. 226. Proprietary and nonproprietary information.
 Sec. 227. Opportunity for comment by consumers and industrial users.
 Sec. 228. Public notice and explanation of determinations.
 Sec. 229. Sampling and averaging; determination of weighted average dumping margin.
 Sec. 230. Anticircumvention.
 Sec. 231. Evidence.
 Sec. 232. Antidumping petitions by third countries.
 Sec. 233. Conforming amendments.
 Sec. 234. Application to Canada and Mexico.
- Subtitle B—Subsidies Provisions
 PART I—COUNTERVAILABLE SUBSIDIES
 Sec. 251. Countervailable subsidy.
 PART 2—REPEAL OF SECTION 303 AND CONFORMING AMENDMENTS
 Sec. 261. Repeal of section 303.
 Sec. 262. Imposition of countervailing duties.
 Sec. 263. De minimis countervailable subsidy.
 Sec. 264. Determination of countervailable subsidy rate.
 Sec. 265. Assessment of countervailing duty.
 Sec. 266. Nature of countervailable subsidy.
 Sec. 267. Definition of developing and least-developed country.
 Sec. 268. Upstream subsidies.
 Sec. 269. Determination of countervailable subsidy rate.
 Sec. 270. Conforming amendments.
- PART 3—SECTION 303 INJURY INVESTIGATIONS
 Sec. 271. Special rules for injury investigations for certain section 303 countervailing duty orders and investigations.
- PART 4—ENFORCEMENT OF UNITED STATES RIGHTS UNDER THE SUBSIDIES AGREEMENT
 Sec. 281. Subsidies enforcement.
 Sec. 282. Review of subsidies agreement.
 Sec. 283. Amendments to title VII of the Tariff Act of 1930.
- Subtitle C—Effective Date
 Sec. 291. Effective date.
- TITLE III—ADDITIONAL IMPLEMENTATION OF AGREEMENTS
 Subtitle A—Safeguards
 Sec. 301. Investigations, determinations, and recommendations by International Trade Commission.
 Sec. 302. Action by President after determination of import injury.
 Sec. 303. Miscellaneous amendments.
 Sec. 304. Effective date.
- Subtitle B—Foreign Trade Barriers and Unfair Trade Practices
 Sec. 311. Identification of foreign anti-competitive practices.
 Sec. 312. Consultation with committees.
 Sec. 313. Identification of countries that deny protection of intellectual property rights.
 Sec. 314. Amendments to title III of the Trade Act of 1974.
- Sec. 315. Objectives in intellectual property.
 Sec. 316. Effective date.
- Subtitle C—Unfair Practices in Import Trade
 Sec. 321. Unfair practices in import trade.
 Sec. 322. Effective date.
- Subtitle D—Textiles
 Sec. 331. Textile product integration.
 Sec. 332. Amendment to section 204 of the Agricultural Act of 1956.
 Sec. 333. Textile transshipments.
 Sec. 334. Rules of origin for textile and apparel products.
 Sec. 335. Effective date.
- Subtitle E—Government Procurement
 Sec. 341. Monitoring and enforcement of the agreement on government procurement.
 Sec. 342. Conforming amendments.
 Sec. 343. Reciprocal competitive procurement practices.
 Sec. 344. Effective date.
- Subtitle F—Technical Barriers to Trade
 Sec. 351. Technical barriers to trade.
 Sec. 352. Effective date.
- TITLE IV—AGRICULTURE-RELATED PROVISIONS
 Subtitle A—Agriculture
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 Sec. 401. Section 22 amendments.
 Sec. 402. Cheese and chocolate crumb imports.
 Sec. 403. Meat Import Act.
 Sec. 404. Administration of tariff-rate quotas.
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 PART II—EXPORTS
 Sec. 411. Export programs.
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- PART III—OTHER PROVISIONS
 Sec. 421. Authority for certain actions under Article XXVIII.
 Sec. 422. Tobacco imports.
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 Sec. 425. Study of milk marketing order system.
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- Subtitle B—Sanitary and Phytosanitary Measures
 Sec. 431. Sanitary and phytosanitary measures.
 Sec. 432. International standard-setting activities.
- Subtitle C—Standards
 Sec. 441. The Federal Seed Act.
 Subtitle D—General Effective Date
 Sec. 451. General effective date.
- TITLE V—INTELLECTUAL PROPERTY
 Sec. 501. Definition.
 Subtitle A—Copyright Provisions
 Sec. 511. Rental rights in computer programs.
 Sec. 512. Civil penalties for unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances.
 Sec. 513. Criminal penalties for unauthorized fixation of and trafficking in sound recordings and music videos or live musical performances.
 Sec. 514. Restored works.
- Subtitle B—Trademark Provisions
 Sec. 521. Definition of "abandoned".
- Sec. 522. Nonregistrability of misleading geographic indications for wines and spirits.
 Sec. 523. Effective date.
- Subtitle C—Patent Provisions
 Sec. 531. Treatment of inventive activity.
 Sec. 532. Patent term and internal priority.
 Sec. 533. Patent rights.
 Sec. 534. Effective dates and application.
- TITLE VI—RELATED PROVISIONS
 Subtitle A—Expiring Provisions
 Sec. 601. Generalized System of Preferences.
 Sec. 602. U.S. Insular possessions.
- Subtitle B—Certain Customs Provisions
 Sec. 611. Reimbursements from customs user fee account.
 Sec. 612. Merchandise processing fees.
- Subtitle C—Conforming Amendments
 Sec. 621. Conforming amendments.
- TITLE VII—REVENUE PROVISIONS
 Sec. 700. Amendment of 1986 Code and table of contents.
- Subtitle A—Withholding Tax Provisions
 Sec. 701. Withholding on distributions of Indian casino profits to tribal members.
 Sec. 702. Voluntary withholding on certain Federal payments and on unemployment compensation.
- Subtitle B—Provisions Relating to Estimated Taxes and Payments and Deposits of Taxes
 Sec. 711. Treatment of subpart F and section 936 income of taxpayers using annualized method for estimated tax.
 Sec. 712. Time for payments and deposits of certain taxes.
 Sec. 713. Reduction in rate of interest paid on certain corporate overpayments.
- Subtitle C—Earned Income Tax Credit
 Sec. 721. Extension of earned income tax credit to military personnel stationed outside the United States.
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 Sec. 723. Income of prisoners disregarded in determining earned income tax credit.
- Subtitle D—Provisions Relating To Retirement Benefits
 Sec. 731. Treatment of excess pension assets used for retiree health benefits.
 Sec. 732. Rounding rules for cost-of-living adjustments.
 Sec. 733. Increase in inclusion of social security benefits paid to non-residents.
- Subtitle E—Other Provisions
 Sec. 741. Partnership distributions of marketable securities.
 Sec. 742. Taxpayer identification numbers required at birth.
 Sec. 743. Extension of Internal Revenue Service user fees.
 Sec. 744. Modification of substantial understatement penalty for corporations participating in tax shelters.
 Sec. 745. Modification of authority to set terms and conditions for savings bonds.
- Subtitle F—Pension Plan Funding and Premiums
 Sec. 750. Short title.

PART I—PENSION PLAN FUNDING

SUBPART A—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

- Sec. 751. Minimum funding requirements.
 Sec. 752. Limitation on changes in current liability assumptions.
 Sec. 753. Anticipation of bargained benefit increases.
 Sec. 754. Modification of quarterly contribution requirement.
 Sec. 755. Exceptions to excise tax on non-deductible contributions.

SUBPART B—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

- Sec. 761. Minimum funding requirements.
 Sec. 762. Limitation on changes in current liability assumptions.
 Sec. 763. Anticipation of bargained benefit increases.
 Sec. 764. Modification of quarterly contribution requirement.

SUBPART C—OTHER FUNDING PROVISIONS

- Sec. 766. Prohibition on benefit increases where plan sponsor is in bankruptcy.
 Sec. 767. Single sum distributions.
 Sec. 768. Adjustments to lien for missed minimum funding contributions.
 Sec. 769. Special funding rules for certain plans.

PART II—AMENDMENTS RELATED TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

- Sec. 771. Reportable events.
 Sec. 772. Certain information required to be furnished to PBGC.
 Sec. 773. Enforcement of minimum funding requirements.
 Sec. 774. Computation of additional PBGC premium.
 Sec. 775. Disclosure to participants.
 Sec. 776. Missing participants.
 Sec. 777. Modification of maximum guarantee for disability benefits.
 Sec. 778. Procedures to facilitate distribution of termination benefits.

PART III—EFFECTIVE DATES

- Sec. 781. Effective dates.

TITLE VIII—PIONEER PREFERENCES

- Sec. 801. Pioneer preferences.

SEC. 2. DEFINITIONS.

For purposes of this Act:

- (1) GATT 1947; GATT 1994.—
 (A) GATT 1947.—The term "GATT 1947" means the General Agreement on Tariffs and Trade, dated October 30, 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently recited, amended, or modified by the terms of legal instruments which have entered into force before the date of entry into force of the WTO Agreement.
 (B) GATT 1994.—The term "GATT 1994" means the General Agreement on Tariffs and Trade annexed to the WTO Agreement.
 (2) HTS.—The term "HTS" means the Harmonized Tariff Schedule of the United States.
 (3) INTERNATIONAL TRADE COMMISSION.—The term "International Trade Commission" means the United States International Trade Commission.
 (4) MULTILATERAL TRADE AGREEMENT.—The term "multilateral trade agreement" means an agreement described in section 101(d) of this Act (other than an agreement described in paragraph (17) or (18) of such section).
 (5) SCHEDULE XX.—The term "Schedule XX" means Schedule XX—United States of

America annexed to the Marrakesh Protocol to the GATT 1994.

(6) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(7) URUGUAY ROUND AGREEMENTS.—The term "Uruguay Round Agreements" means the agreements approved by the Congress under section 101(a)(1).

(8) WORLD TRADE ORGANIZATION AND WTO.—The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(9) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(10) WTO MEMBER AND WTO MEMBER COUNTRY.—The terms "WTO member" and "WTO member country" mean a state, or separate customs territory (within the meaning of Article XII of the WTO Agreement), with respect to which the United States applies the WTO Agreement.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE URUGUAY ROUND AGREEMENTS

Subtitle A—Approval of Agreements and Related Provisions

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE URUGUAY ROUND AGREEMENTS.

(a) APPROVAL OF AGREEMENTS AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 1103 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2903) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), the Congress approves—

(1) the trade agreements described in subsection (d) resulting from the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade, entered into on April 15, 1994, and submitted to the Congress on _____, 1994; and

(2) the statement of administrative action proposed to implement the agreements that was submitted to the Congress on _____, 1994.

(b) ENTRY INTO FORCE.—At such time as the President determines that a sufficient number of foreign countries are accepting the obligations of the Uruguay Round Agreements, in accordance with article XIV of the WTO Agreement, to ensure the effective operation of, and adequate benefits for the United States under, those Agreements, the President may accept the Uruguay Round Agreements and implement article VIII of the WTO Agreement.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated annually such sums as may be necessary for the payment by the United States of its share of the expenses of the WTO.

(d) TRADE AGREEMENTS TO WHICH THIS ACT APPLIES.—Subsection (a) applies to the WTO Agreement and to the following agreements annexed to that Agreement:

- (1) The General Agreement on Tariffs and Trade 1994.
 (2) The Agreement on Agriculture.
 (3) The Agreement on the Application of Sanitary and Phytosanitary Measures.
 (4) The Agreement on Textiles and Clothing.
 (5) The Agreement on Technical Barriers to Trade.
 (6) The Agreement on Trade-Related Investment Measures.
 (7) The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

(8) The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

(9) The Agreement on Preshipment Inspection.

(10) The Agreement on Rules of Origin.

(11) The Agreement on Import Licensing Procedures.

(12) The Agreement on Subsidies and Countervailing Measures.

(13) The Agreement on Safeguards.

(14) The General Agreement on Trade in Services.

(15) The Agreement on Trade-Related Aspects of Intellectual Property Rights.

(16) The Understanding on Rules and Procedures Governing the Settlement of Disputes.

(17) The Agreement on Government Procurement.

(18) The International Bovine Meat Agreement.

SEC. 102. RELATIONSHIP OF THE AGREEMENTS TO UNITED STATES LAW AND STATE LAW.

(a) RELATIONSHIP OF AGREEMENTS TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of any of the Uruguay Round Agreements, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, including any law relating to—

(i) the protection of human, animal, or plant life or health,

(ii) the protection of the environment, or

(iii) worker safety, or

(B) to limit any authority conferred under any law of the United States, including section 301 of the Trade Act of 1974,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENTS TO STATE LAW.—

(1) FEDERAL-STATE CONSULTATION.—

(A) IN GENERAL.—Upon the enactment of this Act, the President shall, through the intergovernmental policy advisory committees on trade established under section 306(c)(2)(A) of the Trade and Tariff Act of 1984 (19 U.S.C. 2114c(2)(A)), consult with the States for the purpose of achieving conformity of State laws and practices with the Uruguay Round Agreements.

(B) FEDERAL-STATE CONSULTATION PROCESS.—The Trade Representative shall establish within the Office of the United States Trade Representative a Federal-State consultation process for addressing issues relating to the Uruguay Round Agreements that directly relate to, or will potentially have a direct effect on, the States. The Federal-State consultation process shall include procedures under which—

(i) the States will be informed on a continuing basis of matters under the Uruguay Round Agreements that directly relate to, or will potentially have a direct impact on, the States;

(ii) the States will be provided an opportunity to submit, on a continuing basis, to the Trade Representative information and advice with respect to matters referred to in clause (i); and

(iii) the Trade Representative will take into account the information and advice received from the States under clause (i) when formulating United States positions regarding matters referred to in clause (i).

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Federal-

State consultation process established by this paragraph.

(C) FEDERAL-STATE COOPERATION IN WTO DISPUTE SETTLEMENT.—

(1) When a WTO member requests consultations with the United States under Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) (hereafter in this subsection referred to as the "Dispute Settlement Understanding") concerning whether the law of a State is inconsistent with the obligations undertaken by the United States in any of the Uruguay Round Agreements, the Trade Representative shall notify the Governor of the State or the Governor's designee, and the chief legal officer of the jurisdiction whose law is the subject of the consultations, as soon as possible after the request is received, but in no event later than 7 days thereafter.

(i) Not later than 30 days after receiving such a request for consultations, the Trade Representative shall consult with representatives of the State concerned regarding the matter. If the consultations involve the laws of a large number of States, the Trade Representative may consult with an appropriate group of representatives of the States concerned, as determined by those States.

(ii) The Trade Representative shall make every effort to ensure that the State concerned is involved in the development of the position of the United States at each stage of the consultations and each subsequent stage of dispute settlement proceedings regarding the matter. In particular, the Trade Representative shall—

(I) notify the State concerned not later than 7 days after a WTO member requests the establishment of a dispute settlement panel or gives notice of the WTO member's decision to appeal a report by a dispute settlement panel regarding the matter; and

(II) provide the State concerned with the opportunity to advise and assist the Trade Representative in the preparation of factual information and argumentation for any written or oral presentations by the United States in consultations or in proceedings of a panel or the Appellate Body regarding the matter.

(iv) If a dispute settlement panel or the Appellate Body finds that the law of a State is inconsistent with any of the Uruguay Round Agreements, the Trade Representative shall consult with the State concerned in an effort to develop a mutually agreeable response to the report of the panel or the Appellate Body and shall make every effort to ensure that the State concerned is involved in the development of the United States position regarding the response.

(D) NOTICE TO STATES REGARDING CONSULTATIONS ON FOREIGN SUBCENTRAL GOVERNMENT LAWS.—

(1) Subject to clause (ii), the Trade Representative shall, at least 30 days before making a request for consultations under Article 4 of the Dispute Settlement Understanding regarding a subcentral government measure of another WTO member, notify, and solicit the views of, appropriate representatives of each State regarding the matter.

(ii) In exigent circumstances clause (1) shall not apply, in which case the Trade Representative shall notify the appropriate representatives of each State not later than 3 days after making the request for consultations referred to in clause (1).

(2) LEGAL CHALLENGE.—

(A) IN GENERAL.—No State law, or the application of such a State law, may be de-

clared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with any of the Uruguay Round Agreements, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(B) PROCEDURES GOVERNING ACTION.—In any action described in subparagraph (A) that is brought by the United States against a State or any subdivision thereof—

(i) a report of a dispute settlement panel or the Appellate Body convened under the Dispute Settlement Understanding regarding the State law, or the law of any political subdivision thereof, shall not be considered as binding or otherwise accorded deference;

(ii) the United States shall have the burden of proving that the law that is the subject of the action, or the application of that law, is inconsistent with the agreement in question;

(iii) any State whose interests may be impaired or impeded in the action shall have the unconditional right to intervene in the action as a party, and the United States shall be entitled to amend its complaint to include a claim or cross-claim concerning the law of a State that so intervenes; and

(iv) any State law that is declared invalid shall not be deemed to have been invalid in its application during any period before the court's judgment becomes final and all timely appeals, including discretionary review, of such judgment are exhausted.

(C) REPORTS TO CONGRESSIONAL COMMITTEES.—At least 30 days before the United States brings an action described in subparagraph (A), the Trade Representative shall provide a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(i) describing the proposed action;

(ii) describing efforts by the Trade Representative to resolve the matter with the State concerned by other means; and

(iii) if the State law was the subject of consultations under the Dispute Settlement Understanding, certifying that the Trade Representative has substantially complied with the requirements of paragraph (1)(C) in connection with the matter. Following the submission of the report, and before the action is brought, the Trade Representative shall consult with the committees referred to in the preceding sentence concerning the matter.

(3) DEFINITION OF STATE LAW.—For purposes of this subsection—

(A) the term "State law" includes—

(i) any law of a political subdivision of a State; and

(ii) any State law regulating or taxing the business of insurance; and

(B) the terms "dispute settlement panel" and "Appellate Body" have the meanings given those terms in section 121.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—

(1) LIMITATIONS.—No person other than the United States—

(A) shall have any cause of action or defense under any of the Uruguay Round Agreements or by virtue of congressional approval of such an agreement, or

(B) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with such agreement.

(2) INTENT OF CONGRESS.—It is the intention of the Congress through paragraph (1) to

occupy the field with respect to any cause of action or defense under or in connection with any of the Uruguay Round Agreements, including by precluding any person other than the United States from bringing any action against any State or political subdivision thereof or raising any defense to the application of State law under or in connection with any of the Uruguay Round Agreements—

(A) on the basis of a judgment obtained by the United States in an action brought under any such agreement; or

(B) on any other basis.

(d) STATEMENT OF ADMINISTRATIVE ACTION.—The statement of administrative action approved by the Congress under section 101(a) shall be regarded as an authoritative expression by the United States concerning the interpretation and application of the Uruguay Round Agreements and this Act in any judicial proceeding in which a question arises concerning such interpretation or application.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE; REGULATIONS.

(a) IMPLEMENTING ACTIONS.—After the date of the enactment of this Act—

(1) the President may proclaim such actions, and

(2) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date any of the Uruguay Round Agreements enters into force with respect to the United States is appropriately implemented on such date. Such proclamation or regulation may not have an effective date earlier than the date of entry into force with respect to the United States of the agreement to which the proclamation or regulation relates.

(b) REGULATIONS.—Any interim regulation necessary or appropriate to carry out any action proposed in the statement of administrative action approved under section 101(a) to implement an agreement described in section 101(d) (7), (12), or (13) shall be issued not later than 1 year after the date on which the agreement enters into force with respect to the United States.

Subtitle B—Tariff Modifications

SEC. 111. TARIFF MODIFICATIONS.

(a) IN GENERAL.—In addition to the authority provided by section 1102 of the Omnibus Trade and Competitiveness Act of 1968 (19 U.S.C. 2902), the President shall have the authority to proclaim—

(1) such other modification of any duty,

(2) such other staged rate reduction, or

(3) such additional duties,

as the President determines to be necessary or appropriate to carry out Schedule XX.

(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover requirements of section 115, the President may proclaim—

(1) the modification of any duty or staged rate reduction of any duty set forth in Schedule XX if—

(A) the United States agrees to such modification or staged rate reduction in a multilateral negotiation under the auspices of the WTO, and

(B) such modification or staged rate reduction applies to the rate of duty on an article contained in a tariff category that was the subject of reciprocal duty elimination or harmonization negotiations during the Uruguay Round of multilateral trade negotiations, and

(2) such modifications as are necessary to correct technical errors in Schedule XX or to make other rectifications to the Schedule.

(c) AUTHORITY TO INCREASE DUTIES ON ARTICLES FROM CERTAIN COUNTRIES.—

(1) IN GENERAL.—

(A) DETERMINATION WITH RESPECT TO CERTAIN COUNTRIES.—Notwithstanding section 251 of the Trade Expansion Act of 1962 (19 U.S.C. 1881), after the entry into force of the WTO Agreement with respect to the United States, if the President—

(i) determines that a foreign country (other than a foreign country that is a WTO member country) is not according adequate trade benefits to the United States, including substantially equal competitive opportunities for the commerce of the United States, and

(ii) consults with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, the President may proclaim an increase in the rate of duty with respect to any article of such country in accordance with subparagraph (B).

(B) RATE OF DUTY DESCRIBED.—The President may proclaim a rate of duty on any article of a country identified under subparagraph (A) that is equal to the greater of—

(1) the rate of duty set forth for such article in the base rate of duty column of Schedule XX, or

(ii) the rate of duty set forth for such article in the bound rate of duty column of Schedule XX.

(2) TERMINATION OF INCREASED DUTIES.—The President shall terminate any increase in the rate of duty proclaimed under this subsection by a proclamation which shall be effective on the earlier of—

(A) the date set out in such proclamation of termination, or

(B) the date the WTO Agreement enters into force with respect to the foreign country with respect to which the determination under paragraph (1) was made.

(3) PUBLICATION OF DETERMINATION AND TERMINATION.—The President shall publish in the Federal Register notice of a determination made under paragraph (1) and a termination occurring by reason of paragraph (2).

(d) ADJUSTMENTS TO CERTAIN COLUMN 2 RATES OF DUTY.—At such time as the President proclaims any modification to the HTS to implement the provisions of Schedule XX, the President shall also proclaim the rate of duty set forth in Column B as the column 2 rate of duty for the subheading of the HTS that corresponds to the subheading in Schedule XX listed in Column A.

0402.99.90	54.5¢/kg + 17.5%	1701.91.58	39.9¢/kg + 6%
0403.10.50	\$1.217/kg + 20%	1701.99.10	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg
0403.90.16	90.8¢/liter	1701.99.50	42.05¢/kg
0403.90.45	\$1.03/kg	1702.20.28	19.9¢/kg of total sugars + 6%
0403.90.55	\$1.285/kg	1702.30.28	19.9¢/kg of total sugars + 6%
0403.90.65	\$1.831/kg	1702.40.28	39.9¢/kg of total sugars + 6%
0403.90.78	\$1.936/kg	1702.60.28	39.9¢/kg of total sugars + 6%
0403.90.95	\$1.217/kg + 20%	1702.90.10	6.58170¢/kg of total sugars
0404.10.11	20%	1702.90.20	42.05¢/kg
0404.10.15	\$1.217/kg + 10%	1702.90.58	39.9¢/kg of total sugars + 6%
0404.10.90	\$1.03/kg	1702.90.68	39.9¢/kg + 6%
0404.90.30	25%	1704.90.58	47.4¢/kg + 12.2%
0404.90.50	\$1.399/kg + 10%	1704.90.68	47.4¢/kg + 12.2%
0405.00.40	\$1.813/kg	1704.90.78	47.4¢/kg + 12.2%
0405.00.90	\$2.194/kg + 10%	1806.10.15	25.5¢/kg
0406.10.08	\$1.775/kg	1806.10.28	39.5¢/kg
0406.10.18	\$2.67/kg	1806.10.38	39.5¢/kg
0406.10.28	\$1.443/kg	1806.10.55	39.5¢/kg
0406.10.38	\$1.241/kg	1806.10.75	39.5¢/kg
0406.10.48	\$2.121/kg	1806.20.26	43.8¢/kg + 5%
0406.10.58	\$2.525/kg	1806.20.28	62.1¢/kg + 5%
0406.10.68	\$1.631/kg	1806.20.36	43.8¢/kg + 5%
0406.10.78	\$1.328/kg	1806.20.38	62.1¢/kg + 5%
0406.10.88	\$1.775/kg	1806.20.73	35.9¢/kg + 10%
0406.20.28	\$2.67/kg	1806.20.77	35.9¢/kg + 10%
0406.20.33	\$1.443/kg	1806.20.82	43.8¢/kg + 10%
0406.20.39	\$1.241/kg	1806.20.83	62.1¢/kg + 10%
0406.20.48	\$2.121/kg	1806.20.87	43.8¢/kg + 10%
0406.20.53	\$2.525/kg	1806.20.89	62.1¢/kg + 10%
0406.20.63	\$2.67/kg	1806.20.92	43.8¢/kg + 10%
0406.20.67	\$1.443/kg	1806.20.93	62.1¢/kg + 10%
0406.20.71	\$1.241/kg	1806.20.96	43.8¢/kg + 10%
0406.20.75	\$2.121/kg	1806.20.97	62.1¢/kg + 10%
0406.20.79	\$2.525/kg	1806.32.06	43.8¢/kg + 5%
0406.20.83	\$1.631/kg	1806.32.08	62.1¢/kg + 5%
0406.20.87	\$1.328/kg	1806.32.16	43.8¢/kg + 5%
0406.20.91	\$1.775/kg	1806.32.18	62.1¢/kg + 5%
0406.30.18	\$2.67/kg	1806.32.70	43.8¢/kg + 7%
0406.30.28	\$1.443/kg	1806.32.80	62.1¢/kg + 7%
0406.30.38	\$1.241/kg	1806.32.86	43.8¢/kg + 7%
0406.30.48	\$2.121/kg	1806.90.08	43.8¢/kg + 7%
0406.30.53	\$1.631/kg	1806.90.10	62.1¢/kg + 7%
0406.30.63	\$2.67/kg	1806.90.18	43.8¢/kg + 7%
0406.30.67	\$1.443/kg	1806.90.20	62.1¢/kg + 7%
0406.30.71	\$1.241/kg	1806.90.28	43.8¢/kg + 7%
0406.30.75	\$2.121/kg	1806.90.30	62.1¢/kg + 7%
0406.30.79	\$2.525/kg	1806.90.38	43.8¢/kg + 7%
0406.30.83	\$1.631/kg	1806.90.40	62.1¢/kg + 7%
0406.30.87	\$1.328/kg	1806.90.48	43.8¢/kg + 7%
0406.30.91	\$1.775/kg	1806.90.50	62.1¢/kg + 7%
0406.40.70	\$2.67/kg	1806.90.58	43.8¢/kg + 7%
0406.90.12	\$1.443/kg	1806.90.60	62.1¢/kg + 7%
0406.90.18	\$2.121/kg	1901.10.30	\$1.217/kg + 17.5%
0406.90.33	\$2.525/kg	1901.10.40	\$1.217/kg + 17.5%
0406.90.38	\$2.525/kg	1901.10.75	\$1.217/kg + 17.5%
0406.90.43	\$2.525/kg	1901.10.85	\$1.217/kg + 17.5%
0406.90.48	\$2.208/kg	1901.20.15	49.8¢/kg + 10%
0406.90.64	\$1.241/kg	1901.20.25	49.8¢/kg + 10%
0406.90.68	\$2.525/kg	1901.20.35	49.8¢/kg + 10%
0406.90.74	\$2.67/kg	1901.20.50	49.8¢/kg + 10%
0406.90.78	\$1.443/kg	1901.20.60	49.8¢/kg + 10%
0406.90.84	\$1.241/kg	1901.20.70	49.8¢/kg + 10%
0406.90.88	\$2.121/kg	1901.90.36	\$1.328/kg
0406.90.92	\$1.631/kg	1901.90.42	25%
0406.90.94	\$1.328/kg	1901.90.44	\$1.217/kg + 16%
0406.90.97	\$1.775/kg	1901.90.46	25%
1202.10.80	192.7%	1901.90.48	\$1.217/kg + 16%
1202.20.80	155%	1901.90.54	27.9¢/kg + 10%
1517.90.60	40.2¢/kg	1901.90.58	27.9¢/kg + 10%
1701.11.50	39.85¢/kg	2008.11.15	155%
1701.12.10	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg	2008.11.35	155%
		2008.11.60	155%
		2101.10.38	35.9¢/kg + 10%
		2101.10.48	35.9¢/kg + 10%
		2101.10.58	35.9¢/kg + 10%
		2101.20.38	35.9¢/kg + 10%
		2101.20.48	35.9¢/kg + 10%
		2101.20.58	35.9¢/kg + 10%
		2103.90.78	35.9¢/kg + 7.5%
		2105.00.20	59¢/kg + 20%

Column A	Column B
Schedule XX subheading:	Rate of duty for column 2 of the HTS:
0201.10.50	31.1%
0201.20.80	31.1%
0201.30.80	31.1%
0202.10.50	31.1%
0202.20.80	31.1%
0202.30.80	31.1%
0401.30.25	90.8¢/liter
0401.30.75	\$1.936/kg
0402.10.50	\$1.018/kg
0402.21.25	\$1.018/kg
0402.21.50	\$1.285/kg
0402.21.90	\$1.831/kg
0402.29.50	\$1.299/kg + 17.5%
0402.91.60	36.8¢/kg
0402.99.50	58.4¢/kg

2105.00.40	59¢/kg + 20%
2106.90.02	\$1.014/kg
2106.90.04	\$2.348/kg
2106.90.08	\$2.348/kg
2106.90.11	6.58170¢/kg of total sugars
2106.90.12	42.05¢/kg
2106.90.34	82.8¢/kg + 10%
2106.90.38	82.8¢/kg + 10%
2106.90.44	82.8¢/kg + 10%
2106.90.48	82.8¢/kg + 10%
2106.90.57	33.9¢/kg + 10%
2106.90.67	33.9¢/kg + 10%
2106.90.77	33.9¢/kg + 10%
2106.90.87	33.9¢/kg + 10%
2202.90.28	27.6¢/liter + 17.5%
2309.90.28	94.6¢/kg + 7.5%
2309.90.48	94.6¢/kg + 7.5%
2401.10.70	85¢/kg
2401.10.90	85¢/kg
2401.20.30	\$1.21/kg
2401.20.45	\$1.15/kg
2401.20.55	\$1.15/kg
2801.30.20	37%
2805.30.00	31.3%
2805.40.00	5.7%
2811.19.10	4.9%
2818.10.20	4.1%
2822.00.00	1.7%
2827.39.20	31.9%
2833.11.50	3.6%
2833.27.00	4.2%
2836.40.20	4.8%
2836.60.00	8.4%
2837.20.10	5.1%
2840.11.00	1.2%
2840.19.00	0.4%
2849.20.20	1.6%
2903.15.00	88%
2903.16.00	33.3%
2903.30.05	46.3%
2906.11.00	6.2%
2907.12.00	48.3%
2909.11.00	4%
2912.11.00	12.1%
2916.15.10	35.2%
2916.19.30	24.4%
2923.20.20	33.4%
3213.90.00	48.6%
3307.10.20	81.7%
3307.49.00	73.2%
3403.11.20	0.4%
3403.19.10	0.4%
3506.10.10	30.4%
3603.00.30	8.3%
3603.00.90	0.3%
3604.10.00	12.5%
3606.90.30	56.7%
3706.10.30	7%
3807.00.00	0.2%
3823.90.33	26.3%
3904.61.00	34.1%
3916.90.10	40.6%
3920.51.50	48.2%
3920.59.80	51.7%
3926.90.65	8.4%
5201.00.18	36.9¢/kg
5201.00.28	36.9¢/kg
5201.00.38	36.9¢/kg
5201.00.80	36.9¢/kg
5202.99.30	9.2¢/kg

5203.00.30 36.9¢/kg

(e) AUTHORITY TO CONSOLIDATE SUBHEADINGS AND MODIFY COLUMN 2 RATES OF DUTY FOR TARIFF SIMPLIFICATION PURPOSES.—

(1) IN GENERAL.—Whenever the HTS column 1 general rates of duty for 2 or more 8-digit subheadings are at the same level and such subheadings are subordinate to a provision required by the International Convention on the Harmonized Commodity Description and Coding System, the President may proclaim, subject to the consultation and layover requirements of section 115, that the goods described in such subheadings be provided for in a single 8-digit subheading of the HTS, and that—

(A) the HTS column 1 general rate of duty for such single subheading be the column 1 general rate of duty common to all such subheadings, and

(B) the HTS column 2 rate of duty for such single subheading be the highest column 2 rate of duty for such subheadings that is in effect on the day before the effective date of such proclamation.

(2) SAME LEVEL OF DUTY.—The provisions of this subsection apply to subheadings described in paragraph (1) that have the same column 1 general rate of duty—

(A) on the date of the enactment of this Act, or

(B) after such date of enactment as a result of a staged reduction in such column 1 rates of duty.

SEC. 112. IMPLEMENTATION OF SCHEDULE XX PROVISIONS ON SHIP REPAIRS.

(a) IN GENERAL.—Section 484E(b) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note; 104 Stat. 710) is amended—

(1) by striking “and” at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting “, and”; and

(3) by adding at the end the following new paragraph:

“(3) any entry made pursuant to section 466(h) (1) or (2) of the Tariff Act of 1930 (19 U.S.C. 1466(h) (1) or (2)), on or after the date of the entry into force of the WTO Agreement with respect to the United States.”.

(b) EXEMPTION FOR CERTAIN SPARE PARTS.—Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended—

(1) by striking “or” at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting “, or”; and

(3) by adding at the end the following new paragraph:

“(3) the cost of spare parts necessarily installed before the first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.”.

SEC. 113. LIQUIDATION OR RELIQUIDATION AND REFUND OF DUTY PAID ON CERTAIN ENTRIES.

(a) LIQUIDATION OR RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, and subject to subsection (b), the Secretary of the Treasury shall liquidate or reliquidate the entries listed or otherwise described in subsection (c) and refund any duty or excess duty that was paid, as provided in subsection (c).

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date on which the WTO Agreement enters into force with respect to the United States, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

(c) ENTRIES.—The entries referred to in subsection (a) are as follows:

(1) AGGLOMERATED STONE TILES.—Any goods—

(A) for which the importer claimed or would have claimed entry under subheading 6810.19.12 of the HTS on or after October 1, 1990, and before the effective date of a proclamation issued by the President under section 103(a) of this Act with respect to items under such subheading in order to carry out Schedule XX, or

(B) entered on or after January 1, 1989, and before October 1, 1990, for which entry would have been claimed under subheading 6810.19.12 of the HTS on or after October 1, 1990,

shall be liquidated or reliquidated as if the wording of that subheading were “Of stone agglomerated with binders other than cement”, and the Secretary of the Treasury shall refund any excess duties paid with respect to such entries.

(2) CLOMIPHENE CITRATE.—

(A) Any entry, or withdrawal from warehouse for consumption, of goods under heading 9902.29.95 of the HTS (relating to clomiphene citrate) which was made after December 31, 1988, and before January 1, 1993, and with respect to which there would have been no duty if the reference to subheading “2922.19.15” in such heading were a reference to subheading “2922.19.15 or any subheading of chapter 30” at the time of such entry or withdrawal, shall be liquidated or reliquidated as free of duty.

(B) The Secretary of the Treasury shall refund any duties paid with respect to entries described in subparagraph (A).

SEC. 114. MODIFICATIONS TO THE HTS.

(a) WOOL.—

(1) AMENDMENTS.—Chapter 51 of the HTS is amended—

(A) by striking subheading 5101.21.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the article description in subheading 5101.11.60:

*5101.21.65	Other: Unimproved wool, other wool, not finer than 46s	Free	81.6¢/kg+20%
5101.21.70	Other	7.7¢/kg+6.25%	Free (MX) 0.8¢/kg+0.6¢ (IL) 3¢/kg+2.5% (CA). 81.6¢/kg+20%*

(B) by striking subheading 5101.29.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the article description in subheading 5102.10.20:

*5101.29.65	Other: Unimproved wool, other wool, not finer than 46s	Free	81.6¢/kg+20%
5101.29.70	Other	7.7¢/kg+6.25%	0.8¢/kg+0.6¢ (IL) 3¢/kg+2.5% (CA) 6.1¢/kg+5% (MX). 81.6¢/kg+20%*

and

(C) by striking subheading 5101.30.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the superior text immediately preceding subheading 5102.10.20:

5101.30.65	Other: Unimproved wool, other wool, not finer than 46s	Free	81.6¢/kg+20%
5101.30.70	Other	7.7¢/kg+6.25%	81.6¢/kg+20% (IL) 3¢/kg+2.5% (CA).

(2) **EFFECTIVE DATE.**—The amendments made by this subsection take effect on the effective date of the proclamation issued by the President under section 103(a) to carry out Schedule XX.

(b) **DUTY FREE TREATMENT FOR OCTADECYL ISOCYANATE AND 5-CHLORO-2-(2,4-DICHLOROPHENOXYPHENOL).**—The President—

(1) shall proclaim duty-free entry for octadecyl isocyanate and 5-Chloro-2-(2,4-dichlorophenoxy)phenol, to be effective on the effective date of the proclamation issued by the President under section 103(a) to carry out Schedule XX, and

(2) shall take such actions as are necessary to reflect such tariff treatment in Schedule XX.

SEC. 115. CONSULTATION AND LAYOVER REQUIREMENTS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), and

(B) the International Trade Commission;

(2) the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

(A) the action proposed to be proclaimed and the reasons for such actions, and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of paragraphs (1) and (2) with respect to such action, has expired; and

(4) the President has consulted with such committees regarding the proposed action during the period referred to in paragraph (3).

SEC. 116. EFFECTIVE DATE.

(a) **IN GENERAL.**—Except as provided in section 114(a) and subsection (b) of this section, this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

(b) **SECTION 115.**—Section 115 takes effect on the date of the enactment of this Act.

Subtitle C—Uruguay Round Implementation and Dispute Settlement

SEC. 121. DEFINITIONS.

For purposes of this subtitle:

(1) **ADMINISTERING AUTHORITY.**—The term “administering authority” has the meaning given that term in section 771(1) of the Tariff Act of 1930.

(2) **APPELLATE BODY.**—The term “Appellate Body” means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(3) **APPROPRIATE CONGRESSIONAL COMMITTEES; CONGRESSIONAL COMMITTEES.**—

(A) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the committees referred to in subparagraph (B) and any other committees of the Congress that have jurisdic-

tion involving the matter with respect to which consultations are to be held.

(B) **CONGRESSIONAL COMMITTEES.**—The term “congressional committees” means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(4) **DISPUTE SETTLEMENT PANEL; PANEL.**—The terms “dispute settlement panel” and “panel” mean a panel established pursuant to Article 6 of the Dispute Settlement Understanding.

(5) **DISPUTE SETTLEMENT BODY.**—The term “Dispute Settlement Body” means the Dispute Settlement Body administering the rules and procedures set forth in the Dispute Settlement Understanding.

(6) **DISPUTE SETTLEMENT UNDERSTANDING.**—The term “Dispute Settlement Understanding” means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16).

(7) **GENERAL COUNCIL.**—The term “General Council” means the General Council established under paragraph 2 of Article IV of the WTO Agreement.

(8) **MINISTERIAL CONFERENCE.**—The term “Ministerial Conference” means the Ministerial Conference established under paragraph 1 of Article IV of the WTO Agreement.

(9) **OTHER TERMS.**—The terms “Antidumping Agreement”, “Agreement on Subsidies and Countervailing Measures”, and “Safeguards Agreement” mean the agreements referred to in section 101(d)(7), (12), and (13), respectively.

SEC. 122. IMPLEMENTATION OF URUGUAY ROUND AGREEMENTS.

(a) **DECISIONMAKING.**—In the implementation of the Uruguay Round Agreements and the functioning of the World Trade Organization, it is the objective of the United States to ensure that the Ministerial Conference and the General Council continue the practice of decisionmaking by consensus followed under the GATT 1947, as required by paragraph 1 of article IX of the WTO Agreement.

(b) **CONSULTATIONS WITH CONGRESSIONAL COMMITTEES.**—In furtherance of the objective set forth in subsection (a), the Trade Representative shall consult with the appropriate congressional committees before any vote is taken by the Ministerial Conference or the General Council relating to—

(1) the adoption of an interpretation of the WTO Agreement or another multilateral trade agreement,

(2) the amendment of any such agreement,

(3) the granting of a waiver of any obligation under any such agreement,

(4) the adoption of any amendment to the rules or procedures of the Ministerial Conference or the General Council,

(5) the accession of a state or separate customs territory to the WTO Agreement, or

(6) the adoption of any other decision, if the action described in paragraph (1), (2), (3), (4), (5), or (6) would substantially affect the rights or obligations of the United States under the WTO Agreement or another multilateral trade agreement or potentially entails a change in Federal or State law.

(c) **REPORT ON DECISIONS.**—

(1) **IN GENERAL.**—Not later than 30 days after the end of any calendar year in which the Ministerial Conference or the General Council adopts by vote any decision to take

any action described in paragraph (1), (2), (4), or (6) of subsection (b), the Trade Representative shall submit a report to the appropriate congressional committees describing—

(A) the nature of the decision;

(B) the efforts made by the United States to have the matter decided by consensus pursuant to paragraph 1 of article IX of the WTO Agreement, and the results of those efforts;

(C) which countries voted for, and which countries voted against, the decision;

(D) the rights or obligations of the United States affected by the decision and any Federal or State law that would be amended or repealed, if the President after consultation with the Congress determined that such amendment or repeal was an appropriate response; and

(E) the action the President intends to take in response to the decision or, if the President does not intend to take any action, the reasons therefor.

(2) **ADDITIONAL REPORTING REQUIREMENTS.**—

(A) **GRANT OF WAIVER.**—In the case of a decision to grant a waiver described in subsection (b)(3), the report under paragraph (1) shall describe the terms and conditions of the waiver and the rights and obligations of the United States that are affected by the waiver.

(B) **ACCESSION.**—In the case of a decision on accession described in subsection (b)(5), the report under paragraph (1) shall state whether the United States intends to invoke Article XIII of the WTO Agreement.

(d) **CONSULTATION ON REPORT.**—Promptly after the submission of a report under subsection (c), the Trade Representative shall consult with the appropriate congressional committees with respect to the report.

SEC. 123. DISPUTE SETTLEMENT PANELS AND PROCEDURES.

(a) **REVIEW BY PRESIDENT.**—The President shall review annually the WTO panel roster and shall include the panel roster and the list of persons serving on the Appellate Body in the annual report submitted by the President under section 163(a) of the Trade Act of 1974.

(b) **QUALIFICATIONS OF APPOINTEES TO PANELS.**—The Trade Representative shall—

(1) seek to ensure that persons appointed to the WTO panel roster are well-qualified, and that the roster includes persons with expertise in the subject areas covered by the Uruguay Round Agreements; and

(2) inform the President of persons nominated to the roster by other WTO member countries.

(c) **RULES GOVERNING CONFLICTS OF INTEREST.**—The Trade Representative shall seek the establishment by the General Council and the Dispute Settlement Body of rules governing conflicts of interest by persons serving on panels and members of the Appellate Body and shall describe, in the annual report submitted under section 124, any progress made in establishing such rules.

(d) **NOTIFICATION OF DISPUTES.**—Promptly after a dispute settlement panel is established to consider the consistency of Federal or State law with any of the Uruguay Round Agreements, the Trade Representative shall notify the appropriate congressional committees of—

(1) the nature of the dispute, including the matters set forth in the request for the establishment of the panel, the legal basis of the complaint, and the specific measures, in particular any State or Federal law cited in the request for establishment of the panel;

(2) the identity of the persons serving on the panel; and

(3) whether there was any departure from the rule of consensus with respect to the selection of persons to serve on the panel.

(e) NOTICE OF APPEALS OF PANEL REPORTS.—If an appeal is taken of a report of a panel in a proceeding described in subsection (d), the Trade Representative shall, promptly after the notice of appeal is filed, notify the appropriate congressional committees of—

(1) the issues under appeal; and
(2) the identity of the persons serving on the Appellate Body who are reviewing the report of the panel.

(f) ACTIONS UPON CIRCULATION OF REPORTS.—Promptly after the circulation of a report of a panel or of the Appellate Body to WTO members in a proceeding described in subsection (d), the Trade Representative shall—

(1) notify the appropriate congressional committees of the report;

(2) in the case of a report of a panel, consult with the appropriate congressional committees concerning the nature of any appeal that may be taken of the report; and

(3) if the report is adverse to the United States, consult with the appropriate congressional committees concerning whether to implement the report's recommendation and, if so, the manner of such implementation and the period of time needed for such implementation.

(g) REQUIREMENTS FOR AGENCY ACTION.—

(1) CHANGES IN AGENCY REGULATIONS OR PRACTICE.—In any case in which a dispute settlement panel or the Appellate Body finds in its report that a regulation or practice of a department or agency of the United States is inconsistent with any of the Uruguay Round Agreements, that regulation or practice may not be amended, rescinded, or otherwise modified in the implementation of such report unless and until—

(A) the appropriate congressional committees have been consulted under subsection (f);

(B) the Trade Representative has sought advice regarding the modification from relevant private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155);

(C) the head of the relevant department or agency has provided an opportunity for public comment by publishing in the Federal Register the proposed modification and the explanation for the modification;

(D) the Trade Representative has submitted to the appropriate congressional committees a report describing the proposed modification, the reasons for the modification, and a summary of the advice obtained under subparagraph (B) with respect to the modification;

(E) the Trade Representative and the head of the relevant department or agency have consulted with the appropriate congressional committees on the proposed contents of the final rule or other modification; and

(F) the final rule or other modification has been published in the Federal Register.

(2) EFFECTIVE DATE OF MODIFICATION.—A final rule or other modification to which paragraph (1) applies may not go into effect before the end of the 60-day period beginning on the date on which consultations under paragraph (1)(E) begin, unless the President

determines that an earlier effective date is in the national interest.

(3) VOTE BY CONGRESSIONAL COMMITTEES.—During the 60-day period described in paragraph (2), the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate may vote to indicate the agreement or disagreement of the committee with the proposed contents of the final rule or other modification. Any such vote shall not be binding on the department or agency which is implementing the rule or other modification.

(4) INAPPLICABILITY TO ITC.—This subsection does not apply to any regulation or practice of the International Trade Commission.

(h) CONSULTATIONS REGARDING REVIEW OF WTO RULES AND PROCEDURES.—Before the review is conducted of the dispute settlement rules and procedures of the WTO that is provided for in the Decision on the Application of the Understanding on Rules and Procedures Governing the Settlement of Disputes, as such decision is set forth in the Ministerial Declarations and Decisions adopted on April 15, 1994, together with the Uruguay Round Agreements, the Trade Representative shall consult with the congressional committees regarding the policy of the United States concerning the review.

SEC. 124. ANNUAL REPORT ON THE WTO.

Not later than March 1 of each year beginning in 1996, the Trade Representative shall submit to the Congress a report describing, for the preceding fiscal year of the WTO—

(1) the major activities and work programs of the WTO, including the functions and activities of the committees established under article IV of the WTO Agreement, and the expenditures made by the WTO in connection with those activities and programs;

(2) the percentage of budgetary assessments by the WTO that were accounted for by each WTO member country, including the United States;

(3) the total number of personnel employed or retained by the Secretariat of the WTO, and the number of professional, administrative, and support staff of the WTO;

(4) for each personnel category described in paragraph (3), the number of citizens of each country, and the average salary of the personnel, in that category;

(5) each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law, and any efforts by the Trade Representative to provide for implementation of the recommendations contained in a report that is adverse to the United States;

(6) each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue;

(7) the status of consultations with any State whose law was the subject of a report adverse to the United States that was issued by a panel or the Appellate Body; and

(8) any progress achieved in increasing the transparency of proceedings of the Ministerial Conference and the General Council, and of dispute settlement proceedings conducted pursuant to the Dispute Settlement Understanding.

SEC. 125. REVIEW OF PARTICIPATION IN THE WTO.

(a) REPORT ON THE OPERATION OF THE WTO.—The first annual report submitted to the Congress under section 124—

(1) after the end of the 5-year period beginning on the date on which the WTO Agreement enters into force with respect to the United States, and

(2) after the end of every 5-year period thereafter,

shall include an analysis of the effects of the WTO Agreement on the interests of the United States, the costs and benefits to the United States of its participation in the WTO, and the value of the continued participation of the United States in the WTO.

(b) CONGRESSIONAL DISAPPROVAL OF U.S. PARTICIPATION IN THE WTO.—

(1) GENERAL RULE.—The approval of the Congress, provided under section 101(a), of the WTO Agreement shall cease to be effective if, and only if, a joint resolution described in subsection (c) is enacted into law pursuant to the provisions of paragraph (2).

(2) PROCEDURAL PROVISIONS.—(A) The requirements of this paragraph are met if the joint resolution is enacted under subsection (c), and

(i) the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974), beginning on the date on which the Congress receives a report referred to in subsection (a), and

(ii) if the President vetoes the joint resolution, each House of Congress votes to override that veto on or before the later of the last day of the 90-day period referred to in clause (i) or the last day of the 15-day period (excluding any day described in section 154(b) of the Trade Act of 1974) beginning on the date on which the Congress receives the veto message from the President.

(B) A joint resolution to which this section applies may be introduced at any time on or after the date on which the President transmits to the Congress a report described in subsection (a), and before the end of the 90-day period referred to in subparagraph (A).

(c) JOINT RESOLUTIONS.—

(1) JOINT RESOLUTIONS.—For purposes of this section, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress withdraws its approval, provided under section 101(a) of the Uruguay Round Agreements Act, of the WTO Agreement as defined in section 2(9) of that Act."

(2) PROCEDURES.—(A) Joint resolutions may be introduced in either House of the Congress by any Member of such House.

(B) Subject to the provisions of this subsection, the provisions of subsections (b), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192 (b), (d), (e), and (f)) apply to joint resolutions to the same extent as such provisions apply to resolutions under such section.

(C) If the committee of either House to which a joint resolution has been referred has not reported it by the close of the 45th day after its introduction (excluding any day described in section 154(b) of the Trade Act of 1974), such committee shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(D) It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged under subparagraph (C); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged under subparagraph (C).

(D) A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made on the

second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.

(3) **CONSIDERATION OF SECOND RESOLUTION NOT IN ORDER.**—It shall not be in order in either the House of Representatives or the Senate to consider a joint resolution (other than a joint resolution received from the other House), if that House has previously adopted a joint resolution under this section.

(4) **RULES OF HOUSE OF REPRESENTATIVES AND SENATE.**—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 126. INCREASED TRANSPARENCY.

The Trade Representative shall seek the adoption by the Ministerial Conference and General Council of procedures that will ensure broader application of the principle of transparency and clarification of the costs and benefits of trade policy actions, through the observance of open and equitable procedures in trade matters by the Ministerial Conference and the General Council, and by the dispute settlement panels and the Appellate Body under the Dispute Settlement Understanding.

SEC. 127. ACCESS TO THE WTO DISPUTE SETTLEMENT PROCESS.

(a) **IN GENERAL.**—Whenever the United States is a party before a dispute settlement panel established pursuant to Article 6 of the Dispute Settlement Understanding, the Trade Representative shall, at each stage of the proceeding before the panel or the Appellate Body, consult with the appropriate congressional committees, the petitioner (if any) under section 302(a) of the Trade Act of 1974 (19 U.S.C. 2412) with respect to the matter that is the subject of the proceeding, and relevant private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), and shall consider the views of representatives of appropriate interested private sector and nongovernmental organizations concerning the matter.

(b) **NOTICE AND PUBLIC COMMENT.**—In any proceeding described in subsection (a), the Trade Representative shall—

(1) promptly after requesting the establishment of a panel, or receiving a request from another WTO member country for the establishment of a panel, publish a notice in the Federal Register—

(A) identifying the initial parties to the dispute,

(B) setting forth the major issues raised by the country requesting the establishment of a panel and the legal basis of the complaint,

(C) identifying the specific measures, including any State or Federal law cited in the request for establishment of the panel, and

(D) seeking written comments from the public concerning the issues raised in the dispute; and

(2) take into account any advice received from appropriate congressional committees and relevant private sector advisory committees referred to in subsection (a), and written comments received pursuant to paragraph (1)(D), in preparing United States submissions to the panel or the Appellate Body.

(c) **ACCESS TO DOCUMENTS.**—In each proceeding described in subsection (a), the Trade Representative shall—

(1) make written submissions by the United States referred to in subsection (b) available to the public promptly after they are submitted to the panel or Appellate Body, except that the Trade Representative is authorized to withhold from disclosure any information contained in such submissions identified by the provider of the information as proprietary information or information treated as confidential by a foreign government;

(2) request each other party to the dispute to permit the Trade Representative to make that party's written submissions to the panel or the Appellate Body available to the public; and

(3) make each report of the panel or the Appellate Body available to the public promptly after it is circulated to WTO members, and inform the public of such availability.

(d) **REQUESTS FOR NONCONFIDENTIAL SUMMARIES.**—In any dispute settlement proceeding conducted pursuant to the Dispute Settlement Understanding, the Trade Representative shall request each party to the dispute to provide nonconfidential summaries of its written submissions, if that party has not made its written submissions public, and shall make those summaries available to the public promptly after receiving them.

(e) **PUBLIC FILE.**—The Trade Representative shall maintain a file accessible to the public on each dispute settlement proceeding to which the United States is a party that is conducted pursuant to the Dispute Settlement Understanding. The file shall include all United States submissions in the proceeding and a listing of any submissions to the Trade Representative from the public with respect to the proceeding, as well as the report of the dispute settlement panel and the report of the Appellate Body.

(f) **CONFORMING AMENDMENT.**—Section 135(a)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2155(a)(1)(B)) is amended to read as follows:

“(B) the operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the United States is a party; and”.

SEC. 128. ADVISORY COMMITTEE PARTICIPATION.

Section 135(b)(1) of the Trade Act of 1974 (19 U.S.C. 2155(b)(1)) is amended by inserting “nongovernmental environmental and conservation organizations,” after “retailers.”.

SEC. 129. ADMINISTRATIVE ACTION FOLLOWING WTO PANEL REPORTS.

(a) **ACTION BY UNITED STATES INTERNATIONAL TRADE COMMISSION.**—

(1) **ADVISORY REPORT.**—If a dispute settlement panel finds in an interim report under Article 15 of the Dispute Settlement Understanding, or the Appellate Body finds in a report under Article 17 of that Understanding, that an action by the International Trade Commission in connection with a particular proceeding is not in conformity with the obligations of the United States under the Antidumping Agreement, the Safeguards Agreement, or the Agreement on Subsidies and Countervailing Measures, the Trade Representative may request the Commission to issue an advisory report on whether title VII of the Tariff Act of 1930 or title II of the Trade Act of 1974, as the case may be, permits the Commission to take steps in connection with the particular proceeding that would render its action not inconsistent with the findings of the panel or the Appellate Body concerning those obligations. The

Trade Representative shall notify the congressional committees of such request.

(2) **TIME LIMITS FOR REPORT.**—The Commission shall transmit its report under paragraph (1) to the Trade Representative—

(A) in the case of an interim report described in paragraph (1), within 30 calendar days after the Trade Representative requests the report; and

(B) in the case of a report of the Appellate Body, within 21 calendar days after the Trade Representative requests the report.

(3) **CONSULTATIONS ON REQUEST FOR COMMISSION DETERMINATION.**—If a majority of the Commissioners issues an affirmative report under paragraph (1), the Trade Representative shall consult with the congressional committees concerning the matter.

(4) **COMMISSION DETERMINATION.**—Notwithstanding any provision of the Tariff Act of 1930 or title II of the Trade Act of 1974, if a majority of the Commissioners issues an affirmative report under paragraph (1), the Commission, upon the written request of the Trade Representative, shall issue a determination in connection with the particular proceeding that would render the Commission's action described in paragraph (1) not inconsistent with the findings of the panel or Appellate Body. The Commission shall issue its determination not later than 120 days after the request from the Trade Representative is made.

(5) **CONSULTATIONS ON IMPLEMENTATION OF COMMISSION DETERMINATION.**—The Trade Representative shall consult with the congressional committees before the Commission's determination under paragraph (4) is implemented.

(6) **REVOCACTION OF ORDER.**—If, by virtue of the Commission's determination under paragraph (4), an antidumping or countervailing duty order with respect to some or all of the imports that are subject to the action of the Commission described in paragraph (1) is no longer supported by an affirmative Commission determination under title VII of the Tariff Act of 1930 or this subsection, the Trade Representative may, after consulting with the congressional committees under paragraph (5), direct the administering authority to revoke the antidumping or countervailing duty order in whole or in part.

(7) **MODIFICATION OF ACTION UNDER TITLE II OF TRADE ACT OF 1974.**—Section 204(b) of the Trade Act of 1974 (19 U.S.C. 2254(b)) is amended by adding at the end the following new paragraph:

“(3) Notwithstanding paragraph (1), the President may, after receipt of a Commission determination under section 129(a)(4) of the Uruguay Round Agreements Act and consulting with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, reduce, modify, or terminate action taken under section 203.”.

(b) **ACTION BY ADMINISTERING AUTHORITY.**—

(1) **CONSULTATIONS WITH ADMINISTERING AUTHORITY AND CONGRESSIONAL COMMITTEES.**—Promptly after a report by a dispute settlement panel or the Appellate body is issued that contains findings that an action by the administering authority in a proceeding under title VII of the Tariff Act of 1930 is not in conformity with the obligations of the United States under the Antidumping Agreement or the Agreement on Subsidies and Countervailing Measures, the Trade Representative shall consult with the administering authority and the congressional committees on the matter.

(2) **DETERMINATION BY ADMINISTERING AUTHORITY.**—Notwithstanding any provision of

the Tariff Act of 1930, the administering authority shall, within 180 days after receipt of a written request from the Trade Representative, issue a determination in connection with the particular proceeding that would render the administering authority's action described in paragraph (1) not inconsistent with the findings of the panel or the Appellate Body.

(3) CONSULTATIONS BEFORE IMPLEMENTATION.—Before the administering authority implements any determination under paragraph (2), the Trade Representative shall consult with the administering authority and the congressional committees with respect to such determination.

(4) IMPLEMENTATION OF DETERMINATION.—The Trade Representative may, after consulting with the administering authority and the congressional committees under paragraph (3), direct the administering authority to implement, in whole or in part, the determination made under paragraph (2).

(c) EFFECTS OF DETERMINATIONS; NOTICE OF IMPLEMENTATION.—

(1) EFFECTS OF DETERMINATIONS.—Determinations concerning title VII of the Tariff Act of 1930 that are implemented under this section shall apply with respect to unliquidated entries of the subject merchandise (as defined in section 771 of that Act) that are entered, or withdrawn from warehouse, for consumption on or after—

(A) in the case of a determination by the Commission under subsection (a)(4), the date on which the Trade Representative directs the administering authority under subsection (a)(6) to revoke an order pursuant to that determination, and

(B) in the case of a determination by the administering authority under subsection (b)(2), the date on which the Trade Representative directs the administering authority under subsection (b)(4) to implement that determination.

(2) NOTICE OF IMPLEMENTATION.—

(A) The administering authority shall publish in the Federal Register notice of the implementation of any determination made under this section with respect to title VII of the Tariff Act of 1930.

(B) The Trade Representative shall publish in the Federal Register notice of the implementation of any determination made under this section with respect to title II of the Trade Act of 1974.

(d) OPPORTUNITY FOR COMMENT BY INTERESTED PARTIES.—Prior to issuing a determination under this section, the administering authority or the Commission, as the case may be, shall provide interested parties with an opportunity to submit written comments and, in appropriate cases, may hold a hearing, with respect to the determination.

(e) JUDICIAL OR BINATIONAL PANEL REVIEW.—

(1) REVIEW OF DETERMINATIONS ON RECORD.—Section 516A(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

(A) in subparagraph (A)(1)—

(i) in subclause (I) by striking "(B), or" and inserting "(B)", and

(ii) by adding after subclause (II) the following:

"(III) notice of the implementation of any determination described in clause (vii) of subparagraph (B), or"; and

(B) in subparagraph (B), by adding at the end the following new clause:

"(vii) A determination by the administering authority or the Commission under section 129 of the Uruguay Round Agreements Act concerning a determination under title VII of the Tariff Act of 1930."

(2) TIME LIMITS FOR CASES INVOLVING FREE TRADE AREA COUNTRIES.—Section 516A(a)(5) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(5)) is amended by adding at the end the following new subparagraph:

"(E) For a determination described in clause (vii) of paragraph (2)(B), the 31st day after the date on which notice of the implementation of the determination is published in the Federal Register."

(3) REVIEW OF CASES INVOLVING FREE TRADE AREA COUNTRY MERCHANDISE.—Section 516A(g)(8)(A)(1) of the Tariff Act of 1930 (19 U.S.C. 1516a(g)(8)(A)(1)) is amended by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (E)".

SEC. 130. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle D—Related Provisions

SEC. 131. WORKING PARTY ON WORKER RIGHTS.

(a) IN GENERAL.—The President shall seek the establishment in the GATT 1947, and, upon entry into force of the WTO Agreement with respect to the United States, in the WTO, of a working party to examine the relationship of internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, to the articles, objectives, and related instruments of the GATT 1947 and of the WTO, respectively.

(b) OBJECTIVES OF WORKING PARTY.—The objectives of the United States for the working party described in subsection (a) are to—

(1) explore the linkage between international trade and internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, taking into account differences in the level of development among countries;

(2) examine the effects on international trade of the systematic denial of such rights;

(3) consider ways to address such effects; and

(4) develop methods to coordinate the work program of the working party with the International Labor Organization.

(c) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 1 year after the date of the enactment of this Act, on the progress made in establishing the working party under this section, and on United States objectives with respect to the working party's work program.

SEC. 132. IMPLEMENTATION OF RULES OF ORIGIN WORK PROGRAM.

If the President enters into an agreement developed under the work program described in Article 9 of the Agreement on Rules of Origin referred to in section 101(d)(10), the President may implement United States obligations under such an agreement under United States law only pursuant to authority granted to the President for that purpose by law enacted after the effective date of this title.

SEC. 133. MEMBERSHIP IN WTO OF BOYCOTTING COUNTRIES.

It is the sense of the Congress that the Trade Representative should vigorously oppose the admission into the World Trade Organization of any country which, through its laws, regulations, official policies, or governmental practices, fosters, imposes, complies with, furthers, or supports any boycott described in section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) (as in effect on August 20, 1994), including requiring or encouraging entities within that country to refuse to do business with persons who do not comply with requests to take any action prohibited under that section.

SEC. 134. AFRICA TRADE AND DEVELOPMENT POLICY.

(a) DEVELOPMENT OF POLICY.—The President should develop and implement a comprehensive trade and development policy for the countries of Africa.

(b) REPORTS TO CONGRESS.—The President shall, not later than 12 months after the date of the enactment of this Act and annually thereafter for a period of 4 years, submit to the Committee on Ways and Means and the Committee on Foreign Affairs of the House of Representatives, the Committee on Finance and the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress, a report on the steps taken to carry out subsection (a).

SEC. 135. OBJECTIVES FOR EXTENDED NEGOTIATIONS.

(a) TRADE IN FINANCIAL SERVICES.—The principal negotiating objective of the United States in the extended negotiations on financial services to be conducted under the auspices of the WTO is to seek to secure commitments, from a wide range of commercially important developed and developing countries, to reduce or eliminate barriers to the supply of financial services, including barriers that deny national treatment or market access by restricting the establishment or operation of financial services providers, as the condition for the United States—

(1) offering commitments to provide national treatment and market access in each of the financial services subsectors, and

(2) making such commitments on a most-favored-nation basis.

(b) TRADE IN BASIC TELECOMMUNICATIONS SERVICES.—The principal negotiating objective of the United States in the extended negotiations on basic telecommunications services to be conducted under the auspices of the WTO is to obtain the opening on non-discriminatory terms and conditions of foreign markets for basic telecommunications services through facilities-based competition or through the resale of services on existing networks.

(c) TRADE IN CIVIL AIRCRAFT.—

(1) NEGOTIATIONS.—The principal negotiating objectives of the United States in the extended negotiations on trade in civil aircraft to be conducted under the auspices of the WTO are—

(A) to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to those afforded to foreign products in the United States;

(B) to obtain the reduction or elimination of specific tariff and nontariff barriers, including through expanded membership in the Agreement on Trade in Civil Aircraft and in the US-EC bilateral agreement for large civil aircraft,

(C) to maintain vigorous and effective disciplines on subsidies practices with respect to civil aircraft products under the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12),

(D) to maintain the scope and coverage on indirect support as specified in the US-EC bilateral agreement on large civil aircraft, and

(E) to obtain increased transparency with respect to foreign subsidy programs in the civil aircraft sector, both through greater government disclosure with respect to the use of taxpayer moneys and higher financial disclosure standards for companies receiving government supports (including disclosure comparable to that required under United States securities laws).

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) the term "civil aircraft" means those products to which the Agreement on Trade in Civil Aircraft applies.

(B) the term "large civil aircraft" has the meaning given that term in Annex II to the US-EC bilateral agreement.

(C) the term "indirect support" means indirect government support as defined in Annex II to the US-EC bilateral agreement.

(D) the term "Agreement on Trade in Civil Aircraft" means the Agreement on Trade in Civil Aircraft approved by the Congress under section 2 of the Trade Agreements Act of 1979, and

(E) the term "US-EC bilateral agreement" means the Agreement Concerning the Application of the GATT Agreement on Trade in Civil Aircraft Between the European Economic Community and the Government of the United States of America on trade in large civil aircraft, entered into on July 17, 1992.

SEC. 136. REPEAL OF TAX ON IMPORTED PERFUMES; DRAWBACK OF TAX ON DISTILLED SPIRITS USED IN PERFUME MANUFACTURE.

(a) REPEAL OF TAX ON IMPORTED PERFUMES.—Subsection (a) of section 5001 of the Internal Revenue Code of 1986 is amended by striking paragraph (3) and redesignating the following paragraphs accordingly.

(b) DRAWBACK OF TAX ON DISTILLED SPIRITS USED IN PERFUME MANUFACTURE.—Sections 5131(a), 5132, 5134(c)(1), and 7652(g) of such Code are each amended by striking "or flavoring extracts" and inserting "flavoring extracts, or perfume".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 5002 of such Code is amended by striking paragraph (1) and redesignating the following paragraphs accordingly.

(2) Subsection (f) of section 5005 of such Code is amended—

(A) by striking "section 5001(a)(6) and (7)" in paragraph (3) and inserting "section 5001(a)(5) and (6)", and

(B) by striking "section 5001(a)(5)" in paragraph (4) and inserting "section 5001(a)(4)".

(3) Subsection (b) of section 5007 of such Code is amended to read as follows:

"(b) COLLECTION OF TAX ON IMPORTED DISTILLED SPIRITS.—The internal revenue tax imposed by section 5001(a)(1) and (2) upon imported distilled spirits shall be collected by the Secretary and deposited as internal revenue collections, under such regulations as the Secretary may prescribe. Section 5688 shall be applicable to the disposition of imported spirits."

(4) Paragraph (3) of section 5007(c) of such Code is amended by striking "section 5001(a)(5), (6), and (7)" and inserting "section 5001(a)(4), (5), and (6)".

(5) Paragraph (1) of section 5061(b) of such Code is amended to read as follows:

"(1) section 5001(a)(4), (5), or (6)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. 137. CERTAIN NONRUBBER FOOTWEAR.

In the case of nonrubber footwear imported from Brazil—

(1) which is subject to Treasury Decision 74-233, dated September 9, 1974,

(2) which was entered, or withdrawn from warehouse for consumption, on or before October 28, 1981, and

(3) with respect to which entries are unliquidated on the date of the enactment of this Act,

countervailing duties shall be assessed at rates equal to the amount of the cash deposit of the estimated countervailing duties re-

quired on such footwear at the time of entry or withdrawal from warehouse for consumption. Interest on underpayments of amounts required to be deposited as countervailing duties shall be paid in accordance with section 778 of the Tariff Act of 1930 (19 U.S.C. 1677g).

SEC. 138. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 136(d) and subsection (b) of this section, this subtitle and the amendments made by this subtitle take effect on the date of the enactment of this Act.

(b) SECTIONS 132 AND 135.—Sections 132 and 135 take effect on the date on which the WTO Agreement enters into force with respect to the United States.

TITLE II—ANTIDUMPING AND COUNTERVAILING DUTY PROVISIONS

SEC. 201. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Tariff Act of 1930.

Subtitle A—General Provisions

SEC. 211. ACTION WITH RESPECT TO PETITIONS.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—Section 702(b) (19 U.S.C. 1671a(b)) is amended—

(1) in paragraph (3) by striking "subsection 702(b)(1)" and inserting "paragraph (1)", and

(2) by adding at the end the following:

"(4) ACTION WITH RESPECT TO PETITIONS.—

"(A) NOTIFICATION OF GOVERNMENTS.—Upon receipt of a petition filed under paragraph (1), the administering authority shall—

"(i) notify the government of any exporting country named in the petition by delivering a public version of the petition to an appropriate representative of such country; and

"(ii) provide the government of any exporting country named in the petition that is a Subsidies Agreement country an opportunity for consultations with respect to the petition.

"(B) ACCEPTANCE OF COMMUNICATIONS.—The administering authority shall not accept any unsolicited oral or written communication from any person other than an interested party described in section 771(9) (C), (D), (E), (F), or (G) before the administering authority makes its decision whether to initiate an investigation, except as provided in subparagraph (A)(i) and subsection (c)(4)(D), and except for inquiries regarding the status of the administering authority's consideration of the petition.

"(C) NONDISCLOSURE OF CERTAIN INFORMATION.—The administering authority and the Commission shall not disclose information with regard to any draft petition submitted for review and comment before it is filed under paragraph (1)."

(b) ANTIDUMPING INVESTIGATIONS.—Section 732(b) (19 U.S.C. 1673a(b)) is amended by adding at the end the following:

"(3) ACTION WITH RESPECT TO PETITIONS.—

"(A) NOTIFICATION OF GOVERNMENTS.—Upon receipt of a petition filed under paragraph (1), the administering authority shall notify the government of any exporting country named in the petition by delivering a public version of the petition to an appropriate representative of such country.

"(B) ACCEPTANCE OF COMMUNICATIONS.—The administering authority shall not accept any unsolicited oral or written communication from any person other than an interested party described in section 771(9) (C), (D), (E),

(F), or (G) before the administering authority makes its decision whether to initiate an investigation, except as provided in subsection (c)(4)(D), and except for inquiries regarding the status of the administering authority's consideration of the petition.

"(C) NONDISCLOSURE OF CERTAIN INFORMATION.—The administering authority and the Commission shall not disclose information with regard to any draft petition submitted for review and comment before it is filed under paragraph (1)."

SEC. 212. PETITION AND PRELIMINARY DETERMINATION.

(a) GENERAL REQUIREMENTS.—

(1) COUNTERVAILING DUTY PETITION.—Section 702(c) (19 U.S.C. 1671a(c)) is amended to read as follows:

"(c) PETITION DETERMINATION.—

"(1) IN GENERAL.—

"(A) TIME FOR INITIAL DETERMINATION.—Except as provided in subparagraph (B), within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(i) after examining, on the basis of sources readily available to the administering authority, the accuracy and adequacy of the evidence provided in the petition, determine whether the petition alleges the elements necessary for the imposition of a duty under section 701(a) and contains information reasonably available to the petitioner supporting the allegations, and

"(ii) determine if the petition has been filed by or on behalf of the industry.

"(B) EXTENSION OF TIME.—In any case in which the administering authority is required to poll or otherwise determine support for the petition by the industry under paragraph (4)(D), the administering authority may, in exceptional circumstances, apply subparagraph (A) by substituting 'a maximum of 40 days' for '20 days'.

"(C) TIME LIMITS WHERE PETITION INVOLVES SAME MERCHANDISE AS AN ORDER THAT HAS BEEN REVOKED.—If a petition is filed under this section with respect to merchandise that was the subject merchandise of—

"(i) a countervailing duty order that was revoked under section 751(d) in the 24 months preceding the date the petition is filed, or

"(ii) a suspended investigation that was terminated under section 751(d) in the 24 months preceding the date the petition is filed,

the administering authority and the Commission shall, to the maximum extent practicable, expedite any investigation initiated under this section with respect to the petition.

"(2) AFFIRMATIVE DETERMINATIONS.—If the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, the administering authority shall initiate an investigation to determine whether a countervailable subsidy is being provided with respect to the subject merchandise.

"(3) NEGATIVE DETERMINATIONS.—If the determination under clause (i) or (ii) of paragraph (1)(A) is negative, the administering authority shall dismiss the petition, terminate the proceeding, and notify the petitioner in writing of the reasons for the determination.

"(4) DETERMINATION OF INDUSTRY SUPPORT.—

"(A) GENERAL RULE.—For purposes of this subsection, the administering authority shall determine that the petition has been filed by or on behalf of the industry, if—

"(1) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and

"(1) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.

"(B) CERTAIN POSITIONS DISREGARDED.—

"(1) PRODUCERS RELATED TO FOREIGN PRODUCERS.—In determining industry support under subparagraph (A), the administering authority shall disregard the position of domestic producers who oppose the petition, if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of a countervailing duty order.

"(ii) PRODUCERS WHO ARE IMPORTERS.—The administering authority may disregard the position of domestic producers of a domestic like product who are importers of the subject merchandise.

"(C) SPECIAL RULE FOR REGIONAL INDUSTRIES.—If the petition alleges that the industry is a regional industry, the administering authority shall determine whether the petition has been filed by or on behalf of the industry by applying subparagraph (A) on the basis of production in the region.

"(D) POLLING THE INDUSTRY.—If the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering authority shall—

"(i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or

"(ii) if there is a large number of producers in the industry, the administering authority may determine industry support for the petition by using any statistically valid sampling method to poll the industry.

"(E) COMMENTS BY INTERESTED PARTIES.—Before the administering authority makes a determination with respect to initiating an investigation, any person who would qualify as an interested party under section 771(9) if an investigation were initiated, may submit comments or information on the issue of industry support. After the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered.

"(5) DEFINITION OF DOMESTIC PRODUCERS OR WORKERS.—For purposes of this subsection, the term 'domestic producers or workers' means those interested parties who are eligible to file a petition under subsection (b)(1)(A)."

(2) ANTIDUMPING DUTY PETITION.—Section 732(c) (19 U.S.C. 1673a(c)) is amended to read as follows:

"(c) PETITION DETERMINATION.—

"(1) IN GENERAL.—

"(A) TIME FOR INITIAL DETERMINATION.—Except as provided in subparagraph (B), within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(i) after examining, on the basis of sources readily available to the administering authority, the accuracy and adequacy of the evidence provided in the petition, determine whether the petition alleges the elements necessary for the imposition of a duty under section 731 and contains information reasonably available to the petitioner supporting the allegations, and

"(ii) determine if the petition has been filed by or on behalf of the industry.

"(B) EXTENSION OF TIME.—In any case in which the administering authority is required to poll or otherwise determine support for the petition by the industry under paragraph (4)(D), the administering authority may, in exceptional circumstances, apply subparagraph (A) by substituting 'a maximum of 40 days' for '20 days'.

"(C) TIME LIMITS WHERE PETITION INVOLVES SAME MERCHANDISE AS AN ORDER THAT HAS BEEN REVOKED.—If a petition is filed under this section with respect to merchandise that was the subject merchandise of—

"(i) an antidumping duty order or finding that was revoked under section 751(d) in the 24 months preceding the date the petition is filed, or

"(ii) a suspended investigation that was terminated under section 751(d) in the 24 months preceding the date the petition is filed,

the administering authority and the Commission shall, to the maximum extent practicable, expedite any investigation initiated under this section with respect to the petition.

"(2) AFFIRMATIVE DETERMINATIONS.—If the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, the administering authority shall initiate an investigation to determine whether the subject merchandise is being, or is likely to be, sold in the United States at less than its fair value.

"(3) NEGATIVE DETERMINATIONS.—If the determination under clause (i) or (ii) of paragraph (1)(A) is negative, the administering authority shall dismiss the petition, terminate the proceeding, and notify the petitioner in writing of the reasons for the determination.

"(4) DETERMINATION OF INDUSTRY SUPPORT.—

"(A) GENERAL RULE.—For purposes of this subsection, the administering authority shall determine that the petition has been filed by or on behalf of the industry, if—

"(i) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and

"(ii) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.

"(B) CERTAIN POSITIONS DISREGARDED.—

"(1) PRODUCERS RELATED TO FOREIGN PRODUCERS.—In determining industry support under subparagraph (A), the administering authority shall disregard the position of domestic producers who oppose the petition, if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an antidumping duty order.

"(ii) PRODUCERS WHO ARE IMPORTERS.—The administering authority may disregard the position of domestic producers of a domestic like product who are importers of the subject merchandise.

"(C) SPECIAL RULE FOR REGIONAL INDUSTRIES.—If the petition alleges the industry is a regional industry, the administering authority shall determine whether the petition has been filed by or on behalf of the industry by applying subparagraph (A) on the basis of production in the region.

"(D) POLLING THE INDUSTRY.—If the petition does not establish support of domestic producers or workers accounting for more

than 50 percent of the total production of the domestic like product, the administering authority shall—

"(i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or

"(ii) if there is a large number of producers in the industry, the administering authority may determine industry support for the petition by using any statistically valid sampling method to poll the industry.

"(E) COMMENTS BY INTERESTED PARTIES.—Before the administering authority makes a determination with respect to initiating an investigation, any person who would qualify as an interested party under section 771(9) if an investigation were initiated, may submit comments or information on the issue of industry support. After the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered.

"(5) DEFINITION OF DOMESTIC PRODUCERS OR WORKERS.—For purposes of this subsection, the term 'domestic producers or workers' means those interested parties who are eligible to file a petition under subsection (b)(1)(A)."

(b) DETERMINATION BY THE COMMISSION OF REASONABLE INDICATION OF INJURY; PRELIMINARY DETERMINATION BY THE ADMINISTERING AUTHORITY.—

(1) COUNTERVAILING DUTY INVESTIGATIONS.—(A) Section 703(a) (19 U.S.C. 1671b(a)) is amended to read as follows:

"(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—

"(1) GENERAL RULE.—Except in the case of a petition dismissed by the administering authority under section 702(c)(3), the Commission, within the time specified in paragraph (2), shall determine, based on the information available to it at the time of the determination, whether there is a reasonable indication that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the subject merchandise and that imports of the subject merchandise are not negligible. If the Commission finds that imports of the subject merchandise are negligible or otherwise makes a negative determination under this paragraph, the investigation shall be terminated.

"(2) TIME FOR COMMISSION DETERMINATION.—The Commission shall make the determination described in paragraph (1)—

"(A) in the case of a petition filed under section 702(b)—

"(i) within 45 days after the date on which the petition is filed, or

"(ii) if the time has been extended pursuant to section 702(c)(1)(B), within 25 days after the date on which the Commission receives notice from the administering authority of initiation of the investigation, and

"(B) in the case of an investigation initiated under section 702(a), within 45 days after the date on which the Commission receives notice from the administering authority that an investigation has been initiated under such section."

(B) Section 705(b)(1) (19 U.S.C. 1671d(b)(1)) is amended by adding at the end the following: "If the Commission determines that imports of the subject merchandise are negligible, the investigation shall be terminated."

(C) Section 703(b) (19 U.S.C. 1671b(b)) is amended—

(1) in paragraph (1)—

(I) by striking "85 days after the date on which the petition is filed under section 702(b)" and inserting "65 days after the date on which the administering authority initiates an investigation under section 702(c)";

(II) by striking "best information" and inserting "information"; and

(III) by striking the last sentence; and

(1) in paragraph (2), by striking "85 days after the date on which the petition is filed under section 702(b)" and inserting "65 days after the date on which the administering authority initiates an investigation under section 702(c)".

(D) Section 703(c)(1) (19 U.S.C. 1671b(c)) is amended by striking "150th day after the date on which a petition is filed under section 702(b)" and inserting "130th day after the date on which the administering authority initiates an investigation under section 702(c)".

(E) Section 702(b)(3) (19 U.S.C. 1671a(b)(3)) is amended by striking "twenty days" and inserting "5 days after the date on which the administering authority initiates an investigation under subsection (c)".

(F) Section 703(f) (19 U.S.C. 1671b(f)) is amended to read as follows:

"(f) NOTICE OF DETERMINATION.—Whenever the Commission or the administering authority makes a determination under this section, the Commission or the administering authority, as the case may be, shall notify the petitioner, and other parties to the investigation, and the Commission or the administering authority (whichever is appropriate) of its determination. The administering authority shall include with such notification the facts and conclusions on which its determination is based. Not later than 5 days after the date on which the determination is required to be made under subsection (a)(2), the Commission shall transmit to the administering authority the facts and conclusions on which its determination is based."

(2) ANTIDUMPING DUTY INVESTIGATIONS.—

(A) Section 733(a) (19 U.S.C. 1673b(a)) is amended to read as follows:

"(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—

"(1) GENERAL RULE.—Except in the case of a petition dismissed by the administering authority under section 732(c)(3), the Commission, within the time specified in paragraph (2), shall determine, based on the information available to it at the time of the determination, whether there is a reasonable indication that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the subject merchandise and that imports of the subject merchandise are not negligible. If the Commission finds that imports of the subject merchandise are negligible or otherwise makes a negative determination under this paragraph, the investigation shall be terminated.

"(2) TIME FOR COMMISSION DETERMINATION.—The Commission shall make the determination described in paragraph (1)—

"(A) in the case of a petition filed under section 732(b)—

"(i) within 45 days after the date on which the petition is filed, or

"(ii) if the time has been extended pursuant to section 732(c)(1)(B), within 25 days after the date on which the Commission receives notice from the administering authority of initiation of the investigation, and

"(B) in the case of an investigation initiated under section 732(a), within 45 days

after the date on which the Commission receives notice from the administering authority that an investigation has been initiated under such section."

(B) Section 735(b)(1) (19 U.S.C. 1673d(b)(1)) is amended by adding at the end the following: "If the Commission determines that imports of the subject merchandise are negligible, the investigation shall be terminated."

(C) Section 733(b)(1) (19 U.S.C. 1673b(b)(1)) is amended—

(i) in subparagraph (A)—

(I) by striking "160 days after the date on which a petition is filed under section 732(b)" and inserting "140 days after the date on which the administering authority initiates an investigation under section 732(c)"; and

(II) by striking "best information" and inserting "information"; and

(ii) in subparagraph (B)—

(I) by striking "120" and inserting "100";

(II) by striking "160" and inserting "140";

(III) by striking "100" and inserting "80"; and

(IV) by striking "160" and inserting "140".

(D) Section 733(c)(1) (19 U.S.C. 1673b(c)(1)) is amended by striking "210th day after the date on which a petition is filed under section 732(b)" and inserting "190th day after the date on which the administering authority initiates an investigation under section 732(c)".

(E) Section 733(f) (19 U.S.C. 1673b(f)) is amended to read as follows:

"(f) NOTICE OF DETERMINATION.—Whenever the Commission or the administering authority makes a determination under this section, the Commission or the administering authority, as the case may be, shall notify the petitioner, and other parties to the investigation, and the Commission or the administering authority (whichever is appropriate) of its determination. The administering authority shall include with such notification the facts and conclusions on which its determination is based. Not later than 5 days after the date on which the determination is required to be made under subsection (a)(2), the Commission shall transmit to the administering authority the facts and conclusions on which its determination is based."

SEC. 213. DE MINIMIS DUMPING MARGIN.

(a) PRELIMINARY DETERMINATIONS.—Section 733(b) (19 U.S.C. 1673b(b)) is amended by adding at the end the following new paragraph:

"(3) DE MINIMIS DUMPING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any weighted average dumping margin that is de minimis. For purposes of the preceding sentence, a weighted average dumping margin is de minimis if the administering authority determines that it is less than 2 percent ad valorem or the equivalent specific rate for the subject merchandise."

(b) FINAL DETERMINATIONS.—Section 735(a) (19 U.S.C. 1673d(a)) is amended by adding at the end the following new paragraph:

"(4) DE MINIMIS DUMPING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any weighted average dumping margin that is de minimis as defined in section 733(b)(3)."

SEC. 214. CRITICAL CIRCUMSTANCES.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—

(1) PRELIMINARY DETERMINATIONS.—Section 703(e)(1) (19 U.S.C. 1671b(e)(1)) is amended—

(A) in the matter preceding subparagraph (A) by striking "best information" and inserting "information"; and

(B) by amending subparagraphs (A) and (B) to read as follows:

"(A) the alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and

"(B) there have been massive imports of the subject merchandise over a relatively short period."

(2) FINAL DETERMINATIONS.—(A) Section 705(a)(2) (19 U.S.C. 1671d(a)(2)) is amended—

(i) in subparagraph (A) by inserting "Subsidies" before "Agreement"; and

(ii) in subparagraph (B) by striking "class or kind of merchandise involved" and inserting "subject merchandise".

(B) Section 705(b)(4)(A) (19 U.S.C. 1671d(b)(4)) is amended to read as follows:

"(A) COMMISSION STANDARD FOR RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether the imports subject to the affirmative determination under subsection (a)(2) are likely to undermine seriously the remedial effect of the countervailing duty order to be issued under section 706.

"(ii) FACTORS TO CONSIDER.—In making the evaluation under clause (i), the Commission shall consider, among other factors it considers relevant—

"(I) the timing and the volume of the imports,

"(II) any rapid increase in inventories of the imports, and

"(III) any other circumstances indicating that the remedial effect of the countervailing duty order will be seriously undermined."

(b) ANTIDUMPING INVESTIGATIONS.—

(1) PRELIMINARY DETERMINATIONS.—Section 733(e)(1) (19 U.S.C. 1673b(e)(1)) is amended—

(A) in the matter preceding subparagraph (A) by striking "best information" and inserting "information"; and

(B) by amending subparagraphs (A) and (B) to read as follows:

"(A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

"(B) there have been massive imports of the subject merchandise over a relatively short period."

(2) FINAL DETERMINATIONS.—(A) Section 735(a)(3) (19 U.S.C. 1673d(a)(3)) is amended—

(i) in clause (1) of subparagraph (A)—

(I) by inserting "and material injury by reason of dumped imports" after "history of dumping"; and

(II) by striking "class or kind of the merchandise which is the subject of the investigation" and inserting "subject merchandise";

(ii) in clause (ii) of subparagraph (A) by striking "merchandise which is the subject of the investigation at less than its fair value" and inserting "subject merchandise at less than its fair value and that there would be material injury by reason of such sales"; and

(iii) in subparagraph (B) by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(B) Section 735(b)(4)(A) (19 U.S.C. 1673d(b)(4)(A)) is amended to read as follows:

"(A) COMMISSION STANDARD FOR RETROACTIVE APPLICATION.—

"(1) IN GENERAL.—If the finding of the administering authority under subsection (a)(3) is affirmative, then the final determination of the Commission shall include a finding as to whether the imports subject to the affirmative determination under subsection (a)(3) are likely to undermine seriously the remedial effect of the antidumping duty order to be issued under section 736.

"(1) FACTORS TO CONSIDER.—In making the evaluation under clause (1), the Commission shall consider, among other factors it considers relevant—

"(I) the timing and the volume of the imports,

"(II) a rapid increase in inventories of the imports, and

"(III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined."

SEC. 215. PROVISIONAL MEASURES.

(a) COUNTERVAILING DUTIES.—

(1) SUSPENSION OF LIQUIDATION.—Section 703(d) (19 U.S.C. 1671b(d)) is amended—

(A) in paragraph (1), by striking "warehouse" and all that follows through "Register," and inserting "warehouse, for consumption on or after the later of—

"(A) the date on which notice of the determination is published in the Federal Register, or

"(B) the date that is 60 days after the date on which notice of the determination to initiate the investigation is published in the Federal Register,"; and

(B) by adding at the end the following: "The instructions of the administering authority under paragraphs (1) and (2) may not remain in effect for more than 4 months."

(2) CRITICAL CIRCUMSTANCES CASES.—Section 703(e)(2) (19 U.S.C. 1671b(e)(2)) is amended by striking "warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered," and inserting "warehouse, for consumption on or after the later of—

"(A) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or

"(B) the date on which notice of the determination to initiate the investigation is published in the Federal Register."

(b) ANTIDUMPING DUTIES.—

(1) SUSPENSION OF LIQUIDATION.—Section 733(d) (19 U.S.C. 1673b(d)) is amended—

(A) in paragraph (1), by striking "warehouse" and all that follows through "Register," and inserting "warehouse, for consumption on or after the later of—

"(A) the date on which notice of the determination is published in the Federal Register, or

"(B) the date that is 60 days after the date on which notice of the determination to initiate the investigation is published in the Federal Register,"; and

(B) by adding at the end the following: "The instructions of the administering authority under paragraphs (1) and (2) may not remain in effect for more than 4 months, except that the administering authority may, at the request of exporters representing a significant proportion of exports of the subject merchandise, extend that 4-month period to not more than 6 months."

(2) CRITICAL CIRCUMSTANCES CASES.—Section 733(e)(2) (19 U.S.C. 1673b(e)(2)) is amended by striking "warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered," and inserting "ware-

house, for consumption on or after the later of—

"(A) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or

"(B) the date on which notice of the determination to initiate the investigation is published in the Federal Register."

SEC. 216. CONDITIONS ON ACCEPTANCE OF SUSPENSION AGREEMENTS.

(a) COUNTERVAILING DUTIES.—Section 704(d)(1) (19 U.S.C. 1671c(d)(1)) is amended by striking "In applying" and inserting the following:

"Where practicable, the administering authority shall provide to the exporters who would have been subject to the agreement and, to the extent possible, an opportunity to submit comments thereon. In applying"

(b) ANTIDUMPING DUTIES.—Section 734(d) (19 U.S.C. 1673c(d)) is amended by adding at the end the following flush sentence:

"Where practicable, the administering authority shall provide to the exporters who would have been subject to the agreement and, to the extent possible, an opportunity to submit comments thereon."

SEC. 217. TERMINATION OF INVESTIGATION.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—Section 704(a)(1) (19 U.S.C. 1671c(a)(1)) is amended—

(1) by striking "Except" and inserting "(A) WITHDRAWAL OF PETITION.—Except";

(2) by indenting the text so as to align it with subparagraph (B) (as added by paragraph (3) of this subsection); and

(3) by adding at the end the following:

"(B) REFILE OF PETITION.—If, within 3 months after the withdrawal of a petition under subparagraph (A), a new petition is filed seeking the imposition of duties on both the subject merchandise of the withdrawn petition and the subject merchandise from another country, the administering authority and the Commission may use in the investigation initiated pursuant to the new petition any records compiled in an investigation conducted pursuant to the withdrawn petition. This subparagraph applies only with respect to the first withdrawal of a petition."

(b) ANTIDUMPING DUTY INVESTIGATIONS.—Section 734(a)(1) (19 U.S.C. 1673c(a)(1)) is amended—

(1) by striking "Except" and inserting "(A) WITHDRAWAL OF PETITION.—Except";

(2) by indenting the text so as to align it with subparagraph (B) (as added by paragraph (3) of this subsection); and

(3) by adding at the end the following:

"(B) REFILE OF PETITION.—If, within 3 months after the withdrawal of a petition under subparagraph (A), a new petition is filed seeking the imposition of duties on both the subject merchandise of the withdrawn petition and the subject merchandise from another country, the administering authority and the Commission may use in the investigation initiated pursuant to the new petition any records compiled in an investigation conducted pursuant to the withdrawn petition. This subparagraph applies only with respect to the first withdrawal of a petition."

SEC. 218. SPECIAL RULES FOR REGIONAL INDUSTRIES.

(a) SUSPENSION AGREEMENTS.—

(1) COUNTERVAILING DUTY INVESTIGATIONS.—Section 704 (19 U.S.C. 1671c) is amended by adding at the end the following new subsection:

"(1) SPECIAL RULE FOR REGIONAL INDUSTRY INVESTIGATIONS.—

"(1) SUSPENSION AGREEMENTS.—If the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall offer exporters of the subject merchandise who account for substantially all exports of that merchandise for sale in the region concerned the opportunity to enter into an agreement described in subsection (b) or (c).

"(2) REQUIREMENTS FOR SUSPENSION AGREEMENTS.—Any agreement described in paragraph (1) shall be subject to all the requirements imposed under this section for other agreements under subsection (b) or (c), except that if the Commission makes a regional industry determination described in paragraph (1) in the final affirmative determination under section 705(b) but not in the preliminary affirmative determination under section 703(a), any agreement described in paragraph (1) may be accepted within 60 days after the countervailing duty order is published under section 706.

"(3) EFFECT OF SUSPENSION AGREEMENT ON COUNTERVAILING DUTY ORDER.—If an agreement described in paragraph (1) is accepted after the countervailing duty order is published, the administering authority shall rescind the order, refund any cash deposit and release any bond or other security deposited under section 703(d)(1)(B), and instruct the Customs Service that entries of the subject merchandise that were made during the period that the order was in effect shall be liquidated without regard to countervailing duties."

(2) ANTIDUMPING INVESTIGATIONS.—Section 734 (19 U.S.C. 1673c) is amended by adding at the end the following new subsection:

"(m) SPECIAL RULE FOR REGIONAL INDUSTRY INVESTIGATIONS.—

"(1) SUSPENSION AGREEMENTS.—If the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall offer exporters of the subject merchandise who account for substantially all exports of that merchandise for sale in the region concerned the opportunity to enter into an agreement described in subsection (b), (c), or (l).

"(2) REQUIREMENTS FOR SUSPENSION AGREEMENTS.—Any agreement described in paragraph (1) shall be subject to all the requirements imposed under this section for other agreements under subsection (b), (c), or (l), except that if the Commission makes a regional industry determination described in paragraph (1) in the final affirmative determination under section 735(b) but not in the preliminary affirmative determination under section 733(a), any agreement described in paragraph (1) may be accepted within 60 days after the antidumping order is published under section 736.

"(3) EFFECT OF SUSPENSION AGREEMENT ON ANTIDUMPING DUTY ORDER.—If an agreement described in paragraph (1) is accepted after the antidumping duty order is published, the administering authority shall rescind the order, refund any cash deposit and release any bond or other security deposited under section 733(d)(1)(B), and instruct the Customs Service that entries of the subject merchandise that were made during the period that the order was in effect shall be liquidated without regard to antidumping duties."

(b) APPLICABILITY OF ORDERS TO NEW SHIPPERS.—

(1) COUNTERVAILING DUTY CASES.—Section 706 (19 U.S.C. 1671e) is amended by adding at the end the following new subsection:

"(c) SPECIAL RULE FOR REGIONAL INDUSTRIES.—

"(1) IN GENERAL.—In an investigation under this subtitle in which the Commission

makes a regional industry determination under section 771(4)(C), the administering authority shall, to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation.

"(2) EXCEPTION FOR NEW EXPORTERS AND PRODUCERS.—After publication of the countervailing duty order, if the administering authority finds that a new exporter or producer is exporting the subject merchandise for sale in the region concerned, the administering authority shall direct that duties be assessed on the subject merchandise of the new exporter or producer consistent with the provisions of section 751(a)(2)(B)."

(2) ANTIDUMPING DUTY CASES.—Section 736 (19 U.S.C.1673e) is amended by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR REGIONAL INDUSTRIES.—

"(1) IN GENERAL.—In an investigation in which the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall, to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation.

"(2) EXCEPTION FOR NEW EXPORTERS AND PRODUCERS.—After publication of the antidumping duty order, if the administering authority finds that a new exporter or producer is exporting the subject merchandise for sale in the region concerned, the administering authority shall direct that duties be assessed on the subject merchandise of the new exporter or producer consistent with the provisions of section 751(a)(2)(B)."

SEC. 219. DETERMINATION OF WEIGHTED AVERAGE DUMPING MARGIN.

(a) PRELIMINARY DETERMINATION.—

(1) IN GENERAL.—Section 733(d) (19 U.S.C. 1673b(d)) is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraph (1), as amended by section 215(b)(1)(A), as paragraph (2);

(C) by inserting "and" at the end of paragraph (2), as so redesignated; and

(D) by inserting before such paragraph (2) the following new paragraph:

"(1)(A) shall—

"(i) determine an estimated weighted average dumping margin for each exporter and producer individually investigated, and

"(ii) determine, in accordance with section 735(c)(5), an estimated all-others rate for all exporters and producers not individually investigated, and

"(B) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated weighted average dumping margin or the estimated all-others rate, whichever is applicable."

(2) CONFORMING AMENDMENTS.—Section 733(b)(1)(A) (19 U.S.C. 1673b(b)(1)(A)) is amended by striking the last sentence.

(b) FINAL DETERMINATION.—

(1) IN GENERAL.—Section 735(c)(1) (19 U.S.C. 1673d(c)(1)) is amended—

(A) in subparagraph (B)—

(i) by redesignating such subparagraph as subparagraph (C); and

(ii) by striking "under paragraphs (1) and (2)" and all that follows through "security" and inserting "the suspension of liquidation under section 733(d)(2)";

(B) by striking "and" at the end of subparagraph (A); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) the administering authority shall—
 "(I) determine the estimated weighted average dumping margin for each exporter and producer individually investigated, and

"(II) determine, in accordance with paragraph (5), the estimated all-others rate for all exporters and producers not individually investigated, and

"(ii) the administering authority shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated weighted average dumping margin or the estimated all-others rate, whichever is applicable, and".

(2) METHOD FOR DETERMINING WEIGHTED AVERAGE DUMPING MARGIN.—Section 735(c) (19 U.S.C. 1673d(c)) is amended by adding at the end the following new paragraph:

"(5) METHOD FOR DETERMINING ESTIMATED ALL-OTHERS RATE.—

"(A) GENERAL RULE.—For purposes of this subsection and section 733(d), the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins determined entirely under section 776.

"(B) EXCEPTION.—If the estimated weighted average dumping margins established for all exporters and producers individually investigated are zero or de minimis margins, or are determined entirely under section 776, the administering authority may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 733(e)(2) is amended by striking "subsection (d)(1)" and inserting "subsection (d)(2)".

(2) Section 734(f)(2)(A) is amended—

(A) in clause (i), by striking "section 733(d)(1)" and inserting "section 733(d)(2)"; and

(B) in clause (iii), by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(3) Section 734(f)(2)(B) is amended—

(A) by striking "section 733(d)(1)" and inserting "section 733(d)(2)"; and

(B) by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(4) Section 734(h)(3) is amended—

(A) in subparagraph (A), by striking "section 733(d)(1)" and inserting "section 733(d)(2)"; and

(B) in subparagraph (B), by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(5) Section 734(i)(1)(A) is amended by striking "section 733(d)(1)" and inserting "section 733(d)(2)".

(6) Section 735(c)(2)(A) is amended by striking "section 703(d)(1)" and inserting "section 733(d)(2)".

(7) Section 735(c)(2)(B) is amended by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(8) Section 735(c)(3)(B) is amended by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(9) Section 736(b)(1) is amended by striking "section 733(d)(1)" each place it appears and inserting "section 733(d)(2)".

(10) Section 737(a) is amended by striking "section 733(d)(2)" each place it appears in the heading and in the text and inserting "section 733(d)(1)(B)".

SEC. 220. REVIEW OF DETERMINATIONS.

(a) IN GENERAL.—Section 751 (19 U.S.C. 1675) is amended to read as follows:

"**SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.**

"(a) PERIODIC REVIEW OF AMOUNT OF DUTY.—

"(1) IN GENERAL.—At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty order under this title or under section 303 of this Act, an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or a notice of the suspension of an investigation, the administering authority, if a request for such a review has been received and after publication of notice of such review in the Federal Register, shall—

"(A) review and determine the amount of any net countervailable subsidy,

"(B) review, and determine (in accordance with paragraph (2)), the amount of any antidumping duty, and

"(C) review the current status of, and compliance with, any agreement by reason of which an investigation was suspended, and review the amount of any net countervailable subsidy or dumping margin involved in the agreement,

and shall publish in the Federal Register the results of such review, together with notice of any duty to be assessed, estimated duty to be deposited, or investigation to be resumed.

"(2) DETERMINATION OF ANTIDUMPING DUTIES.—

"(A) IN GENERAL.—For the purpose of paragraph (1)(B), the administering authority shall determine—

"(i) the normal value and export price (or constructed export price) of each entry of the subject merchandise, and

"(ii) the dumping margin for each such entry.

"(B) DETERMINATION OF ANTIDUMPING OR COUNTERVAILING DUTIES FOR NEW EXPORTERS AND PRODUCERS.—

"(i) IN GENERAL.—If the administering authority receives a request from an exporter or producer of the subject merchandise establishing that—

"(I) such exporter or producer did not export the merchandise that was the subject of an antidumping duty or countervailing duty order to the United States (or, in the case of a regional industry, did not export the subject merchandise for sale in the region concerned) during the period of investigation, and

"(II) such exporter or producer is not affiliated (within the meaning of section 771(33)) with any exporter or producer who exported the subject merchandise to the United States (or in the case of a regional industry, who exported the subject merchandise for sale in the region concerned) during that period,

the administering authority shall conduct a review under this subsection to establish an individual weighted average dumping margin or an individual countervailing duty rate (as the case may be) for such exporter or producer.

"(ii) TIME FOR REVIEW UNDER CLAUSE (i).—The administering authority shall commence a review under clause (i) in the calendar month beginning after—

"(I) the end of the 6-month period beginning on the date of the countervailing duty or antidumping duty order under review, or

"(II) the end of any 6-month period occurring thereafter,

if the request for the review is made during that 6-month period.

"(11) POSTING BOND OR SECURITY.—The administering authority shall, at the time a review under this subparagraph is initiated, direct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise.

"(iv) TIME LIMITS.—The administering authority shall make a preliminary determination in a review conducted under this subparagraph within 180 days after the date on which the review is initiated, and a final determination within 90 days after the date the preliminary determination is issued, except that if the administering authority concludes that the case is extraordinarily complicated, it may extend the 180-day period to 300 days and may extend the 90-day period to 150 days.

"(C) RESULTS OF DETERMINATIONS.—The determination under this paragraph shall be the basis for the assessment of countervailing or antidumping duties on entries of merchandise covered by the determination and for deposits of estimated duties.

"(3) TIME LIMITS.—

"(A) PRELIMINARY AND FINAL DETERMINATIONS.—The administering authority shall make a preliminary determination under subparagraph (A), (B), or (C) of paragraph (1) within 245 days after the last day of the month in which occurs the anniversary of the date of publication of the order, finding, or suspension agreement for which the review under paragraph (1) is requested, and a final determination under paragraph (1) within 120 days after the date on which the preliminary determination is published. If it is not practicable to complete the review within the foregoing time, the administering authority may extend that 245-day period to 365 days and may extend that 120-day period to 180 days. The administering authority may extend the time for making a final determination without extending the time for making a preliminary determination, if such final determination is made not later than 300 days after the date on which the preliminary determination is published.

"(B) LIQUIDATION OF ENTRIES.—If the administering authority orders any liquidation of entries pursuant to a review under paragraph (1), such liquidation shall be made promptly and, to the greatest extent practicable, within 90 days after the instructions to Customs are issued. In any case in which liquidation has not occurred within that 90-day period, the Secretary of the Treasury shall, upon the request of the affected party, provide an explanation thereof.

"(C) EFFECT OF PENDING REVIEW UNDER SECTION 516A.—In a case in which a final determination under paragraph (1) is under review under section 516A and a liquidation of entries covered by the determination is enjoined under section 516A(c)(2) or suspended under section 516A(g)(5)(C), the administering authority shall, within 10 days after the final disposition of the review under section 516A, transmit to the Federal Register for publication the final disposition and issue instructions to the Customs Service with respect to the liquidation of entries pursuant to the review. In such a case, the 90-day period referred to in subparagraph (B) shall

begin on the day on which the administering authority issues such instructions.

"(4) ABSORPTION OF ANTIDUMPING DUTIES.—During any review under this subsection initiated 2 years or 4 years after the publication of an antidumping duty order under section 736(a), the administering authority, if requested, shall determine whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. The administering authority shall notify the Commission of its findings regarding such duty absorption for the Commission to consider in conducting a review under subsection (c).

"(b) REVIEWS BASED ON CHANGED CIRCUMSTANCES.—

"(1) IN GENERAL.—Whenever the administering authority or the Commission receives information concerning, or a request from an interested party for a review of—

"(A) a final affirmative determination that resulted in an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or in a countervailing duty order under this title or section 303,

"(B) a suspension agreement accepted under section 704 or 734, or

"(C) a final affirmative determination resulting from an investigation continued pursuant to section 704(g) or 734(g),

which shows changed circumstances sufficient to warrant a review of such determination or agreement, the administering authority or the Commission (as the case may be) shall conduct a review of the determination or agreement after publishing notice of the review in the Federal Register.

"(2) COMMISSION REVIEW.—In conducting a review under this subsection, the Commission shall—

"(A) in the case of a countervailing duty order or antidumping duty order or finding, determine whether revocation of the order or finding is likely to lead to continuation or recurrence of material injury,

"(B) in the case of a determination made pursuant to section 704(h)(2) or 734(h)(2), determine whether the suspension agreement continues to eliminate completely the injurious effects of imports of the subject merchandise, and

"(C) in the case of an affirmative determination resulting from an investigation continued under section 704(g) or 734(g), determine whether termination of the suspended investigation is likely to lead to continuation or recurrence of material injury.

"(3) BURDEN OF PERSUASION.—During a review conducted by the Commission under this subsection—

"(A) the party seeking revocation of an order or finding described in paragraph (1)(A) shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant such revocation, and

"(B) the party seeking termination of a suspended investigation or a suspension agreement shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant such termination.

"(4) LIMITATION ON PERIOD FOR REVIEW.—In the absence of good cause shown—

"(A) the Commission may not review a determination made under section 705(b) or 735(b), or an investigation suspended under section 704 or 734, and

"(B) the administering authority may not review a determination made under section

705(a) or 735(a), or an investigation suspended under section 704 or 734

less than 24 months after the date of publication of notice of that determination or suspension.

"(c) FIVE-YEAR REVIEW.—

"(1) IN GENERAL.—Notwithstanding subsection (b) and except in the case of a transition order defined in paragraph (6), 5 years after the date of publication of—

"(A) a countervailing duty order (other than a countervailing duty order to which subparagraph (B) applies or which was issued without an affirmative determination of injury by the Commission under section 303), an antidumping duty order, or a notice of suspension of an investigation, described in subsection (a)(1),

"(B) a notice of injury determination under section 753 with respect to a countervailing duty order, or

"(C) a determination under this section to continue an order or suspension agreement, the administering authority and the Commission shall conduct a review to determine, in accordance with section 752, whether revocation of the countervailing or antidumping duty order or termination of the investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

"(2) NOTICE OF INITIATION OF REVIEW.—Not later than 30 days before the fifth anniversary of the date described in paragraph (1), the administering authority shall publish in the Federal Register a notice of initiation of a review under this subsection and request that interested parties submit—

"(A) a statement expressing their willingness to participate in the review by providing information requested by the administering authority and the Commission,

"(B) a statement regarding the likely effects of revocation of the order or termination of the suspended investigation, and

"(C) such other information or industry data as the administering authority or the Commission may specify.

"(3) RESPONSES TO NOTICE OF INITIATION.—

"(A) NO RESPONSE.—If no interested party responds to the notice of initiation under this subsection, the administering authority shall issue a final determination, within 90 days after the initiation of a review, revoking the order or terminating the suspended investigation to which such notice relates. For purposes of this paragraph, an interested party means a party described in section 771(9)(C), (D), (E), (F), or (G).

"(B) INADEQUATE RESPONSE.—If interested parties provide inadequate responses to a notice of initiation, the administering authority, within 120 days after the initiation of the review, or the Commission, within 150 days after such initiation, may issue, without further investigation, a final determination based on the facts available, in accordance with section 776.

"(4) WAIVER OF PARTICIPATION BY CERTAIN INTERESTED PARTIES.—

"(A) IN GENERAL.—An interested party described in section 771(9)(A) or (B) may elect not to participate in a review conducted by the administering authority under this subsection and to participate only in the review conducted by the Commission under this subsection.

"(B) EFFECT OF WAIVER.—In a review in which an interested party waives its participation pursuant to this paragraph, the administering authority shall conclude that revocation of the order or termination of the

investigation would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) with respect to that interested party.

"(5) CONDUCT OF REVIEW.—"

"(A) TIME LIMITS FOR COMPLETION OF REVIEW.—Unless the review has been completed pursuant to paragraph (3) or paragraph (4) applies, the administering authority shall make its final determination pursuant to section 752 (b) or (c) within 240 days after the date on which a review is initiated under this subsection. If the administering authority makes a final affirmative determination, the Commission shall make its final determination pursuant to section 752(a) within 360 days after the date on which a review is initiated under this subsection.

"(B) EXTENSION OF TIME LIMIT.—The administering authority or the Commission (as the case may be) may extend the period of time for making their respective determinations under this subsection by not more than 90 days, if the administering authority or the Commission (as the case may be) determines that the review is extraordinarily complicated. In a review in which the administering authority extends the time for making a final determination, but the Commission does not extend the time for making a determination, the Commission's determination shall be made not later than 120 days after the date on which the final determination of the administering authority is published.

"(C) EXTRAORDINARILY COMPLICATED.—For purposes of this subsection, the administering authority or the Commission (as the case may be) may treat a review as extraordinarily complicated if—

"(i) there is a large number of issues,

"(ii) the issues to be considered are complex,

"(iii) there is a large number of firms involved,

"(iv) the orders or suspended investigations have been grouped as described in subparagraph (D), or

"(v) it is a review of a transition order.

"(D) GROUPED REVIEWS.—The Commission, in consultation with the administering authority, may group orders or suspended investigations for review if it considers that such grouping is appropriate and will promote administrative efficiency. Where orders or suspended investigations have been grouped, the Commission shall, subject to subparagraph (B), make its final determination under this subsection not later than 120 days after the date that the administering authority publishes notice of its final determination with respect to the last order or agreement in the group.

"(6) SPECIAL TRANSITION RULES.—"

"(A) SCHEDULE FOR REVIEWS OF TRANSITION ORDERS.—"

"(1) INITIATION.—The administering authority shall begin its review of transition orders in the 42d calendar month after the date such orders are issued. A review of all transition orders shall be initiated not later than the 5th anniversary after the date such orders are issued.

"(ii) COMPLETION.—A review of a transition order shall be completed not later than 18 months after the date such review is initiated. Reviews of all transition orders shall be completed not later than 18 months after the 5th anniversary of the date such orders are issued.

"(iii) SUBSEQUENT REVIEWS.—The time limits set forth in clauses (i) and (ii) shall be applied to all subsequent 5-year reviews of transition orders by substituting 'date of the

determination to continue such orders' for 'date such orders are issued'.

"(iv) REVOCATION AND TERMINATION.—No transition order may be revoked under this subsection before the date that is 5 years after the date the WTO Agreement enters into force with respect to the United States.

"(B) SEQUENCE OF TRANSITION REVIEWS.—The administering authority, in consultation with the Commission, shall determine such sequence of review of transition orders as it deems appropriate to promote administrative efficiency. To the extent practicable, older orders shall be reviewed first.

"(C) DEFINITION OF TRANSITION ORDER.—For purposes of this section, the term 'transition order' means—

"(i) a countervailing duty order under this title or under section 303,

"(ii) an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or

"(iii) a suspension of an investigation under section 704 or 734,

which is in effect on the date the WTO Agreement enters into force with respect to the United States.

"(D) ISSUE DATE FOR TRANSITION ORDERS.—For purposes of this subsection, a transition order shall be treated as issued on the date the WTO Agreement enters into force with respect to the United States, if such order is based on an investigation conducted by both the administering authority and the Commission.

"(d) REVOCATION OF ORDER OR FINDING; TERMINATION OF SUSPENDED INVESTIGATION.—"

"(1) IN GENERAL.—The administering authority may revoke, in whole or in part, a countervailing duty order or an antidumping duty order or finding, or terminate a suspended investigation, after review under subsection (a) or (b). The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of the subject merchandise to the United States which are specifically intended to offset the countervailable subsidy received.

"(2) FIVE-YEAR REVIEWS.—In the case of a review conducted under subsection (c), the administering authority shall revoke a countervailing duty order or an antidumping duty order or finding, or terminate a suspended investigation, unless—

"(A) the administering authority makes a determination that dumping or a countervailable subsidy, as the case may be, would be likely to continue or recur, and

"(B) the Commission makes a determination that material injury would be likely to continue or recur as described in section 752(a).

"(3) APPLICATION OF REVOCATION OR TERMINATION.—A determination under this section to revoke an order or finding or terminate a suspended investigation shall apply with respect to unliquidated entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date determined by the administering authority.

"(e) HEARINGS.—Whenever the administering authority or the Commission conducts a review under this section, it shall, upon the request of an interested party, hold a hearing in accordance with section 774(b) in connection with that review.

"(f) DETERMINATION THAT BASIS FOR SUSPENSION NO LONGER EXISTS.—If the determination of the Commission under subsection (b)(2)(B) is negative, the suspension

agreement shall be treated as not accepted, beginning on the date of publication of the Commission's determination, and the administering authority and the Commission shall proceed, under section 704(i) or 734(i), as if the suspension agreement had been violated on that date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date.

"(g) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial."

(b) REVIEW OF DETERMINATIONS.—

(1) IN GENERAL.—Section 516A(a)(1) (19 U.S.C. 1516A(a)(1)) is amended by striking "or" at the end of subparagraph (B), by inserting "or" at the end of subparagraph (C), and by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) a final determination by the administering authority or the Commission under section 751(c)(3)."

(2) TECHNICAL AMENDMENTS.—Section 516A(b)(1) (19 U.S.C. 1516A(b)(1)) is amended—

(A) in subparagraph (A), by striking "under paragraph (1) of subsection (a)" and inserting "under subparagraph (A), (B), or (C) of subsection (a)(1)", and

(B) in subparagraph (B)—

(i) by striking "(B) in an action" and inserting "(B)(1) in an action",

(ii) by striking the end period and inserting "or", and

(iii) by adding at the end the following:

"(ii) in an action brought under paragraph (1)(D) of subsection (a), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

(c) CONFORMING AMENDMENT.—Section 504 (19 U.S.C. 1504) is amended—

(1) in subsection (a), by inserting "except as provided in section 751(a)(3)," before "an entry of merchandise not liquidated", and

(2) in subsection (d), by striking "When a suspension" and inserting "Except as provided in section 751(a)(3), when a suspension".

SEC. 221. REVIEW DETERMINATIONS.

(a) IN GENERAL.—Chapter 1 of subtitle C of title VII (19 U.S.C. 1675) is amended by adding at the end the following new section:

"SEC. 752. SPECIAL RULES FOR SECTION 751(b) AND 751(c) REVIEWS.

"(a) DETERMINATION OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY.—"

"(1) IN GENERAL.—In a review conducted under section 751 (b) or (c), the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account—

"(A) its prior injury determinations, including the volume, price effect, and impact

of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted.

"(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

"(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and

"(D) in an antidumping proceeding under section 751(c), the findings of the administering authority regarding duty absorption under section 751(a)(4).

"(2) VOLUME.—In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including—

"(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

"(B) existing inventories of the subject merchandise, or likely increases in inventories,

"(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

"(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.

"(3) PRICE.—In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether—

"(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

"(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

"(4) IMPACT ON THE INDUSTRY.—In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to—

"(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

"(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

"(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.

The Commission shall evaluate all relevant economic factors described in this paragraph within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

"(5) BASIS FOR DETERMINATION.—The presence or absence of any factor which the Commission is required to consider under this subsection shall not necessarily give decisive guidance with respect to the Commission's determination of whether material injury is

likely to continue or recur within a reasonably foreseeable time if the order is revoked or the suspended investigation is terminated. In making that determination, the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.

"(6) MAGNITUDE OF MARGIN OF DUMPING AND NET COUNTERVAILABLE SUBSIDY; NATURE OF COUNTERVAILABLE SUBSIDY.—In making a determination under section 751 (b) or (c), the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.

"(7) CUMULATION.—For purposes of this subsection, the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 751 (b) or (c) were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.

"(8) SPECIAL RULE FOR REGIONAL INDUSTRIES.—In a review under section 751 (b) or (c) involving a regional industry, the Commission may base its determination on the regional industry defined in the original investigation under this title, another region that satisfies the criteria established in section 771(4)(C), or the United States as a whole. In determining if a regional industry analysis is appropriate for the determination in the review, the Commission shall consider whether the criteria established in section 771(4)(C) are likely to be satisfied if the order is revoked or the suspended investigation is terminated.

"(b) DETERMINATION OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF A COUNTERVAILABLE SUBSIDY.—

"(1) IN GENERAL.—In a review conducted under section 751(c), the administering authority shall determine whether revocation of a countervailing duty order or termination of a suspended investigation under section 704 would be likely to lead to continuation or recurrence of a countervailable subsidy. The administering authority shall consider—

"(A) the net countervailable subsidy determined in the investigation and subsequent reviews, and

"(B) whether any change in the program which gave rise to the net countervailable subsidy described in subparagraph (A) has occurred that is likely to affect that net countervailable subsidy.

"(2) CONSIDERATION OF OTHER FACTORS.—If good cause is shown, the administering authority shall also consider—

"(A) programs determined to provide countervailable subsidies in other investigations or reviews under this title, but only to the extent that such programs—

"(i) can potentially be used by the exporters or producers subject to the review under section 751(c), and

"(ii) did not exist at the time that the countervailing duty order was issued or the suspension agreement was accepted, and

"(B) programs newly alleged to provide countervailable subsidies but only to the extent that the administering authority makes an affirmative countervailing duty determination with respect to such programs and with respect to the exporters or producers subject to the review.

"(3) NET COUNTERVAILABLE SUBSIDY.—The administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order is revoked or the suspended investigation is terminated. The administering authority shall normally choose a net countervailable subsidy that was determined under section 705 or subsection (a) or (b)(1) of section 751.

"(4) SPECIAL RULE.—

"(A) TREATMENT OF ZERO AND DE MINIMIS RATES.—A net countervailable subsidy described in paragraph (1)(A) that is zero or de minimis shall not by itself require the administering authority to determine that revocation of a countervailing duty order or termination of a suspended investigation would not be likely to lead to continuation or recurrence of a countervailable subsidy.

"(B) APPLICATION OF DE MINIMIS STANDARDS.—For purposes of this paragraph, the administering authority shall apply the de minimis standards applicable to reviews conducted under subsections (a) and (b)(1) of section 751.

"(c) DETERMINATION OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING.—

"(1) IN GENERAL.—In a review conducted under section 751(c), the administering authority shall determine whether revocation of an antidumping duty order or termination of a suspended investigation under section 734 would be likely to lead to continuation or recurrence of sales of the subject merchandise at less than fair value. The administering authority shall consider—

"(A) the weighted average dumping margins determined in the investigation and subsequent reviews, and

"(B) the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order or acceptance of the suspension agreement.

"(2) CONSIDERATION OF OTHER FACTORS.—If good cause is shown, the administering authority shall also consider such other price, cost, market, or economic factors as it deems relevant.

"(3) MAGNITUDE OF THE MARGIN OF DUMPING.—The administering authority shall provide to the Commission the magnitude of the margin of dumping that is likely to prevail if the order is revoked or the suspended investigation is terminated. The administering authority shall normally choose a margin that was determined under section 735 or under subsection (a) or (b)(1) of section 751.

"(4) SPECIAL RULE.—

"(A) TREATMENT OF ZERO OR DE MINIMIS MARGINS.—A dumping margin described in paragraph (1)(A) that is zero or de minimis shall not by itself require the administering authority to determine that revocation of an antidumping duty order or termination of a suspended investigation would not be likely to lead to continuation or recurrence of sales at less than fair value.

"(B) APPLICATION OF DE MINIMIS STANDARDS.—For purposes of this paragraph, the administering authority shall apply the de minimis standards applicable to reviews conducted under subsections (a) and (b) of section 751."

(b) AFFIRMATIVE DETERMINATIONS BY DIVIDED COMMISSION.—Section 771(11) (19 U.S.C. 1677(11)) is amended by inserting "", including

a determination under section 751," after "determination by the Commission".

(c) CONFORMING AMENDMENT.—The table of contents for title VII is amended by inserting after the item relating to section 751 the following:

"Sec. 752. Special rules for section 751(b) and 751(c) reviews."

SEC. 222. DEFINITIONS.

(a) INDUSTRY.—

(1) IN GENERAL.—Subparagraphs (A) and (B) of section 771(4) (19 U.S.C. 1677(4) (A) and (B)) are amended to read as follows:

"(A) IN GENERAL.—The term 'industry' means the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.

"(B) RELATED PARTIES.—

"(1) If a producer of a domestic like product and an exporter or importer of the subject merchandise are related parties, or if a producer of the domestic like product is also an importer of the subject merchandise, the producer may, in appropriate circumstances, be excluded from the industry.

"(ii) For purposes of clause (i), a producer and an exporter or importer shall be considered to be related parties, if—

"(I) the producer directly or indirectly controls the exporter or importer,

"(II) the exporter or importer directly or indirectly controls the producer,

"(III) a third party directly or indirectly controls the producer and the exporter or importer, or

"(IV) the producer and the exporter or importer directly or indirectly control a third party and there is reason to believe that the relationship causes the producer to act differently than a nonrelated producer.

For purposes of this subparagraph, a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to exercise restraint or direction over the other party."

(2) REGIONAL INDUSTRY.—Section 771(4)(C) (19 U.S.C. 1677(4)(C)) is amended by adding at the end the following new sentence: "The term 'regional industry' means the domestic producers within a region who are treated as a separate industry under this subparagraph."

(b) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—

(1) IN GENERAL.—Section 771(7)(C)(iii) (19 U.S.C. 1677(7)(C)(iii)) is amended—

(A) by striking "and" at the end of subclause (III), and

(B) by striking the period at the end of subclause (IV) and inserting ", and

"(V) in a proceeding under subtitle B, the magnitude of the margin of dumping."

(2) CAPTIVE PRODUCTION.—Section 771(7)(C) (19 U.S.C. 1677(7)(C)) is amended by striking clause (iv) and inserting the following:

"(iv) CAPTIVE PRODUCTION.—If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that—

"(I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,

"(II) the domestic like product is the predominant material input in the production of that downstream article, and

"(III) the production of the domestic like product sold in the merchant market is not

generally used in the production of that downstream article

then the Commission, in determining market share and the factors affecting financial performance set forth in clause (iii), shall focus primarily on the merchant market for the domestic like product."

(3) TECHNICAL CORRECTION.—Section 771(7)(C)(iii) is amended by striking "subparagraph (B)(iii)" and inserting "subparagraph (B)(i)(III)".

(c) DETERMINATION OF THREAT OF INJURY.—Clauses (i) and (ii) of section 771(7)(F) (19 U.S.C. 1677(7)(F) (i) and (ii)) are amended to read as follows:

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

"(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

"(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

"(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

"(V) inventories of the subject merchandise,

"(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

"(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

"(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

"(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

"(ii) BASIS FOR DETERMINATION.—The Commission shall consider the factors set forth in clause (i) as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether

material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider under clause (i) shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

(d) NEGLIGIBLE IMPORTS.—Section 771 (19 U.S.C. 1677) is amended—

(1) in paragraph (7) by striking clause (v) of subparagraph (C), and

(2) by adding at the end the following:

"(24) NEGLIGIBLE IMPORTS.—

"(A) IN GENERAL.—

"(i) LESS THAN 3 PERCENT.—Except as provided in clauses (ii) and (iv), imports from a country of merchandise corresponding to a domestic like product identified by the Commission are 'negligible' if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes—

"(I) the filing of the petition under section 702(b) or 732(b), or

"(II) the initiation of the investigation, if the investigation was initiated under section 702(a) or 732(a).

"(ii) EXCEPTION.—Imports that would otherwise be negligible under clause (i) shall not be negligible if the aggregate volume of imports of the merchandise from all countries described in clause (i) with respect to which investigations were initiated on the same day exceeds 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period.

"(iii) DETERMINATION OF AGGREGATE VOLUME.—In determining aggregate volume under clause (i) or (iv), the Commission shall not consider imports from any country specified in paragraph (7)(G)(ii).

"(iv) NEGLIGIBILITY IN THREAT ANALYSIS.—Notwithstanding clauses (i) and (ii), the Commission shall not treat imports as negligible if it determines that there is a potential that imports from a country described in clause (i) will imminently account for more than 3 percent of the volume of all such merchandise imported into the United States, or that the aggregate volumes of imports from all countries described in clause (i) will imminently exceed 7 percent of the volume of all such merchandise imported into the United States. The Commission shall consider such imports only for purposes of determining threat of material injury.

"(B) NEGLIGIBILITY FOR CERTAIN COUNTRIES IN COUNTERVAILING DUTY INVESTIGATIONS.—In the case of an investigation under section 701, subparagraph (A) shall be applied to imports of subject merchandise from developing countries by substituting '4 percent' for '3 percent' in subparagraph (A)(i) and by substituting '9 percent' for '7 percent' in subparagraph (A)(ii).

"(C) COMPUTATION OF IMPORT VOLUMES.—In computing import volumes for purposes of subparagraphs (A) and (B), the Commission may make reasonable estimates on the basis of available statistics.

"(D) REGIONAL INDUSTRIES.—In an investigation in which the Commission makes a regional industry determination under paragraph (4)(C), the Commission's examination under subparagraphs (A) and (B) shall be based upon the volume of subject merchandise exported for sale in the regional market in lieu of the volume of all subject merchandise imported into the United States."

(e) CUMULATION.—Section 771(7) (19 U.S.C. 1677(7)) is amended—

(1) in subparagraph (F) by striking clause (iv), and

(2) by adding at the end the following:

“(G) CUMULATION FOR DETERMINING MATERIAL INJURY.—

“(i) IN GENERAL.—For purposes of clauses (1) and (ii) of subparagraph (C), and subject to clause (ii), the Commission shall cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which—

“(I) petitions were filed under section 702(b) or 732(b) on the same day,

“(II) investigations were initiated under section 702(a) or 732(a) on the same day, or

“(III) petitions were filed under section 702(b) or 732(b) and investigations were initiated under section 702(a) or 732(a) on the same day,

if such imports compete with each other and with domestic like products in the United States market.

“(ii) EXCEPTIONS.—The Commission shall not cumulatively assess the volume and effect of imports under clause (i)—

“(I) with respect to which the administering authority has made a preliminary negative determination, unless the administering authority subsequently made a final affirmative determination with respect to those imports before the Commission's final determination is made;

“(II) from any country with respect to which the investigation has been terminated;

“(III) from any country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) for purposes of making a determination with respect to that country, except that the volume and effect of imports of the subject merchandise from such country may be cumulatively assessed with imports of the subject merchandise from any other country designated as such a beneficiary country to the extent permitted by clause (i); or

“(IV) from any country that is a party to an agreement with the United States establishing a free trade area, which entered into force and effect before January 1, 1987, unless the Commission determines that a domestic industry is materially injured or threatened with material injury by reason of imports from that country.

“(iii) RECORDS IN FINAL INVESTIGATIONS.—In each final determination in which it cumulatively assesses the volume and effect of imports under clause (i), the Commission shall make its determinations based on the record compiled in the first investigation in which it makes a final determination, except that when the administering authority issues its final determination in a subsequently completed investigation, the Commission shall permit the parties in the subsequent investigation to submit comments concerning the significance of the administering authority's final determination, and shall include such comments and the administering authority's final determination in the record for the subsequent investigation.

“(iv) REGIONAL INDUSTRY DETERMINATIONS.—In an investigation which involves a regional industry, and in which the Commission decides that the volume and effect of imports should be cumulatively assessed under this subparagraph, such assessment shall be based upon the volume and effect of imports into the region or regions determined by the Commission. The provisions of clause (iii) shall apply to such investigations.

“(H) CUMULATION FOR DETERMINING THREAT OF MATERIAL INJURY.—To the extent practicable and subject to subparagraph (G)(ii), for purposes of clause (i)(III) and (IV) of subparagraph (F), the Commission may cumulatively assess the volume and price effects of imports of the subject merchandise from all countries with respect to which—

“(i) petitions were filed under section 702(b) or 732(b) on the same day,

“(ii) investigations were initiated under section 702(a) or 732(a) on the same day, or

“(iii) petitions were filed under section 702(b) or 732(b) and investigations were initiated under section 702(a) or 732(a) on the same day,

if such imports compete with each other and with domestic like products in the United States market.”

(f) CONSIDERATION OF POST-PETITION INFORMATION.—Section 771(7) (19 U.S.C. 1677(7)), is amended by adding at the end the following:

“(I) CONSIDERATION OF POST-PETITION INFORMATION.—The Commission shall consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an investigation under subtitle A or B is related to the pendency of the investigation and, if so, the Commission may reduce the weight accorded to the data for the period after the filing of the petition in making its determination of material injury, threat of material injury, or material retardation of the establishment of an industry in the United States.”

(g) INTERESTED PARTY.—Section 771(9) (19 U.S.C. 1677(9)) is amended—

(1) in subparagraph (A), by inserting “producers, exporters, or” before “importers”, and

(2) in subparagraph (B), inserting “or from which such merchandise is exported” after “manufactured”.

(h) ORDINARY COURSE OF TRADE.—Section 771(15) (19 U.S.C. 1677(15)) is amended—

(1) by striking “merchandise which is the subject of an investigation” and inserting “subject merchandise”; and

(2) by adding at the end the following: “The administering authority shall consider the following sales and transactions, among others, to be outside the ordinary course of trade:

“(A) Sales disregarded under section 773(b)(1).

“(B) Transactions disregarded under section 773(f)(2).”

(i) OTHER DEFINITIONS.—

(1) IN GENERAL.—Section 771 (19 U.S.C. 1677), as amended by subsection (d), is amended by adding at the end the following:

“(25) SUBJECT MERCHANDISE.—The term ‘subject merchandise’ means the class or kind of merchandise that is within the scope of an investigation, a review, a suspension agreement, an order under this title or section 303, or a finding under the Antidumping Act, 1921.

“(26) SECTION 303.—The terms ‘section 303’ and ‘303’ mean section 303 of this Act as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act.

“(27) SUSPENSION AGREEMENT.—The term ‘suspension agreement’ means an agreement described in section 704(b), 704(c), 734(b), 734(c), or 734(1).

“(28) EXPORTER OR PRODUCER.—The term ‘exporter or producer’ means the exporter of the subject merchandise, the producer of the subject merchandise, or both where appropriate. For purposes of section 773, the term ‘exporter or producer’ includes both the ex-

porter of the subject merchandise and the producer of the same subject merchandise to the extent necessary to accurately calculate the total amount incurred and realized for costs, expenses, and profits in connection with production and sale of that merchandise.

“(29) WTO AGREEMENT.—The term ‘WTO Agreement’ means the Agreement defined in section 2(9) of the Uruguay Round Agreements Act.

“(30) WTO MEMBER AND WTO MEMBER COUNTRY.—The terms ‘WTO member’ and ‘WTO member country’ mean a state, or separate customs territory (within the meaning of Article XII of the WTO Agreement), with respect to which the United States applies the WTO agreement.

“(31) GATT 1994.—The term ‘GATT 1994’ means the General Agreement on Tariffs and Trade annexed to the WTO Agreement.

“(32) TRADE REPRESENTATIVE.—The term ‘Trade Representative’ means the United States Trade Representative.

“(33) AFFILIATED PERSONS.—The following persons shall be considered to be ‘affiliated’ or ‘affiliated persons’:

“(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

“(B) Any officer or director of an organization and such organization.

“(C) Partners.

“(D) Employer and employee.

“(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

“(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

“(G) Any person who controls any other person and such other person.

For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

“(34) DUMPED; DUMPING.—The terms ‘dumped’ and ‘dumping’ refer to the sale or likely sale of goods at less than fair value.”

(2) EXPORTER.—Paragraph (13) of section 771 (19 U.S.C. 1677(13)) is repealed.

SEC. 223. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.

Section 772 (19 U.S.C. 1677a) is amended to read as follows:

“SEC. 772. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.

“(a) EXPORT PRICE.—The term ‘export price’ means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).

“(b) CONSTRUCTED EXPORT PRICE.—The term ‘constructed export price’ means the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

“(c) ADJUSTMENTS FOR EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.—The price used

to establish export price and constructed export price shall be—

“(1) increased by—

“(A) when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the subject merchandise in condition packed ready for shipment to the United States,

“(B) the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States, and

“(C) the amount of any countervailing duty imposed on the subject merchandise under subtitle A to offset an export subsidy, and

“(2) reduced by—

“(A) except as provided in paragraph (1)(C), the amount, if any, included in such price, attributable to any additional costs, charges, or expenses, and United States import duties, which are incident to bringing the subject merchandise from the original place of shipment in the exporting country to the place of delivery in the United States, and

“(B) the amount, if included in such price, of any export tax, duty, or other charge imposed by the exporting country on the exportation of the subject merchandise to the United States, other than an export tax, duty, or other charge described in section 771(6)(C).

“(d) ADDITIONAL ADJUSTMENTS TO CONSTRUCTED EXPORT PRICE.—For purposes of this section, the price used to establish constructed export price shall also be reduced by—

“(1) the amount of any of the following expenses generally incurred by or for the account of the producer or exporter, or the affiliated seller in the United States, in selling the subject merchandise (or subject merchandise to which value has been added)—

“(A) commissions for selling the subject merchandise in the United States;

“(B) expenses that result from, and bear a direct relationship to, the sale, such as credit expenses, guarantees and warranties;

“(C) any selling expenses that the seller pays on behalf of the purchaser;

“(D) any selling expenses not deducted under subparagraph (A), (B), or (C);

“(2) the cost of any further manufacture or assembly (including additional material and labor), except in circumstances described in subsection (e); and

“(3) the profit allocated to the expenses described in paragraphs (1) and (2).

“(e) SPECIAL RULE FOR MERCHANDISE WITH VALUE ADDED AFTER IMPORTATION.—Where the subject merchandise is imported by a person affiliated with the exporter or producer, and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, the administering authority shall determine the constructed export price for such merchandise by using one of the following prices if there is a sufficient quantity of sales to provide a reasonable basis for comparison and the administering authority determines that the use of such sales is appropriate:

“(1) The price of identical subject merchandise sold by the exporter or producer to an unaffiliated person.

“(2) The price of other subject merchandise sold by the exporter or producer to an unaffiliated person.

“If there is not a sufficient quantity of sales to provide a reasonable basis for com-

parison under paragraph (1) or (2), or the administering authority determines that neither of the prices described in such paragraphs is appropriate, then the constructed export price may be determined on any other reasonable basis.

“(f) SPECIAL RULE FOR DETERMINING PROFIT.—

“(1) IN GENERAL.—For purposes of subsection (d)(3), profit shall be an amount determined by multiplying the total actual profit by the applicable percentage.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) APPLICABLE PERCENTAGE.—The term ‘applicable percentage’ means the percentage determined by dividing the total United States expenses by the total expenses.

“(B) TOTAL UNITED STATES EXPENSES.—The term ‘total United States expenses’ means the total expenses described in subsection (d) (1) and (2).

“(C) TOTAL EXPENSES.—The term ‘total expenses’ means all expenses in the first of the following categories which applies and which are incurred by or on behalf of the foreign producer and foreign exporter of the subject merchandise and by or on behalf of the United States seller affiliated with the producer or exporter with respect to the production and sale of such merchandise:

“(i) The expenses incurred with respect to the subject merchandise sold in the United States and the foreign like product sold in the exporting country if such expenses were requested by the administering authority for the purpose of establishing normal value and constructed export price.

“(ii) The expenses incurred with respect to the narrowest category of merchandise sold in the United States and the exporting country which includes the subject merchandise.

“(iii) The expenses incurred with respect to the narrowest category of merchandise sold in all countries which includes the subject merchandise.

“(D) TOTAL ACTUAL PROFIT.—The term ‘total actual profit’ means the total profit earned by the foreign producer, exporter, and affiliated parties described in subparagraph (C) with respect to the sale of the same merchandise for which total expenses are determined under such subparagraph.”.

SEC. 224. NORMAL VALUE.

Section 773 (19 U.S.C. 1677b) is amended to read as follows:

“SEC. 773. NORMAL VALUE.

“(a) DETERMINATION.—In determining under this title whether subject merchandise is being, or is likely to be, sold at less than fair value, a fair comparison shall be made between the export price or constructed export price and normal value. In order to achieve a fair comparison with the export price or constructed export price, normal value shall be determined as follows:

“(1) DETERMINATION OF NORMAL VALUE.—

“(A) IN GENERAL.—The normal value of the subject merchandise shall be the price described in subparagraph (B), at a time reasonably corresponding to the time of the sale used to determine the export price or constructed export price under section 772(a) or (b).

“(B) PRICE.—The price referred to in subparagraph (A) is—

“(i) the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the export price or constructed export price, or

“(ii) in a case to which subparagraph (C) applies, the price at which the foreign like product is so sold (or offered for sale) for consumption in a country other than the exporting country or the United States, if—

“(I) such price is representative,

“(II) the aggregate quantity (or, if quantity is not appropriate, value) of the foreign like product sold by the exporter or producer in such other country is 5 percent or more of the aggregate quantity (or value) of the subject merchandise sold in the United States or for export to the United States, and

“(III) the administering authority does not determine that the particular market situation in such other country prevents a proper comparison with the export price or constructed export price.

“(C) THIRD COUNTRY SALES.—This subparagraph applies when—

“(i) the foreign like product is not sold (or offered for sale) for consumption in the exporting country as described in subparagraph (B)(1),

“(ii) the administering authority determines that the aggregate quantity (or, if quantity is not appropriate, value) of the foreign like product sold in the exporting country is insufficient to permit a proper comparison with the sales of the subject merchandise to the United States, or

“(iii) the particular market situation in the exporting country does not permit a proper comparison with the export price or constructed export price.

For purposes of clause (ii), the aggregate quantity (or value) of the foreign like product sold in the exporting country shall normally be considered to be insufficient if such quantity (or value) is less than 5 percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

“(2) FICTITIOUS MARKETS.—No pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account in determining normal value. The occurrence of different movements in the prices at which different forms of the foreign like product are sold (or, in the absence of sales, offered for sale) in the exporting country after the issuance of an antidumping duty order may be considered by the administering authority as evidence of the establishment of a fictitious market for the foreign like product if the movement in such prices appears to reduce the amount by which the normal value exceeds the export price (or the constructed export price) of the subject merchandise.

“(3) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—Where the subject merchandise is exported to the United States from an intermediate country, normal value shall be determined in the intermediate country, except that normal value may be determined in the country of origin of the subject merchandise if—

“(A) the producer knew at the time of the sale that the subject merchandise was destined for exportation;

“(B) the subject merchandise is merely transhipped through the intermediate country;

“(C) sales of the foreign like product in the intermediate country do not satisfy the conditions of paragraph (1)(C); or

“(D) the foreign like product is not produced in the intermediate country.

“(4) USE OF CONSTRUCTED VALUE.—If the administering authority determines that the normal value of the subject merchandise cannot be determined under paragraph (1)(B)(i), then, notwithstanding paragraph

(1)(B)(ii), the normal value of the subject merchandise may be the constructed value of that merchandise, as determined under subsection (e).

"(5) INDIRECT SALES OR OFFERS FOR SALE.—If the foreign like product is sold or, in the absence of sales, offered for sale through an affiliated party, the prices at which the foreign like product is sold (or offered for sale) by such affiliated party may be used in determining normal value.

"(6) ADJUSTMENTS.—The price described in paragraph (1)(B) shall be—

"(A) increased by the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the subject merchandise in condition packed ready for shipment to the United States;

"(B) reduced by—

"(1) when included in the price described in paragraph (1)(B), the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the foreign like product in condition packed ready for shipment to the place of delivery to the purchaser,

"(ii) the amount, if any, included in the price described in paragraph (1)(B), attributable to any additional costs, charges, and expenses incident to bringing the foreign like product from the original place of shipment to the place of delivery to the purchaser, and

"(iii) the amount of any taxes imposed directly upon the foreign like product or components thereof which have been rebated, or which have not been collected, on the subject merchandise, but only to the extent that such taxes are added to or included in the price of the foreign like product, and

"(C) increased or decreased by the amount of any difference (or lack thereof) between the export price or constructed export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise provided under this section) that is established to the satisfaction of the administering authority to be wholly or partly due to—

(1) the fact that the quantities in which the subject merchandise is sold or agreed to be sold to the United States are greater than or less than the quantities in which the foreign like product is sold, agreed to be sold, or offered for sale,

"(ii) the fact that merchandise described in subparagraph (B) or (C) of section 771(16) is used in determining normal value, or

"(iii) other differences in the circumstances of sale.

"(7) ADDITIONAL ADJUSTMENTS.—

"(A) LEVEL OF TRADE.—The price described in paragraph (1)(B) shall also be increased or decreased to make due allowance for any difference (or lack thereof) between the export price or constructed export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise made under this section) that is shown to be wholly or partly due to a difference in level of trade between the export price or constructed export price and normal value, if the difference in level of trade—

"(1) involves the performance of different selling activities; and

"(ii) is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different levels of trade in the country in which normal value is determined.

In a case described in the preceding sentence, the amount of the adjustment shall be based on the price differences between the two levels of trade in the country in which normal value is determined.

"(B) CONSTRUCTED EXPORT PRICE OFFSET.—

When normal value is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the constructed export price, but the data available do not provide an appropriate basis to determine under subparagraph (A)(ii) a level of trade adjustment, normal value shall be reduced by the amount of indirect selling expenses incurred in the country in which normal value is determined on sales of the foreign like product but not more than the amount of such expenses for which a deduction is made under section 772(d)(1)(D).

"(8) ADJUSTMENTS TO CONSTRUCTED VALUE.—Constructed value as determined under subsection (e), may be adjusted, as appropriate, pursuant to this subsection.

"(b) SALES AT LESS THAN COST OF PRODUCTION.—

"(1) DETERMINATION; SALES DISREGARDED.—Whenever the administering authority has reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of normal value have been made at prices which represent less than the cost of production of that product, the administering authority shall determine whether, in fact, such sales were made at less than the cost of production. If the administering authority determines that sales made at less than the cost of production—

"(A) have been made within an extended period of time in substantial quantities, and

"(B) were not at prices which permit recovery of all costs within a reasonable period of time,

such sales may be disregarded in the determination of normal value. Whenever such sales are disregarded, normal value shall be based on the remaining sales of the foreign like product in the ordinary course of trade. If no sales made in the ordinary course of trade remain, the normal value shall be based on the constructed value of the merchandise.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) REASONABLE GROUNDS TO BELIEVE OR SUSPECT.—There are reasonable grounds to believe or suspect that sales of the foreign like product were made at prices that are less than the cost of production of the product, if—

"(1) in an investigation initiated under section 732 or a review conducted under section 751, an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) provides information, based upon observed prices or constructed prices or costs, that sales of the foreign like product under consideration for the determination of normal value have been made at prices which represent less than the cost of production of the product; or

"(ii) in a review conducted under section 751 involving a specific exporter, the administering authority disregarded some or all of the exporter's sales pursuant to paragraph (1) in the investigation or if a review has been completed, in the most recently completed review.

"(B) EXTENDED PERIOD OF TIME.—The term 'extended period of time' means a period that is normally 1 year, but not less than 6 months.

"(C) SUBSTANTIAL QUANTITIES.—Sales made at prices below the cost of production have been made in substantial quantities if—

"(1) the volume of such sales represents 20 percent or more of the volume of sales under consideration for the determination of normal value, or

"(ii) the weighted average per unit price of the sales under consideration for the determination of normal value is less than the weighted average per unit cost of production for such sales.

"(D) RECOVERY OF COSTS.—If prices which are below the per unit cost of production at the time of sale are above the weighted average per unit cost of production for the period of investigation or review, such prices shall be considered to provide for recovery of costs within a reasonable period of time.

"(3) CALCULATION OF COST OF PRODUCTION.—For purposes of this subtitle, the cost of production shall be an amount equal to the sum of—

"(A) the cost of materials and of fabrication or other processing of any kind employed in producing the foreign like product, during a period which would ordinarily permit the production of that foreign like product in the ordinary course of business;

"(B) an amount for selling, general, and administrative expenses based on actual data pertaining to production and sales of the foreign like product by the exporter in question; and

"(C) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the foreign like product in condition packed ready for shipment.

For purposes of subparagraph (A), if the normal value is based on the price of the foreign like product sold for consumption in a country other than the exporting country, the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition which are remitted or refunded upon exportation.

"(c) NONMARKET ECONOMY COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) the subject merchandise is exported from a nonmarket economy country, and

"(B) the administering authority finds that available information does not permit the normal value of the subject merchandise to be determined under subsection (a), the administering authority shall determine the normal value of the subject merchandise on the basis of the value of the factors of production utilized in producing the merchandise and to which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses. Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

"(2) EXCEPTION.—If the administering authority finds that the available information is inadequate for purposes of determining the normal value of subject merchandise under paragraph (1), the administering authority shall determine the normal value on the basis of the price at which merchandise that is—

"(A) comparable to the subject merchandise, and

"(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country, is sold in other countries, including the United States.

"(3) FACTORS OF PRODUCTION.—For purposes of paragraph (1), the factors of production utilized in producing merchandise include, but are not limited to—

"(A) hours of labor required,

"(B) quantities of raw materials employed,
 "(C) amounts of energy and other utilities consumed, and

"(D) representative capital cost, including depreciation.

"(4) VALUATION OF FACTORS OF PRODUCTION.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

"(A) at a level of economic development comparable to that of the nonmarket economy country, and

"(B) significant producers of comparable merchandise.

"(d) SPECIAL RULE FOR CERTAIN MULTINATIONAL CORPORATIONS.—Whenever, in the course of an investigation under this title, the administering authority determines that—

"(1) subject merchandise exported to the United States is being produced in facilities which are owned or controlled, directly or indirectly, by a person, firm, or corporation which also owns or controls, directly or indirectly, other facilities for the production of the foreign like product which are located in another country or countries,

"(2) subsection (a)(1)(C) applies, and

"(3) the normal value of the foreign like product produced in one or more of the facilities outside the exporting country is higher than the normal value of the foreign like product produced in the facilities located in the exporting country,

it shall determine the normal value of the subject merchandise by reference to the normal value at which the foreign like product is sold in substantial quantities from one or more facilities outside the exporting country. The administering authority, in making any determination under this paragraph, shall make adjustments for the difference between the cost of production (including taxes, labor, materials, and overhead) of the foreign like product produced in facilities outside the exporting country and costs of production of the foreign like product produced in facilities in the exporting country, if such differences are demonstrated to its satisfaction. For purposes of this subsection, in determining the normal value of the foreign like product produced in a country outside of the exporting country, the administering authority shall determine its price at the time of exportation from the exporting country and shall make any adjustments required by subsection (a) for the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States by reference to such costs in the exporting country.

"(e) CONSTRUCTED VALUE.—For purposes of this title, the constructed value of imported merchandise shall be an amount equal to the sum of—

"(1) the cost of materials and fabrication or other processing of any kind employed in producing the merchandise, during a period which would ordinarily permit the production of the merchandise in the ordinary course of business;

"(2)(A) the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country, or

"(B) if actual data are not available with respect to the amounts described in subparagraph (A), then—

"(i) the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review for selling, general, and administrative expenses, and for profits, in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise,

"(ii) the weighted average of the actual amounts incurred and realized by exporters or producers that are subject to the investigation or review (other than the exporter or producer described in clause (i)) for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country, or

"(iii) the amounts incurred and realized for selling, general, and administrative expenses, and for profits, based on any other reasonable method, except that the amount allowed for profit may not exceed the amount normally realized by exporters or producers (other than the exporter or producer described in clause (i)) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise; and

"(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the subject merchandise in condition packed ready for shipment to the United States.

For purposes of paragraph (1), the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition which are remitted or refunded upon exportation of the subject merchandise produced from such materials.

"(f) SPECIAL RULES FOR CALCULATION OF COST OF PRODUCTION AND FOR CALCULATION OF CONSTRUCTED VALUE.—For purposes of subsections (b) and (e)—

"(1) COSTS.—

"(A) IN GENERAL.—Costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise. The administering authority shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer on a timely basis, if such allocations have been historically used by the exporter or producer, in particular for establishing appropriate amortization and depreciation periods, and allowances for capital expenditures and other development costs.

"(B) NONRECURRING COSTS.—Costs shall be adjusted appropriately for those non-recurring costs that benefit current or future production, or both.

"(C) STARTUP COSTS.—

"(i) IN GENERAL.—Costs shall be adjusted appropriately for circumstances in which costs incurred during the time period covered by the investigation or review are affected by startup operations.

"(ii) STARTUP OPERATIONS.—Adjustments shall be made for startup operations only where—

"(I) a producer is using new production facilities or producing a new product that re-

quires substantial additional investment, and

"(II) production levels are limited by technical factors associated with the initial phase of commercial production.

For purposes of subclause (II), the initial phase of commercial production ends at the end of the startup period. In determining whether commercial production levels have been achieved, the administering authority shall consider factors unrelated to startup operations that might affect the volume of production processed, such as demand, seasonality, or business cycles.

"(iii) ADJUSTMENT FOR STARTUP OPERATIONS.—The adjustment for startup operations shall be made by substituting the unit production costs incurred with respect to the merchandise at the end of the startup period for the unit production costs incurred during the startup period. If the startup period extends beyond the period of the investigation or review under this title, the administering authority shall use the most recent cost of production data that it reasonably can obtain, analyze, and verify without delaying the timely completion of the investigation or review. For purposes of this subparagraph, the startup period ends at the point at which the level of commercial production that is characteristic of the merchandise, producer, or industry concerned is achieved.

"(2) TRANSACTIONS DISREGARDED.—A transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated.

"(3) MAJOR INPUT RULE.—If, in the case of a transaction between affiliated persons involving the production by one of such persons of a major input to the merchandise, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under paragraph (2)."

SEC. 225. CURRENCY CONVERSION.

(a) IN GENERAL.—Subtitle D of title VII (19 U.S.C. 1677 et seq.) is amended by inserting after section 773 the following new section:

"SEC. 773A. CURRENCY CONVERSION.

"(a) IN GENERAL.—In an antidumping proceeding under this title, the administering authority shall convert foreign currencies into United States dollars using the exchange rate in effect on the date of sale of the subject merchandise, except that, if it is established that a currency transaction on forward markets is directly linked to an export sale under consideration, the exchange rate specified with respect to such currency in the forward sale agreement shall be used to convert the foreign currency. Fluctuations in exchange rates shall be ignored.

"(b) SUSTAINED MOVEMENT IN FOREIGN CURRENCY VALUE.—In an investigation under subtitle B, if there is a sustained movement in the value of the foreign currency relative

to the United States dollar, the administering authority shall allow exporters at least 60 days to adjust their export prices to reflect such sustained movement."

(b) CONFORMING AMENDMENT.—The table of contents for title VII is amended by inserting after the item relating to section 773 the following new item:

"Sec. 773A. Currency conversion."

SEC. 226. PROPRIETARY AND NONPROPRIETARY INFORMATION.

(a) PROPRIETARY STATUS MAINTAINED.—
(1) IN GENERAL.—Section 777(b)(1) (19 U.S.C. 1677f(b)(1)) is amended to read as follows:

"(1) PROPRIETARY STATUS MAINTAINED.—
"(A) IN GENERAL.—Except as provided in subsection (a)(4)(A) and subsection (c), information submitted to the administering authority or the Commission which is designated as proprietary by the person submitting the information shall not be disclosed to any person without the consent of the person submitting the information, other than—

"(i) to an officer or employee of the administering authority or the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted or any review under this title covering the same subject merchandise, or

"(ii) to an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title.

"(B) ADDITIONAL REQUIREMENTS.—The administering authority and the Commission shall require that information for which proprietary treatment is requested be accompanied by—

"(i) either—

"(I) a non-proprietary summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(II) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(ii) either—

"(I) a statement which permits the administering authority or the Commission to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(II) a statement to the administering authority or the Commission that the business proprietary information is of a type that should not be released under administrative protective order."

(2) SECTION 751 REVIEWS.—Section 777(b) (19 U.S.C. 1677f(b)) is amended by adding at the end the following:

"(3) SECTION 751 REVIEWS.—Notwithstanding the provisions of paragraph (1), information submitted to the administering authority or the Commission in connection with a review under section 751(b) or 751(c) which is designated as proprietary by the person submitting the information may, if the review results in the revocation of an order or finding (or termination of a suspended investigation) under section 751(d), be used by the agency to which the information was originally submitted in any investigation initiated within 2 years after the date of the revocation or termination pursuant to a petition covering the same subject merchandise."

(b) UNWARRANTED PROPRIETARY DESIGNATION.—Section 777(b)(2) (19 U.S.C. 1677f(b)(2)) is amended by adding at the end the following new sentence: "In a case in which the administering authority or the Commission returns the information to the person submit-

ting it, the person may thereafter submit other material concerning the subject matter of the returned information if the submission is made within the time otherwise provided for submitting such material."

SEC. 227. OPPORTUNITY FOR COMMENT BY CONSUMERS AND INDUSTRIAL USERS.

Section 777 (19 U.S.C. 1677f) is amended by adding at the end the following new subsection:

"(h) OPPORTUNITY FOR COMMENT BY CONSUMERS AND INDUSTRIAL USERS.—The administering authority and the Commission shall provide an opportunity for industrial users of the subject merchandise and, if the merchandise is sold at the retail level, for representative consumer organizations, to submit relevant information to the administering authority concerning dumping or a countervailable subsidy, and to the Commission concerning material injury by reason of dumped or subsidized imports."

SEC. 228. PUBLIC NOTICE AND EXPLANATION OF DETERMINATIONS.

Section 777 (19 U.S.C. 1677f), as amended by section 227, is amended by adding at the end the following:

"(1) PUBLICATION OF DETERMINATIONS; REQUIREMENTS FOR FINAL DETERMINATIONS.—

"(1) IN GENERAL.—Whenever the administering authority makes a determination under section 702 or 732 whether to initiate an investigation, or the administering authority or the Commission makes a preliminary determination under section 703 or 733, a final determination under section 705 or section 735, a preliminary or final determination in a review under section 751, a determination to suspend an investigation under this title, or a determination under section 753, the administering authority or the Commission, as the case may be, shall publish the facts and conclusions supporting that determination, and shall publish notice of that determination in the Federal Register.

"(2) CONTENTS OF NOTICE OR DETERMINATION.—The notice or determination published under paragraph (1) shall include, to the extent applicable—

"(A) in the case of a determination of the administering authority—

"(i) the names of the exporters or producers of the subject merchandise or, when providing such names is impracticable, the countries exporting the subject merchandise to the United States,

"(ii) a description of the subject merchandise that is sufficient to identify the subject merchandise for customs purposes,

"(iii)(I) with respect to a determination in an investigation under subtitle A or section 753 or in a review of a countervailing duty order, the amount of the countervailable subsidy established and a full explanation of the methodology used in establishing the amount, and

"(II) with respect to a determination in an investigation under subtitle B or in a review of an antidumping duty order, the weighted average dumping margins established and a full explanation of the methodology used in establishing such margins, and

"(iv) the primary reasons for the determination; and

"(B) in the case of a determination of the Commission—

"(i) considerations relevant to the determination of injury, and

"(ii) the primary reasons for the determination.

"(3) ADDITIONAL REQUIREMENTS FOR FINAL DETERMINATIONS.—In addition to the requirements set forth in paragraph (2)—

"(A) the administering authority shall include in a final determination described in

paragraph (1) an explanation of the basis for its determination that addresses relevant arguments, made by interested parties who are parties to the investigation or review (as the case may be), concerning the establishment of dumping or a countervailable subsidy, or the suspension of the investigation, with respect to which the determination is made; and

"(B) the Commission shall include in a final determination of injury an explanation of the basis for its determination that addresses relevant arguments that are made by interested parties who are parties to the investigation or review (as the case may be) concerning volume, price effects, and impact on the industry of imports of the subject merchandise."

SEC. 229. SAMPLING AND AVERAGING; DETERMINATION OF WEIGHTED AVERAGE DUMPING MARGIN.

(a) IN GENERAL.—Section 777A (19 U.S.C. 1677f-1) is amended to read as follows:

"SEC. 777A. SAMPLING AND AVERAGING; DETERMINATION OF WEIGHTED AVERAGE DUMPING MARGIN.

"(a) IN GENERAL.—For purposes of determining the export price (or constructed export price) under section 772 or the normal value under section 773, and in carrying out reviews under section 751, the administering authority may—

"(1) use averaging and statistically valid samples, if there is a significant volume of sales of the subject merchandise or a significant number or types of products, and

"(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

"(b) SELECTION OF AVERAGES AND SAMPLES.—The authority to select averages and statistically valid samples shall rest exclusively with the administering authority. The administering authority shall, to the greatest extent possible, consult with the exporters and producers regarding the method to be used to select exporters, producers, or types of products under this section.

"(c) DETERMINATION OF DUMPING MARGIN.—

"(1) GENERAL RULE.—In determining weighted average dumping margins under section 733(d), 735(c), or 751(a), the administering authority shall determine the individual weighted average dumping margin for each known exporter and producer of the subject merchandise.

"(2) EXCEPTION.—If it is not practicable to make individual weighted average dumping margin determinations under paragraph (1) because of the large number of exporters or producers involved in the investigation or review, the administering authority may determine the weighted average dumping margins for a reasonable number of exporters or producers by limiting its examination to—

"(A) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the administering authority at the time of selection, or

"(B) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can be reasonably examined.

"(d) DETERMINATION OF LESS THAN FAIR VALUE.—

"(1) INVESTIGATIONS.—

"(A) IN GENERAL.—In an investigation under subtitle B, the administering authority shall determine whether the subject merchandise is being sold in the United States at less than fair value—

"(i) by comparing the weighted average of the normal values to the weighted average of

the export prices (and constructed export prices) for comparable merchandise, or

"(ii) by comparing the normal values of individual transactions to the export prices (or constructed export prices) of individual transactions for comparable merchandise.

"(B) EXCEPTION.—The administering authority may determine whether the subject merchandise is being sold in the United States at less than fair value by comparing the weighted average of the normal values to the export prices (or constructed export prices) of individual transactions for comparable merchandise, if—

"(i) there is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and

"(ii) the administering authority explains why such differences cannot be taken into account using a method described in paragraph (1)(A) (i) or (ii).

"(2) REVIEWS.—In a review under section 751, when comparing export prices (or constructed export prices) of individual transactions to the weighted average price of sales of the foreign like product, the administering authority shall limit its averaging of prices to a period not exceeding the calendar month that corresponds most closely to the calendar month of the individual export sale."

(b) DUMPING MARGIN; WEIGHTED AVERAGE DUMPING MARGIN.—Section 771 (19 U.S.C. 1677), as amended by section 222(i), is amended by adding at the end the following new paragraph:

"(35) DUMPING MARGIN; WEIGHTED AVERAGE DUMPING MARGIN.—

"(A) DUMPING MARGIN.—The term 'dumping margin' means the amount by which the normal value exceeds the export price or constructed export price of the subject merchandise.

"(B) WEIGHTED AVERAGE DUMPING MARGIN.—The term 'weighted average dumping margin' is the percentage determined by dividing the aggregate dumping margins determined for a specific exporter or producer by the aggregate export prices and constructed export prices of such exporter or producer.

"(C) MAGNITUDE OF THE MARGIN OF DUMPING.—The magnitude of the margin of dumping used by the Commission shall be—

"(i) in making a preliminary determination under section 733(a) in an investigation (including any investigation in which the Commission cumulatively assesses the volume and effect of imports under paragraph (7)(G)(i)), the dumping margin or margins published by the administering authority in its notice of initiation of the investigation;

"(ii) in making a final determination under section 735(b), the dumping margin or margins most recently published by the administering authority prior to the closing of the Commission's administrative record;

"(iii) in a review under section 751(b)(2), the most recent dumping margin or margins determined by the administering authority under section 752(c)(3), if any, or under section 733(b) or 735(a); and

"(iv) in a review under section 751(c), the dumping margin or margins determined by the administering authority under section 752(c)(3)."

SEC. 230. ANTICIRCUMVENTION.

(a) IN GENERAL.—Subsections (a) and (b) of section 781 (19 U.S.C. 1677j) (a) and (b)) are amended to read as follows:

"(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

"(1) IN GENERAL.—If—

"(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies,

"(C) the process of assembly or completion in the United States is minor or insignificant, and

"(D) the value of the parts or components referred to in subparagraph (B) is a significant portion of the total value of the merchandise,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.

"(2) DETERMINATION OF WHETHER PROCESS IS MINOR OR INSIGNIFICANT.—In determining whether the process of assembly or completion is minor or insignificant under paragraph (1)(C), the administering authority shall take into account—

"(A) the level of investment in the United States,

"(B) the level of research and development in the United States,

"(C) the nature of the production process in the United States,

"(D) the extent of production facilities in the United States, and

"(E) whether the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States.

"(3) FACTORS TO CONSIDER.—In determining whether to include parts or components in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade, including sourcing patterns,

"(B) whether the manufacturer or exporter of the parts or components is affiliated with the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (1) applies, and

"(C) whether imports into the United States of the parts or components produced in such foreign country have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

"(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) before importation into the United States, such imported merchandise is com-

pleted or assembled in another foreign country from merchandise which—

"(i) is subject to such order or finding, or

"(ii) is produced in the foreign country with respect to which such order or finding applies,

"(C) the process of assembly or completion in the foreign country referred to in subparagraph (B) is minor or insignificant,

"(D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States, and

"(E) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.

"(2) DETERMINATION OF WHETHER PROCESS IS MINOR OR INSIGNIFICANT.—In determining whether the process of assembly or completion is minor or insignificant under paragraph (1)(C), the administering authority shall take into account—

"(A) the level of investment in the foreign country,

"(B) the level of research and development in the foreign country,

"(C) the nature of the production process in the foreign country,

"(D) the extent of production facilities in the foreign country, and

"(E) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

"(3) FACTORS TO CONSIDER.—In determining whether to include merchandise assembled or completed in a foreign country in a countervailing duty order or an antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade, including sourcing patterns,

"(B) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B) is affiliated with the person who uses the merchandise described in paragraph (1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(C) whether imports into the foreign country of the merchandise described in paragraph (1)(B) have increased after the initiation of the investigation which resulted in the issuance of such order or finding."

(b) TIME LIMITS FOR ADMINISTERING AUTHORITY DETERMINATIONS.—Section 781 (19 U.S.C. 1677j) is amended by adding at the end the following:

"(f) TIME LIMITS FOR ADMINISTERING AUTHORITY DETERMINATIONS.—The administering authority shall, to the maximum extent practicable, make the determinations under this section within 300 days from the date of the initiation of a countervailing duty or antidumping circumvention inquiry under this section."

SEC. 231. EVIDENCE.

(a) CONDUCT OF INVESTIGATIONS AND ADMINISTRATIVE REVIEWS.—Subtitle D of title VII (19 U.S.C. 1671) is amended by adding at the end the following new section:

"SEC. 782. CONDUCT OF INVESTIGATIONS AND ADMINISTRATIVE REVIEWS.

“(a) TREATMENT OF VOLUNTARY RESPONSES IN COUNTERVAILING OR ANTIDUMPING DUTY INVESTIGATIONS AND REVIEWS.—In any investigation under subtitle A or B or a review under section 751(a) in which the administering authority has, under section 777A(c)(2) or section 777A(e)(2)(A) (whichever is applicable), limited the number of exporters or producers examined, or determined a single country-wide rate, the administering authority shall establish an individual countervailable subsidy rate or an individual weighted average dumping margin for any exporter or producer not initially selected for individual examination under such sections who submits to the administering authority the information requested from exporters or producers selected for examination, if—

“(1) such information is so submitted by the date specified—

“(A) for exporters and producers that were initially selected for examination, or

“(B) for the foreign government, in a countervailing duty case where the administering authority has determined a single country-wide rate; and

“(2) the number of exporters or producers who have submitted such information is not so large that individual examination of such exporters or producers would be unduly burdensome and inhibit the timely completion of the investigation.

“(b) CERTIFICATION OF SUBMISSIONS.—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.

“(c) DIFFICULTIES IN MEETING REQUIREMENTS.—

“(1) NOTIFICATION BY INTERESTED PARTY.—If an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

“(2) ASSISTANCE TO INTERESTED PARTIES.—The administering authority and the Commission shall take into account any difficulties experienced by interested parties, particularly small companies, in supplying information requested by the administering authority or the Commission in connection with investigations and reviews under this title, and shall provide to such interested parties any assistance that is practicable in supplying such information.

“(d) DEFICIENT SUBMISSIONS.—If the administering authority or the Commission determines that a response to a request for information under this title does not comply with the request, the administering authority or the Commission (as the case may be) shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time lim-

its established for the completion of investigations or reviews under this title. If that person submits further information in response to such deficiency and either—

“(1) the administering authority or the Commission (as the case may be) finds that such response is not satisfactory, or

“(2) such response is not submitted within the applicable time limits,

then the administering authority or the Commission (as the case may be) may, subject to subsection (e), disregard all or part of the original and subsequent responses.

“(e) USE OF CERTAIN INFORMATION.—In reaching a determination under section 703, 705, 733, 735, 751, or 753 the administering authority and the Commission shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority or the Commission, if—

“(1) the information is submitted by the deadline established for its submission,

“(2) the information can be verified,

“(3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,

“(4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority or the Commission with respect to the information, and

“(5) the information can be used without undue difficulties.

“(f) NONACCEPTANCE OF SUBMISSIONS.—If the administering authority or the Commission declines to accept into the record any information submitted in an investigation or review under this title, it shall, to the extent practicable, provide to the person submitting the information a written explanation of the reasons for not accepting the information.

“(g) PUBLIC COMMENT ON INFORMATION.—Information that is submitted on a timely basis to the administering authority or the Commission during the course of a proceeding under this title shall be subject to comment by other parties to the proceeding within such reasonable time as the administering authority or the Commission shall provide. The administering authority and the Commission, before making a final determination under section 705, 735, 751, or 753 shall cease collecting information and shall provide the parties with a final opportunity to comment on the information obtained by the administering authority or the Commission (as the case may be) upon which the parties have not previously had an opportunity to comment. Comments containing new factual information shall be disregarded.

“(h) TERMINATION OF INVESTIGATION OR REVOCATION OF ORDER FOR LACK OF INTEREST.—The administering authority may—

“(1) terminate an investigation under subtitle A or B with respect to a domestic like product if, prior to publication of an order under section 706 or 736, the administering authority determines that producers accounting for substantially all of the production of that domestic like product have expressed a lack of interest in issuance of an order; and

“(2) revoke an order issued under section 706 or 736 with respect to a domestic like product, or terminate an investigation suspended under section 704 or 734 with respect to a domestic like product, if the administering authority determines that producers accounting for substantially all of the produc-

tion of that domestic like product, have expressed a lack of interest in the order or suspended investigation.

“(i) VERIFICATION.—The administering authority shall verify all information relied upon in making—

“(1) a final determination in an investigation,

“(2) a revocation under section 751(d), and

“(3) a final determination in a review under section 751(a), if—

“(A) verification is timely requested by an interested party as defined in section 771(9)(C), (D), (E), (F), or (G), and

“(B) no verification was made under this subparagraph during the 2 immediately preceding reviews and determinations under section 751(a) of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.”.

(b) AVAILABILITY OF NONPROPRIETARY INFORMATION.—Section 777(a)(4) (19 U.S.C. 1677f(a)(4)) is amended by striking “may disclose” and inserting “shall disclose”.

(c) DETERMINATIONS ON THE BASIS OF THE FACTS AVAILABLE.—Section 776 (19 U.S.C. 1677e) is amended to read as follows:

"SEC. 776. DETERMINATIONS ON THE BASIS OF THE FACTS AVAILABLE.

“(a) IN GENERAL.—If—

“(1) necessary information is not available on the record, or

“(2) an interested party or any other person—

“(A) withholds information that has been requested by the administering authority or the Commission under this title,

“(B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782,

“(C) significantly impedes a proceeding under this title, or

“(D) provides such information but the information cannot be verified as provided in section 782(i),

the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

“(b) ADVERSE INFERENCES.—If the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Such adverse inference may include reliance on information derived from—

“(1) the petition,

“(2) a final determination in the investigation under this title,

“(3) any previous review under section 751 or determination under section 753, or

“(4) any other information placed on the record.

“(c) CORROBORATION OF SECONDARY INFORMATION.—When the administering authority or the Commission relies on secondary information rather than on information obtained in the course of an investigation or review, the administering authority or the Commission, as the case may be, shall, to the extent practicable, corroborate that information from independent sources that are reasonably at their disposal.”.

(d) CONFORMING AMENDMENTS.—

(1) Section 777(e) (19 U.S.C. 1677f(e)) is repealed.

(2) The table of contents for title VII is amended—

(A) by amending the item relating to section 776 to read as follows:

“Sec. 776. Determinations on the basis of the facts available.”;

and

(B) by inserting after the item relating to section 781 the following new item:

“Sec. 782. Conduct of investigations and administrative reviews.”.

SEC. 232. ANTIDUMPING PETITIONS BY THIRD COUNTRIES.

(a) IN GENERAL.—Subtitle D of title VII (19 U.S.C. 1677 et seq.), as amended by section 231(a), is amended by adding at the end the following new section:

“SEC. 783. ANTIDUMPING PETITIONS BY THIRD COUNTRIES.

“(a) FILING OF PETITION.—The government of a WTO member may file with the Trade Representative a petition requesting that an investigation be conducted to determine if—

“(1) imports from another country are being sold in the United States at less than fair value, and

“(2) an industry in the petitioning country is materially injured by reason of those imports.

“(b) INITIATION.—The Trade Representative, after consultation with the administering authority and the Commission and obtaining the approval of the WTO Council for Trade in Goods, shall determine whether to initiate an investigation described in subsection (a).

“(c) DETERMINATIONS.—Upon initiation of an investigation under this section, the Trade Representative shall request the following determinations be made according to substantive and procedural requirements specified by the Trade Representative, notwithstanding any other provision of this title:

“(1) The administering authority shall determine whether imports into the United States of the subject merchandise are being sold at less than fair value.

“(2) The Commission shall determine whether an industry in the petitioning country is materially injured by reason of imports of the subject merchandise into the United States.

“(d) PUBLIC COMMENT.—An opportunity for public comment shall be provided, as appropriate—

“(1) by the Trade Representative, in making the determination required by subsection (b), and

“(2) by the administering authority and the Commission, in making the determination required by subsection (c).

“(e) ISSUANCE OF ORDER.—If the administering authority makes an affirmative determination under paragraph (1) of subsection (c), and the Commission makes an affirmative determination under paragraph (2) of subsection (c), the administering authority shall issue an antidumping duty order in accordance with section 736 and take such other actions as are required by section 736.

“(f) REVIEWS OF DETERMINATIONS.—For purposes of review under section 516A or review under section 751, if an order is issued under subsection (d), the final determinations of the administering authority and the Commission under this section shall be treated as final determinations made under section 735.

“(g) ACCESS TO INFORMATION.—Section 777 shall apply to investigations under this sec-

tion, to the extent specified by the Trade Representative, after consultation with the administering authority and the Commission.”.

(b) CONFORMING AMENDMENT.—The table of contents for title VII, as amended by section 231(d)(2), is amended by adding after the item relating to section 782 the following new item:

“Sec. 783. Antidumping petitions by third countries.”.

SEC. 233. CONFORMING AMENDMENTS.

(a) TERMINOLOGY.—

(1) NORMAL VALUE.—Each of the following sections is amended by striking “foreign market value” each place it appears in the text and in the heading and inserting “normal value”:

(A) Section 731 (19 U.S.C. 1673).

(B) Section 734 (19 U.S.C. 1673c).

(C) Section 736 (19 U.S.C. 1673e).

(D) Section 739 (19 U.S.C. 1673h).

(E) Section 780 (19 U.S.C. 1677i).

(2) EXPORT PRICE.—

(A) IN GENERAL.—Each of the following sections is amended by striking “United States price” each place it appears in the text and in the heading and inserting “export price (or the constructed export price)”:

(i) Section 731 (19 U.S.C. 1673).

(ii) Section 734 (19 U.S.C. 1673c).

(iii) Section 736 (19 U.S.C. 1673e).

(iv) Section 738 (19 U.S.C. 1673g).

(v) Section 739 (19 U.S.C. 1673h).

(vi) Section 780 (19 U.S.C. 1677i).

(B) EXPORTER'S SALES PRICE.—Section 738(b)(3) (19 U.S.C. 1673g(b)(3)) is amended by striking “exporter's sales price” and inserting “constructed export price”.

(3) DOMESTIC LIKE PRODUCT.—

(A) Each of the following sections is amended by striking “like product” each place it appears in the text and in the heading and inserting “domestic like product”:

(i) Section 771(4)(C) and (D) (19 U.S.C. 1677(4)(C) and (D)).

(ii) Section 771(7)(C)(iii)(IV) (19 U.S.C. 1677(7)(C)(iii)(IV)).

(iii) Section 771(9) (19 U.S.C. 1677(9)).

(iv) Section 771(10) (19 U.S.C. 1677(10)).

(B) Sections 771(7)(B)(i)(II) and (III) and section 771(7)(C)(i)(I) (19 U.S.C. 1677(7)(B)(i)(II) and (III) and (C)(i)(I)) are amended by striking “like products” and inserting “domestic like products”.

(4) FOREIGN LIKE PRODUCT.—Section 771(16) (19 U.S.C. 1677(16)) is amended—

(A) by striking “such or similar merchandise” in the text and inserting “foreign like product”, and

(B) by amending the heading to read as follows: “FOREIGN LIKE PRODUCT.”.

(5) SUBJECT MERCHANDISE.—

(A) Section 701(d) (19 U.S.C. 1671(d)) is amended by striking “a class or kind of merchandise subject to a countervailing duty investigation” and inserting “subject merchandise”.

(B) Section 702(e) (19 U.S.C. 1671a(e)) is amended by striking “class or kind of merchandise that is the subject of the investigation” each place it appears and inserting “subject merchandise”.

(C) Section 703(b)(1) (19 U.S.C. 1671b(b)(1)) is amended by striking “merchandise which is the subject of the investigation” and inserting “subject merchandise”.

(D) Section 704(a)(2)(A) (19 U.S.C. 1671c(a)(2)(A)) is amended by striking “merchandise that is subject to the investigation” and inserting “subject merchandise”.

(E) Section 704(b) (19 U.S.C. 1671c(b)) is amended by striking “merchandise which is

the subject of the investigation” and inserting “subject merchandise”.

(F) Section 704(c)(1) (19 U.S.C. 1671c(c)(1)) is amended by striking “merchandise which is the subject of the investigation” and inserting “subject merchandise”.

(G) Section 704(c)(2) (19 U.S.C. 1671c(c)(2)) is amended by striking “merchandise which is the subject of the investigation” and inserting “subject merchandise”.

(H) Section 704(c)(3) (19 U.S.C. 1671c(c)(3)) is amended by striking “merchandise which is the subject of an investigation” and inserting “subject merchandise”.

(I) Section 704(d)(3) (19 U.S.C. 1671c(d)(3)) is amended by striking “merchandise covered by such agreement” and inserting “subject merchandise”.

(J) Section 704(f)(1)(A) (19 U.S.C. 1671c(f)(1)(A)) is amended by striking “merchandise which is the subject of the investigation” and inserting “subject merchandise”.

(K) Subparagraphs (A)(i) and (B) of section 704(f)(2) (19 U.S.C. 1671c(f)(2)(A)(i) and (B)) are amended by striking “merchandise which is the subject of the investigation” each place it appears and inserting “subject merchandise”.

(L) Paragraphs (2) and (3) of section 704(h) (19 U.S.C. 1671c(h)(2) and (3)) are amended by striking “merchandise which is the subject of the investigation” each place it appears and inserting “subject merchandise”.

(M) Section 704(j) (19 U.S.C. 1671c(j)) is amended by striking “merchandise which is the subject of the investigation” and inserting “subject merchandise”.

(N) Section 705(a)(1) (19 U.S.C. 1671d(a)(1)) is amended by striking “the merchandise” and inserting “the subject merchandise”.

(O) Section 706(a)(2) (19 U.S.C. 1671e(a)(2)), as redesignated by section 265, is amended by striking “class or kind of merchandise to which it applies” and inserting “subject merchandise”.

(P) Section 732(e)(1) (19 U.S.C. 1673a(e)(1)) is amended by striking “class or kind of the merchandise which is the subject of the investigation” and inserting “the subject merchandise”.

(Q) Section 732(e)(2) (19 U.S.C. 1673a(e)(2)) is amended by striking “merchandise which is the subject of the investigation” and inserting “subject merchandise”.

(R) Section 732(e) (19 U.S.C. 1673a(e)) is amended by striking “class or kind of merchandise that is the subject of the investigation” each place it appears and inserting “subject merchandise”.

(S) Section 734(a)(2)(A) (19 U.S.C. 1673c(a)(2)(A)) is amended by striking “merchandise that is subject to the investigation” and inserting “subject merchandise”.

(T) Subsections (b), (c)(1), (f)(1)(A), (f)(2)(A)(i), (g)(1), (h)(2), (h)(3), and (j) of section 734 (19 U.S.C. 1673c(b), (c)(1), (f)(1)(A), (f)(2)(A)(i), (g)(1), (h)(2), (h)(3), and (j)) are amended by striking “merchandise which is the subject of the investigation” each place it appears and inserting “subject merchandise”.

(U) Section 734(f)(2)(B) (19 U.S.C. 1673c(f)(2)(B)) is amended by striking “merchandise subject to the investigation” and inserting “subject merchandise”.

(V) Section 735(a)(1) (19 U.S.C. 1673d(a)(1)) is amended by striking “merchandise which was the subject of the investigation” and inserting “subject merchandise”.

(W) Section 736(a)(2) (19 U.S.C. 1673e(a)(2)) is amended by striking “class or kind of merchandise to which it applies” and inserting “subject merchandise”.

(X) Section 736(b)(1) (19 U.S.C. 1673e(b)(1)) is amended by striking "merchandise subject to the antidumping duty order" and inserting "subject merchandise".

(Y) Section 736(b)(2) (19 U.S.C. 1673e(b)(2)) is amended by striking "merchandise subject to an antidumping duty order" and inserting "subject merchandise".

(Z) Section 762(a)(1) (19 U.S.C. 1676a(a)(1)) is amended by striking "merchandise subject to the agreement" and inserting "subject merchandise".

(AA) Section 762(b)(2) (19 U.S.C. 1676a(b)(2)) is amended by striking "merchandise subject to the order" and inserting "subject merchandise".

(BB) Section 771(7)(B)(1)(I) (19 U.S.C. 1677(7)(B)(1)(I)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(CC) Section 771(9)(A) (19 U.S.C. 1677(9)(A)) is amended by striking "merchandise which is the subject of an investigation under this title" and inserting "subject merchandise".

(DD) Section 771(16)(A) (19 U.S.C. 1677(16)(A)) is amended by striking "merchandise which is the subject of an investigation" and inserting "subject merchandise".

(EE) Section 771(16)(B)(1) (19 U.S.C. 1677(16)(B)(1)) is amended by striking "merchandise which is the subject of an investigation" and inserting "subject merchandise".

(FF) Section 771(17) (19 U.S.C. 1677(17)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(GG) Section 771A(c) (19 U.S.C. 1677-1(c)) is amended by striking "merchandise under investigation" and inserting "subject merchandise".

(6) INITIATE.—(A) Each of the following sections is amended by striking "commenced" and inserting "initiated":

- (i) Section 702(a).
- (ii) Section 702(b)(1).
- (iii) Section 703(b)(1).
- (iv) Section 703(c)(1).
- (v) Section 732(a)(1).
- (vi) Section 732(a)(2)(D).
- (vii) Section 732(b)(1).
- (viii) Section 733(b)(1)(A) and (B).
- (ix) Section 733(b)(2).
- (x) Section 733(c)(1).

(B) Sections 703(g)(1) and 733(b)(2) are each amended by striking "commencement" and inserting "initiation".

(C) Section 732(a)(2)(B) is amended by striking "commence" and inserting "initiate".

(7) TECHNICAL AMENDMENTS.—The table of contents for title VII is amended—

(A) by amending the item relating to section 772 to read as follows:

"Sec. 772. Export price and constructed export price.";

(B) by striking "Foreign market value" in the item relating to section 773 and inserting "Normal value", and

(C) by inserting after the item relating to section 708 the following new item:

"Sec. 709. Conditional payment of countervailing duty.".

(b) OTHER CONFORMING AMENDMENTS.—

(1) WTO MEMBER.—Section 771(7)(F)(iii) (19 U.S.C. 1677(7)(F)(iii)) is amended—

(A) in subclause (I), by striking "GATT member" and inserting "WTO member"; and

(B) in subclause (II)—

(i) in the subclause heading, by striking "GATT MEMBER" and inserting "WTO MEMBER";

(ii) by striking "GATT member" and inserting "WTO member"; and

(iii) by striking "signatory" and all that follows through "measures" and inserting "WTO member".

(2) ADMINISTERING AUTHORITY.—Section 771(1) (19 U.S.C. 1677(1)) is amended by striking "the Treasury" and inserting "Commerce".

SEC. 234. APPLICATION TO CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act, the amendments made by this title shall apply with respect to goods from Canada and Mexico.

Subtitle B—Subsidies Provisions

PART 1—COUNTERVAILABLE SUBSIDIES

SEC. 251. COUNTERVAILABLE SUBSIDY.

(a) IN GENERAL.—Section 771 (19 U.S.C. 1677) is amended by striking paragraph (5) and inserting the following:

"(5) COUNTERVAILABLE SUBSIDY.—

"(A) IN GENERAL.—Except as provided in paragraph (5B), a countervailable subsidy is a subsidy described in this paragraph which is specific as described in paragraph (5A).

"(B) SUBSIDY DESCRIBED.—A subsidy is described in this paragraph in the case in which an authority—

"(i) provides a financial contribution,

"(ii) provides any form of income or price support within the meaning of Article XVI of the GATT 1994, or

"(iii) makes a payment to a funding mechanism to provide a financial contribution, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments,

to a person and a benefit is thereby conferred. For purposes of this paragraph and paragraphs (5A) and (5B), the term 'authority' means a government of a country or any public entity within the territory of the country.

"(C) OTHER FACTORS.—The determination of whether a subsidy exists shall be made without regard to whether the recipient of the subsidy is publicly or privately owned and without regard to whether the subsidy is provided directly or indirectly on the manufacture, production, or export of merchandise. The administering authority is not required to consider the effect of the subsidy in determining whether a subsidy exists under this paragraph.

"(D) FINANCIAL CONTRIBUTION.—The term 'financial contribution' means—

"(i) the direct transfer of funds, such as grants, loans, and equity infusions, or the potential direct transfer of funds or liabilities, such as loan guarantees,

"(ii) foregoing or not collecting revenue that is otherwise due, such as granting tax credits or deductions from taxable income,

"(iii) providing goods or services, other than general infrastructure, or

"(iv) purchasing goods.

"(E) BENEFIT CONFERRED.—A benefit shall normally be treated as conferred where there is a benefit to the recipient, including—

"(i) in the case of an equity infusion, if the investment decision is inconsistent with the usual investment practice of private investors, including the practice regarding the provision of risk capital, in the country in which the equity infusion is made,

"(ii) in the case of a loan, if there is a difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,

"(iii) in the case of a loan guarantee, if there is a difference, after adjusting for any difference in guarantee fees, between the amount the recipient of the guarantee pays on the guaranteed loan and the amount the recipient would pay for a comparable commercial loan if there were no guarantee by the authority, and

"(iv) in the case where goods or services are provided, if such goods or services are provided for less than adequate remuneration, and in the case where goods are purchased, if such goods are purchased for more than adequate remuneration.

For purposes of clause (iv), the adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service being provided or the goods being purchased in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of purchase or sale.

"(F) CHANGE IN OWNERSHIP.—A change in ownership of all or part of a foreign enterprise or the productive assets of a foreign enterprise does not by itself require a determination by the administering authority that a past countervailable subsidy received by the enterprise no longer continues to be countervailable, even if the change in ownership is accomplished through an arm's length transaction.

"(5A) SPECIFICITY.—

"(A) IN GENERAL.—A subsidy is specific if it is an export subsidy described in subparagraph (B) or an import substitution subsidy described in subparagraph (C), or if it is determined to be specific pursuant to subparagraph (D).

"(B) EXPORT SUBSIDY.—An export subsidy is a subsidy that is, in law or in fact, contingent upon export performance, alone or as 1 of 2 or more conditions.

"(C) IMPORT SUBSTITUTION SUBSIDY.—An import substitution subsidy is a subsidy that is contingent upon the use of domestic goods over imported goods, alone or as 1 of 2 or more conditions.

"(D) DOMESTIC SUBSIDY.—In determining whether a subsidy (other than a subsidy described in subparagraph (B) or (C)) is a specific subsidy, in law or in fact, to an enterprise or industry within the jurisdiction of the authority providing the subsidy, the following guidelines shall apply:

"(i) Where the authority providing the subsidy, or the legislation pursuant to which the authority operates, expressly limits access to the subsidy to an enterprise or industry, the subsidy is specific as a matter of law.

"(ii) Where the authority providing the subsidy, or the legislation pursuant to which the authority operates, establishes objective criteria or conditions governing the eligibility for, and the amount of, a subsidy, the subsidy is not specific as a matter of law, if—

"(I) eligibility is automatic,

"(II) the criteria or conditions for eligibility are strictly followed, and

"(III) the criteria or conditions are clearly set forth in the relevant statute, regulation, or other official document so as to be capable of verification.

For purposes of this clause, the term 'objective criteria or conditions' means criteria or conditions that are neutral and that do not favor one enterprise or industry over another.

"(iii) Where there are reasons to believe that a subsidy may be specific as a matter of fact, the subsidy is specific if one or more of the following factors exist:

"(I) The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number.

"(II) An enterprise or industry is a predominant user of the subsidy.

"(III) An enterprise or industry receives a disproportionately large amount of the subsidy.

"(IV) The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over others.

In evaluating the factors set forth in subclauses (I), (II), (III), and (IV), the administering authority shall take into account the extent of diversification of economic activities within the jurisdiction of the authority providing the subsidy, and the length of time during which the subsidy program has been in operation.

"(iv) Where a subsidy is limited to an enterprise or industry located within a designated geographical region within the jurisdiction of the authority providing the subsidy, the subsidy is specific.

For purposes of this paragraph and paragraph (5B), any reference to an enterprise or industry is a reference to a foreign enterprise or foreign industry and includes a group of such enterprises or industries.

"(5B) CATEGORIES OF NONCOUNTERVAILABLE SUBSIDIES.—

"(A) IN GENERAL.—Notwithstanding the provisions of paragraphs (5) and (5A), in the case of merchandise imported from a Subsidies Agreement country, a subsidy shall be treated as noncountervailable if the administering authority determines in an investigation under subtitle A or a review under subtitle C that the subsidy meets all of the criteria described in subparagraph (B), (C), or (D), as the case may be, or the provisions of subparagraph (E)(i) apply.

"(B) RESEARCH SUBSIDY.—

"(i) IN GENERAL.—Except for a subsidy provided on the manufacture, production, or export of civil aircraft, a subsidy for research activities conducted by a person, or by a higher education or research establishment on a contract basis with a person, shall be treated as noncountervailable, if the subsidy covers not more than 75 percent of the costs of industrial research or not more than 50 percent of the costs of precompetitive development activity, and such subsidy is limited exclusively to—

"(I) the costs of researchers, technicians, and other supporting staff employed exclusively in the research activity,

"(II) the costs of instruments, equipment, land, or buildings that are used exclusively and permanently (except when disposed of on a commercial basis) for the research activity,

"(III) the costs of consultancy and equivalent services used exclusively for the research activity, including costs for bought-in research, technical knowledge, and patents,

"(IV) additional overhead costs incurred directly as a result of the research activity, and

"(V) other operating costs (such as materials and supplies) incurred directly as a result of the research activity.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) INDUSTRIAL RESEARCH.—The term 'industrial research' means planned search or critical investigation aimed at the discovery of new knowledge, with the objective that such knowledge may be useful in developing new products, processes, or services, or in

bringing about a significant improvement to existing products, processes, or services.

"(II) PRECOMPETITIVE DEVELOPMENT ACTIVITY.—The term 'precompetitive development activity' means the translation of industrial research findings into a plan, blueprint, or design for new, modified, or improved products, processes, or services, whether intended for sale or use, including the creation of a first prototype that would not be capable of commercial use. The term also may include the conceptual formulation and design of products, processes, or services alternatives and initial demonstration or pilot projects, if these same projects cannot be converted or used for industrial application or commercial exploitation. The term does not include routine or periodic alterations to existing products, production lines, manufacturing processes, services, or other ongoing operations even if those alterations may represent improvements.

"(iii) CALCULATION RULES.—

"(I) IN GENERAL.—In the case of a research activity that spans both industrial research and precompetitive development activity, the allowable level of the noncountervailable subsidy shall not exceed 62.5 percent of the costs set forth in subclauses (I), (II), (III), (IV), and (V) of clause (i).

"(II) TOTAL ELIGIBLE COSTS.—The allowable level of a noncountervailable subsidy described in clause (i) shall be based on the total eligible costs incurred over the duration of a particular project.

"(C) SUBSIDY TO DISADVANTAGED REGIONS.—

"(i) IN GENERAL.—A subsidy provided, pursuant to a general framework of regional development, to a person located in a disadvantaged region within a country shall be treated as noncountervailable, if it is not specific (within the meaning of paragraph (5A)) within eligible regions and if the following conditions are met:

"(I) Each region identified as disadvantaged within the territory of a country is a clearly designated, contiguous geographical area with a definable economic and administrative identity.

"(II) Each region is considered a disadvantaged region on the basis of neutral and objective criteria indicating that the region is disadvantaged because of more than temporary circumstances, and such criteria are clearly stated in the relevant statute, regulation, or other official document so as to be capable of verification.

"(III) The criteria described in subclause (II) include a measurement of economic development.

"(IV) Programs provided within a general framework of regional development include ceilings on the amount of assistance that can be granted to a subsidized project. Such ceilings are differentiated according to the different levels of development of assisted regions, and are expressed in terms of investment costs or costs of job creation. Within such ceilings, the distribution of assistance is sufficiently broad and even to avoid the predominant use of a subsidy by, or the provision of disproportionately large amounts of a subsidy to, an enterprise or industry as described in paragraph (5A)(D).

"(i) MEASUREMENT OF ECONOMIC DEVELOPMENT.—For purposes of clause (i), the measurement of economic development shall be based on one or more of the following factors:

"(I) Per capita income, household per capita income, or per capita gross domestic product that does not exceed 85 percent of the average for the country subject to investigation or review.

"(II) An unemployment rate that is at least 110 percent of the average unemployment rate for the country subject to investigation or review.

The measurement of economic development shall cover a 3-year period, but may be a composite measurement and may include factors other than those set forth in this clause.

"(iii) DEFINITIONS.—For purposes of this subparagraph—

"(I) GENERAL FRAMEWORK OF REGIONAL DEVELOPMENT.—The term 'general framework of regional development' means that the regional subsidy programs are part of an internally consistent and generally applicable regional development policy, and that regional development subsidies are not granted in isolated geographical points having no, or virtually no, influence on the development of a region.

"(II) NEUTRAL AND OBJECTIVE CRITERIA.—The term 'neutral and objective criteria' means criteria that do not favor certain regions beyond what is appropriate for the elimination or reduction of regional disparities within the framework of the regional development policy.

"(D) SUBSIDY FOR ADAPTATION OF EXISTING FACILITIES TO NEW ENVIRONMENTAL REQUIREMENTS.—

"(i) IN GENERAL.—A subsidy that is provided to promote the adaptation of existing facilities to new environmental requirements that are imposed by statute or by regulation, and that result in greater constraints and financial burdens on the recipient of the subsidy, shall be treated as noncountervailable, if the subsidy—

"(I) is a one-time nonrecurring measure,

"(II) is limited to 20 percent of the cost of adaptation,

"(III) does not cover the cost of replacing and operating the subsidized investment, a cost that must be fully borne by the recipient,

"(IV) is directly linked and proportionate to the recipient's planned reduction of nuisances and pollution, and does not cover any manufacturing cost savings that may be achieved, and

"(V) is available to all persons that can adopt the new equipment or production processes.

"(ii) EXISTING FACILITIES.—For purposes of this subparagraph, the term 'existing facilities' means facilities that have been in operation for at least 2 years before the date on which the new environmental requirements are imposed.

"(E) NOTIFIED SUBSIDY PROGRAM.—

"(i) GENERAL RULE.—If a subsidy is provided pursuant to a program that has been notified in accordance with Article 8.3 of the Subsidies Agreement, the subsidy shall be treated as noncountervailable and shall not be subject to investigation or review under this title.

"(ii) EXCEPTION.—Notwithstanding clause (i), a subsidy shall be treated as countervailable if—

"(I) the Trade Representative notifies the administering authority that a determination has been made pursuant to Article 8.4 or 8.5 of the Subsidies Agreement that the subsidy, or the program pursuant to which the subsidy was provided, does not satisfy the conditions and criteria of Article 8.2 of the Subsidies Agreement; and

"(II) the subsidy is specific within the meaning of paragraph (5A).

"(F) CERTAIN SUBSIDIES ON AGRICULTURAL PRODUCTS.—Domestic support measures that are provided with respect to products listed

in Annex 1 to the Agreement on Agriculture, and that the administering authority determines conform fully to the provisions of Annex 2 to that Agreement, shall be treated as noncountervailable. Upon request by the administering authority, the Trade Representative shall provide advice regarding the interpretation and application of Annex 2.

"(G) PROVISIONAL APPLICATION.—

"(i) Subparagraphs (B), (C), (D), and (E) shall not apply on or after the first day of the month that is 66 months after the WTO Agreement enters into force, unless the provisions of such subparagraphs are extended pursuant to section 282(c) of the Uruguay Round Agreements Act.

"(ii) Subparagraph (F) shall not apply to imports from a WTO member country at the end of the 9-year period beginning on January 1, 1995. The Trade Representative shall determine the precise termination date for each WTO member country in accordance with paragraph (i) of Article 1 of the Agreement on Agriculture and such date shall be notified to the administering authority."

(b) **NET COUNTERVAILABLE SUBSIDY.—**Section 771(6) (19 U.S.C. 1677(6)) is amended by inserting "countervailable" before "subsidy" each place it appears in the text and in the heading.

PART 2—REPEAL OF SECTION 303 AND CONFORMING AMENDMENTS

SEC. 261. REPEAL OF SECTION 303.

(a) **IN GENERAL.—**Section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) is repealed effective on the effective date of this title.

(b) **SAVINGS PROVISIONS.—**

(1) **CONTINUING EFFECT OF LEGAL DOCUMENTS.—**All orders, determinations, and other administrative actions—

(A) which have been issued pursuant to an investigation conducted under section 303 of the Tariff Act of 1930, and

(B) which are in effect on the effective date of this title, or were final before such date and are to become effective on or after such date,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the administering authority, the International Trade Commission, or a court of competent jurisdiction, or by operation of law. Except as provided in paragraph (3), such orders or determinations shall be subject to review under section 751 of the Tariff Act of 1930 and, to the extent applicable, investigation under section 753 of such Act (as added by this title).

(2) **PROCEEDINGS NOT AFFECTED.—**The provisions of subsection (a) shall not affect any proceedings, including notices of proposed rulemaking, pending before the administering authority or the International Trade Commission on the effective date of this title with respect to such section 303. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, in accordance with such section 303 as in effect on the day before the effective date of this title and, except as provided in paragraph (3), shall be subject to review under section 751 of the Tariff Act of 1930 and, to the extent applicable, investigation under section 753 of such Act. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, set aside, or revoked in accordance with law by the administering authority, a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such pro-

ceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) **SUITS NOT AFFECTED.—**The provisions of subsection (a) shall not affect the review pursuant to section 516A of the Tariff Act of 1930 of a countervailing duty order issued pursuant to an investigation conducted under section 303 of such Act or a review of a countervailing duty order issued under section 751 of such Act, if such review is pending or the time for filing such review has not expired on the effective date of this title.

(c) **DEFINITION OF ADMINISTERING AUTHORITY.—**For purposes of this section, the term "administering authority" has the meaning given such term by section 771(1) of the Tariff Act of 1930.

(d) **CONFORMING AMENDMENTS.—**

(1) **IN GENERAL.—**

(A) **AMENDMENTS TO TRADE ACT OF 1974.—**

(i) Section 331(d)(3) of the Trade Act of 1974 (19 U.S.C. 1303 note) is repealed.

(ii) Section 152(a)(2) of the Trade Act of 1974 (19 U.S.C. 2192(a)(2)) is amended by striking "(A) in the case of" and all that follows through "(B)".

(iii) Section 154(a) of the Trade Act of 1974 (19 U.S.C. 2194(a)) is amended by striking "or section 303(e) of the Tariff Act of 1930."

(B) **AMENDMENTS TO TARIFF ACT OF 1930.—**The following sections of the Tariff Act of 1930 are amended:

(i) Section 315(d) (19 U.S.C. 1315(d)) is amended by inserting "(as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act) or section 701" after "section 303".

(ii) Section 337(b)(3) (19 U.S.C. 1337(b)(3)) is amended—

(I) by striking "of section 303 or subtitle B of title VII of the Tariff Act of 1930" and inserting "of subtitle B of title VII of this Act",

(II) by striking "section 303, 671, or 673" and inserting "section 701 or 731",

(III) by striking "section 303, 701," and inserting "section 701",

(IV) by striking "of the Secretary under section 303 of this Act or", and

(V) by striking "matter within such section 303, 701, or" and inserting "matter within such section 701 or".

(iii) Section 701 (19 U.S.C. 1671) is amended by striking subsection (f).

(iv) Section 780(c)(1) (19 U.S.C. 1677(c)(1)) is amended by striking ", 732(a), or 303" and inserting "or 732(a)".

(C) **OTHER REFERENCES.—**Any reference to section 303 in any other Federal law, Executive order, rule, or regulation shall be treated as a reference to section 303 of the Tariff Act of 1930 as in effect on the day before the effective date of title II of this Act.

(2) **EFFECTIVE DATE.—**The amendments made by this subsection shall take effect on the effective date of this title.

SEC. 262. IMPOSITION OF COUNTERVAILING DUTIES.

Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a), (b), and (c)) are amended to read as follows:

"(a) GENERAL RULE.—If—

"(1) the administering authority determines that the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States, and

"(2) in the case of merchandise imported from a Subsidies Agreement country, the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of that merchandise or by reason of sales (or the likelihood of sales) of that merchandise for importation,

then there shall be imposed upon such merchandise a countervailing duty, in addition to any other duty imposed, equal to the amount of the net countervailable subsidy. For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.

"(b) **SUBSIDIES AGREEMENT COUNTRY.—**For purposes of this title, the term 'Subsidies Agreement country' means—

"(1) a WTO member country,

"(2) a country which the President has determined has assumed obligations with respect to the United States which are substantially equivalent to the obligations under the Subsidies Agreement, or

"(3) a country with respect to which the President determines that—

"(A) there is an agreement in effect between the United States and that country which—

"(1) was in force on the date of the enactment of the Uruguay Round Agreements Act, and

"(ii) requires unconditional most-favored-nation treatment with respect to articles imported into the United States, and

"(B) the agreement described in subparagraph (A) does not expressly permit—

"(i) actions required or permitted by the GATT 1947 or GATT 1994, as defined in section 2(1) of the Uruguay Round Agreements Act, or required by the Congress, or

"(ii) nondiscriminatory prohibitions or restrictions on importation which are designed to prevent deceptive or unfair practices.

"(c) **COUNTERVAILING DUTY INVESTIGATIONS INVOLVING IMPORTS NOT ENTITLED TO A MATERIAL INJURY DETERMINATION.—**In the case of any article or merchandise imported from a country which is not a Subsidies Agreement country—

"(1) no determination by the Commission under section 703(a), 704, or 705(b) shall be required,

"(2) an investigation may not be suspended under section 704(c) or 704(1),

"(3) no determination as to the presence of critical circumstances shall be made under section 703(e) or 705(a)(2),

"(4) section 706(c) shall not apply,

"(5) any reference to a determination described in paragraph (1) or (3), or to the suspension of an investigation under section 704(c) or 704(1), shall be disregarded, and

"(6) section 751(c) shall not apply."

SEC. 263. DE MINIMIS COUNTERVAILABLE SUBSIDY.

(a) **PRELIMINARY DETERMINATIONS.—**Section 703(b) (19 U.S.C. 1671b(b)) is amended by adding at the end the following new paragraph:

"(4) **DE MINIMIS COUNTERVAILABLE SUBSIDY.—**

"(A) **GENERAL RULE.—**In making a determination under this subsection, the administering authority shall disregard any de minimis countervailable subsidy. For purposes of the preceding sentence, a countervailable subsidy is de minimis if the administering authority determines that the

aggregate of the net countervailable subsidies is less than 1 percent ad valorem or the equivalent specific rate for the subject merchandise.

"(B) EXCEPTION FOR DEVELOPING COUNTRIES.—In the case of subject merchandise imported from a Subsidies Agreement country (other than a country to which subparagraph (C) applies) designated by the Trade Representative as a developing country in accordance with section 771(36), a countervailable subsidy is de minimis if the administering authority determines that the aggregate of the net countervailable subsidies does not exceed 2 percent ad valorem or the equivalent specific rate for the subject merchandise.

"(C) CERTAIN OTHER DEVELOPING COUNTRIES.—In the case of subject merchandise imported from a Subsidies Agreement country that is—

"(i) a least developed country, as determined by the Trade Representative in accordance with section 771(36), or

"(ii) a developing country with respect to which the Trade Representative has notified the administering authority that the country has eliminated its export subsidies on an expedited basis within the meaning of Article 27.11 of the Subsidies Agreement, subparagraph (B) shall be applied by substituting '3 percent' for '2 percent'.

"(D) LIMITATIONS ON APPLICATION OF SUBPARAGRAPH (C).—

"(i) **IN GENERAL.**—In the case of a country described in subparagraph (C)(i), the provisions of subparagraph (C) shall not apply after the date that is 8 years after the date the WTO Agreement enters into force.

"(ii) **SPECIAL RULE FOR SUBPARAGRAPH (C)(ii) COUNTRIES.**—In the case of a country described in subparagraph (C)(ii), the provisions of subparagraph (C) shall not apply after the earlier of—

"(I) the date that is 8 years after the date the WTO Agreement enters into force, or

"(II) the date on which the Trade Representative notifies the administering authority that such country is providing an export subsidy."

(b) FINAL DETERMINATIONS.—Section 705(a) (19 U.S.C. 1671d(a)) is amended by adding at the end the following new paragraph:

"(3) **DE MINIMIS COUNTERVAILABLE SUBSIDY.**—In making a determination under this subsection, the administering authority shall disregard any countervailable subsidy that is de minimis as defined in section 703(b)(4)."

SEC. 264. DETERMINATION OF COUNTERVAILABLE SUBSIDY RATE.

(a) PRELIMINARY DETERMINATION.—Section 703(d) (19 U.S.C. 1673b(d)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (1), as amended by section 215(a)(1), as paragraph (2);

(3) by inserting "and" at the end of paragraph (2), as so redesignated; and

(4) by inserting before such paragraph (2) the following new paragraph:

"(1)(A) shall—

"(i) determine an estimated individual countervailable subsidy rate for each exporter and producer individually investigated, and, in accordance with section 705(c)(5), an estimated all-others rate for all exporters and producers not individually investigated and for new exporters and producers within the meaning of section 751(a)(2)(B), or

"(ii) if section 777A(e)(2)(B) applies, determine a single estimated country-wide sub-

sidy rate, applicable to all exporters and producers, and

"(B) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated individual countervailable subsidy rate, the estimated all-others rate, or the estimated country-wide subsidy rate, whichever is applicable."

(b) FINAL DETERMINATION.—

(1) **IN GENERAL.**—Section 705(c)(1) (19 U.S.C. 1671d(c)(1)) is amended—

(A) in subparagraph (B)—

(i) by redesignating such subparagraph as subparagraph (C); and

(ii) by striking "under paragraphs (1) and (2)" and all that follows through "security" and inserting "the suspension of liquidation under paragraph (2) of section 703(d)";

(B) by striking "and" at the end of subparagraph (A); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) the administering authority shall—

"(I) determine an estimated individual countervailable subsidy rate for each exporter and producer individually investigated, and, in accordance with paragraph (5), an estimated all-others rate for all exporters and producers not individually investigated and for new exporters and producers within the meaning of section 751(a)(2)(B), or

"(II) if 777A(e)(2)(B) applies, determine a single estimated country-wide subsidy rate, applicable to all exporters and producers,

"(ii) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated individual countervailable subsidy rate, the estimated all-others rate, or the estimated country-wide subsidy rate, whichever is applicable, and"

(2) METHOD FOR DETERMINING COUNTERVAILABLE SUBSIDY RATE.—Section 705(c) (19 U.S.C. 1671d(c)) is amended by adding at the end the following new paragraph:

"(5) **METHOD FOR DETERMINING THE ALL-OTHERS RATE AND THE COUNTRY-WIDE SUBSIDY RATE.**—

"(A) **ALL-OTHERS RATE.**—

"(i) **GENERAL RULE.**—For purposes of this subsection and section 703(d), the all-others rate shall be an amount equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and de minimis countervailable subsidy rates, and any rates determined entirely under section 776.

"(ii) **EXCEPTION.**—If the countervailable subsidy rates established for all exporters and producers individually investigated are zero or de minimis rates, or are determined entirely under section 776, the administering authority may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated, including averaging the weighted average countervailable subsidy rates determined for the exporters and producers individually investigated.

"(B) **COUNTRY-WIDE SUBSIDY RATE.**—The administering authority may calculate a single country-wide subsidy rate, applicable to all exporters and producers, if the administering authority limits its examination pursuant to section 777A(e)(2)(B). The estimated country-wide rate determined under section 703(d)(1)(A)(ii) or paragraph (1)(B)(i)(II) of this subsection shall be based on industry-wide data regarding the use of subsidies determined to be countervailable."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 703(b)(2) is amended—

(A) by striking "subsection (b)(1)" and inserting "paragraph (1)";

(B) by striking "subsection 702(b)(3)" and inserting "section 702(b)(3)";

(C) by striking "subsection 703(b)(1)" and inserting "paragraph (1)", and

(D) by striking "section 703(c)" and inserting "subsection (c) of this section".

(2) Section 703(e)(2) is amended by striking "subsection (d)(1)" and inserting "subsection (d)(2)".

(3) Section 704(f)(2)(A) is amended—

(A) in clause (i), by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) in clause (iii), by striking "section 703(d)(1)" and inserting "section 703(d)(1)(B)".

(4) Section 704(f)(2)(B) is amended—

(A) by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(5) Section 704(h)(3) is amended—

(A) in subparagraph (A), by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) in subparagraph (B), by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(6) Section 704(i)(1)(A) is amended by striking "section 703(d)(1)" and inserting "section 703(d)(2)".

(7) Section 705(c)(2) is amended—

(A) in subparagraph (A), by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) in subparagraph (B), by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(8) Section 705(c)(3)(B) is amended by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(9) Section 706(b)(1) is amended by striking "section 703(d)(1)" each place it appears and inserting "section 703(d)(2)".

(10) Section 707(a) is amended—

(A) by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)", and

(B) by striking "Section 703(d)(2)" in the heading and inserting "Section 703(d)(1)(B)".

(11) Section 708 is amended by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

SEC. 265. ASSESSMENT OF COUNTERVAILING DUTY.

Section 706(a) (19 U.S.C. 1671e(a)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 266. NATURE OF COUNTERVAILABLE SUBSIDY.

Section 771(7)(E)(i) (19 U.S.C. 1677(7)(E)(i)) is amended to read as follows:

"(1) **NATURE OF COUNTERVAILABLE SUBSIDY.**—In determining whether there is a threat of material injury, the Commission shall consider information provided to it by the administering authority regarding the nature of the countervailable subsidy granted by a foreign country (particularly whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and the effects likely to be caused by the countervailable subsidy."

SEC. 267. DEFINITION OF DEVELOPING AND LEAST-DEVELOPED COUNTRY.

Section 771 (19 U.S.C. 1677), as amended, is amended by adding at the end the following new paragraph:

“(36) DEVELOPING AND LEAST DEVELOPED COUNTRY.—

“(A) DEVELOPING COUNTRY.—The term ‘developing country’ means a country designated as a developing country by the Trade Representative.

“(B) LEAST DEVELOPED COUNTRY.—The term ‘least developed country’ means a country which the Trade Representative determines is—

“(1) a country referred to as a least developed country within the meaning of paragraph (a) of Annex VII to the Subsidies Agreement, or

“(ii) any other country listed in Annex VII to the Subsidies Agreement, but only if the country has a per capita gross national product of less than \$1,000 per annum as measured by the most recent data available from the World Bank.

“(C) PUBLICATION OF LIST.—The Trade Representative shall publish in the Federal Register, and update as necessary, a list of—

“(i) developing countries that have eliminated their export subsidies on an expedited basis within the meaning of Article 27.11 of the Subsidies Agreement, and

“(ii) countries determined by the Trade Representative to be least developed or developing countries.

“(D) FACTORS TO CONSIDER.—In determining whether a country is a developing country under subparagraph (A), the Trade Representative shall consider such economic, trade, and other factors which the Trade Representative considers appropriate, including the level of economic development of such country (the assessment of which shall include a review of the country's per capita gross national product) and the country's share of world trade.

“(E) LIMITATION ON DESIGNATION.—A determination that a country is a developing or least developed country pursuant to this paragraph shall be for purposes of this title only and shall not affect the determination of a country's status as a developing or least developed country with respect to any other law.”

SEC. 268. UPSTREAM SUBSIDIES.

Section 771A(a) (19 U.S.C. 1677-1(a)) is amended—

(1) by striking the matter preceding paragraph (1) and paragraph (1) and inserting the following:

“(a) DEFINITION.—The term ‘upstream subsidy’ means any countervailable subsidy, other than an export subsidy, that—

“(1) is paid or bestowed by an authority (as defined in section 771(5)) with respect to a product (hereafter in this section referred to as an ‘input product’) that is used in the same country as the authority in the manufacture or production of merchandise which is the subject of a countervailing duty proceeding;”, and

(2) in the flush sentence at the end thereof, by inserting “countervailable” before “subsidy”.

SEC. 269. DETERMINATION OF COUNTERVAILEABLE SUBSIDY RATE.

(a) IN GENERAL.—Section 777A (19 U.S.C. 1677f-1), as amended by section 229, is amended by adding at the end the following new subsection:

“(e) DETERMINATION OF COUNTERVAILEABLE SUBSIDY RATE.—

“(1) GENERAL RULE.—In determining countervailable subsidy rates under section 703(d), 705(c), or 751(a), the administering authority shall determine an individual countervailable subsidy rate for each known exporter or producer of the subject merchandise.

“(2) EXCEPTION.—If the administering authority determines that it is not practicable to determine individual countervailable subsidy rates under paragraph (1) because of the large number of exporters or producers involved in the investigation or review, the administering authority may—

“(A) determine individual countervailable subsidy rates for a reasonable number of exporters or producers by limiting its examination to—

“(i) a sample of exporters or producers that the administering authority determines is statistically valid based on the information available to the administering authority at the time of selection, or

“(ii) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that the administering authority determines can be reasonably examined; or

“(B) determine a single country-wide subsidy rate to be applied to all exporters and producers.

The individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all-others rate under section 705(c)(5).”

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 777A, as amended by section 229, is amended by inserting “and countervailable subsidy rate” after “margin”

(2) The table of contents for title VII is amended by inserting “; determination of weighted average dumping margin and countervailable subsidy rate” after “averaging” in the item relating to section 777A.

SEC. 270. CONFORMING AMENDMENTS.

(a) COUNTERVAILEABLE SUBSIDY.—

(1) Except as provided in paragraph (2), each of the following sections is amended by striking “subsidy” each place it appears in the text and in the heading and inserting “countervailable subsidy”:

(A) Section 702(e) (19 U.S.C. 1671a(e)).
(B) Section 703(b)(1) (19 U.S.C. 1671b(b)(1)).
(C) Section 703(b)(2) (19 U.S.C. 1671b(b)(2)).
(D) Section 703(c)(1)(B)(i)(I) (19 U.S.C. 1671b(c)(1)(B)(i)(I)).

(E) Section 704 (19 U.S.C. 1671c).
(F) Section 705(a)(1) (19 U.S.C. 1671d(a)(1)).
(G) Section 705(a)(2) (19 U.S.C. 1671d(a)(2)).
(H) Section 706(a)(1) (19 U.S.C. 1671e(a)(1)).
(I) Section 761 (19 U.S.C. 1676).
(J) Section 762 (19 U.S.C. 1676a).
(K) Section 771A(b) (19 U.S.C. 1677-1(b)).
(L) Section 771A(c) (19 U.S.C. 1677-1(c)).
(M) Section 780(d)(1)(A)(ii) (19 U.S.C. 1677i(d)(1)(A)(ii)).
(N) Section 516A(a)(2)(B)(iv) (19 U.S.C. 1516a(a)(2)(B)(iv)).

(2)(A) The heading for section 704(b) (19 U.S.C. 1671c(b)) is amended by striking “Subsidy” and inserting “Countervailable Subsidy”.

(B) The heading for section 771A(c) (19 U.S.C. 1677-1(c)) is amended by striking “Subsidy” and inserting “Countervailable Subsidy”.

(b) COUNTERVAILEABLE SUBSIDIES.—

(1) Except as provided in paragraph (2), each of the following sections is amended by striking “subsidies” each place it appears in the text and in the heading and inserting “countervailable subsidies”:

(A) Section 701(d) (19 U.S.C. 1671(d)).
(B) Section 703(c)(1)(B)(i)(III) (19 U.S.C. 1671b(c)(1)(B)(i)(III)).
(C) Section 761 (19 U.S.C. 1676).
(D) Section 771B (19 U.S.C. 1677-2).

(2) The heading for section 761(a) and section 771B (19 U.S.C. 1676(a) and 1677-2) are

each amended by striking “Subsidies” and inserting “Countervailable Subsidies”.

(c) OTHER CONFORMING AMENDMENTS.—

(1) The heading for section 704(b) (19 U.S.C. 1671c(b)) is amended by striking “Subsidized Merchandise” and inserting “Subject Merchandise”.

(2) Subparagraphs (C) and (D) of section 771(4) (19 U.S.C. 1677(4) (C) and (D)) are amended by striking “subsidized or” each place it appears and inserting “or imports of merchandise benefiting from a countervailable subsidy” after “imports”.

(3) Section 771A (19 U.S.C. 1677-1), as amended, is amended in subsection (c), by striking “subsidization” and inserting “the countervailable subsidy”.

(4) The table of contents for title VII is amended—

(A) in the item relating to section 771B, by inserting “countervailable” before “subsidies”, and

(B) in the item relating to section 775, by striking “Subsidy” and inserting “Countervailable subsidy”.

(d) SUBSIDIES AGREEMENT.—Section 702(e) (19 U.S.C. 1671a(e)) is amended by striking “Agreement” and inserting “Subsidies Agreement”.

(e) SUBSIDIES AGREEMENT AND AGREEMENT ON AGRICULTURE.—Section 771(8) (19 U.S.C. 1677(8)) is amended to read as follows:

“(8) SUBSIDIES AGREEMENT; AGREEMENT ON AGRICULTURE.—

“(A) SUBSIDIES AGREEMENT.—The term ‘Subsidies Agreement’ means the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act.

“(B) AGREEMENT ON AGRICULTURE.—The term ‘Agreement on Agriculture’ means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act.”

PART 3—SECTION 303 INJURY INVESTIGATIONS

SEC. 271. SPECIAL RULES FOR INJURY INVESTIGATIONS FOR CERTAIN SECTION 303 COUNTERVAILING DUTY ORDERS AND INVESTIGATIONS.

(a) IN GENERAL.—Chapter 1 of subtitle C of title VII, as amended, is amended by inserting after section 752 the following new section:

“SEC. 753. SPECIAL RULES FOR INJURY INVESTIGATIONS FOR CERTAIN SECTION 303 COUNTERVAILING DUTY ORDERS AND INVESTIGATIONS.

“(a) IN GENERAL.—

“(1) INVESTIGATION BY THE COMMISSION UPON REQUEST.—In the case of a countervailing duty order described in paragraph (2), which—

“(A) applies to merchandise that is the product of a Subsidies Agreement country, and

“(B)(i) is in effect on the date on which such country becomes a Subsidies Agreement country, or

“(ii) is issued on a date that is after the date described in clause (1) pursuant to a court order in an action brought under section 516A,

the Commission, upon receipt of a request from an interested party described in section 771(9) (C), (D), (E), (F), or (G) for an injury investigation with respect to such order, shall initiate an investigation and shall determine whether an industry in the United States is likely to be materially injured by reason of imports of the subject merchandise if the order is revoked.

“(2) DESCRIPTION OF COUNTERVAILING DUTY ORDERS.—A countervailing duty order described in this paragraph is an order issued

under section 303 with respect to which the requirement of an affirmative determination of material injury under section 303(a)(2) was not applicable at the time such order was issued.

“(3) REQUIREMENTS OF REQUEST FOR INVESTIGATION.—A request for an investigation under this subsection shall be submitted—

“(A) in the case of an order described in paragraph (1)(B)(i), within 6 months after the date on which the country described in paragraph (1)(A) becomes a Subsidies Agreement country, or

“(B) in the case of an order described in paragraph (1)(B)(ii), within 6 months after the date the order is issued.

“(4) SUSPENSION OF LIQUIDATION.—With respect to entries of subject merchandise made on or after—

“(A) in the case of an order described in paragraph (1)(B)(i), the date on which the country described in paragraph (1)(A) becomes a Subsidies Agreement country, or

“(B) in the case of an order described in paragraph (1)(B)(ii), the date on which the order is issued.

Liquidation shall be suspended at the cash deposit rate in effect on the date described in subparagraph (A) or (B) (whichever is applicable).

“(b) INVESTIGATION PROCEDURE AND SCHEDULE.—

“(1) COMMISSION PROCEDURE.—

“(A) IN GENERAL.—Except as otherwise provided in this section, the provisions of this title regarding evidence in and procedures for investigations conducted under subtitle A shall apply to investigations conducted by the Commission under this section.

“(B) TIME FOR COMMISSION DETERMINATION.—Except as otherwise provided in subparagraph (C), the Commission shall issue its determination under subsection (a)(1), to the extent possible, not later than 1 year after the date on which the investigation is initiated under this section.

“(C) SPECIAL RULE TO PERMIT ADMINISTRATIVE FLEXIBILITY.—In the case of requests for investigations received under this section within 1 year after the date on which the WTO Agreement enters into force with respect to the United States, the Commission may, after consulting with the administering authority, initiate its investigations in a manner that results in determinations being made in all such investigations during the 4-year period beginning on such date.

“(2) NET COUNTERVAILABLE SUBSIDY; NATURE OF SUBSIDY.—

“(A) NET COUNTERVAILABLE SUBSIDY.—The administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order which is the subject of the investigation is revoked. The administering authority normally shall choose a net countervailable subsidy that was determined under section 705 or subsection (a) or (b)(1) of section 751. If the Commission considers the magnitude of the net countervailable subsidy in making its determination under this section, the Commission shall use the net countervailable subsidy provided by the administering authority.

“(B) NATURE OF SUBSIDY.—The administering authority shall inform the Commission of, and the Commission, in making its determination under this section, shall consider, the nature of the countervailable subsidy and whether the countervailable subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement.

“(3) EFFECT OF COMMISSION DETERMINATION.—

“(A) AFFIRMATIVE DETERMINATION.—Upon being notified by the Commission that it has

made an affirmative determination under subsection (a)(1)—

“(i) the administering authority shall order the termination of the suspension of liquidation required pursuant to subsection (a)(4), and

“(ii) the countervailing duty order shall remain in effect until revoked, in whole or in part, under section 751(d).

For purposes of section 751(c), a countervailing duty order described in this section shall be treated as issued on the date of publication of the Commission's determination under this subsection.

“(B) NEGATIVE DETERMINATION.—

“(1) IN GENERAL.—Upon being notified by the Commission that it has made a negative determination under subsection (a)(1), the administering authority shall revoke the countervailing duty order, and shall refund, with interest, any estimated countervailing duties collected during the period liquidation was suspended pursuant to subsection (a)(4).

“(1) LIMITATION ON NEGATIVE DETERMINATION.—A determination by the Commission that revocation of the order is not likely to result in material injury to an industry by reason of imports of the subject merchandise shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of the subject merchandise to the United States that were specifically intended to offset the countervailable subsidy received.

“(4) COUNTERVAILING DUTY ORDERS WITH RESPECT TO WHICH NO REQUEST FOR INJURY INVESTIGATION IS MADE.—If, with respect to a countervailing duty order described in subsection (a), a request for an investigation is not made within the time required by subsection (a)(3), the Commission shall notify the administering authority that a negative determination has been made under subsection (a) and the provisions of paragraph (3)(B) shall apply with respect to the order.

“(c) PENDING AND SUSPENDED COUNTERVAILING DUTY INVESTIGATIONS.—If, on the date on which a country becomes a Subsidies Agreement country, there is a countervailing duty investigation in progress or suspended under section 303 that applies to merchandise which is a product of that country and with respect to which the requirement of an affirmative determination of material injury under section 303(a)(2) was not applicable at the time the investigation was initiated, the Commission shall—

“(1) in the case of an investigation in progress, make a final determination under section 705(b) within 75 days after the date of an affirmative final determination, if any, by the administering authority,

“(2) in the case of a suspended investigation to which section 704(1)(1)(B) applies, make a final determination under section 705(b) within 120 days after receiving notice from the administering authority of the resumption of the investigation pursuant to section 704(1), or within 45 days after the date of an affirmative final determination, if any, by the administering authority, whichever is later, or

“(3) in the case of a suspended investigation to which section 704(1)(1)(C) applies, treat the countervailing duty order issued pursuant to such section as if it were—

“(A) an order issued under subsection (a)(1)(B)(ii) for purposes of subsection (a)(3); and

“(B) an order issued under subsection (a)(1)(B)(i) for purposes of subsection (a)(4).

“(d) PUBLICATION IN FEDERAL REGISTER.—The administering authority or the Commis-

sion, as the case may be, shall publish in the Federal Register a notice of the initiation of any investigation, and a notice of any determination or revocation, made pursuant to this section.

“(e) REQUEST FOR SIMULTANEOUS EXPEDITED REVIEW UNDER SECTION 751(c).—

“(1) GENERAL RULE.—

“(A) REQUESTS FOR REVIEWS.—Notwithstanding section 751(c)(6)(A) and except as provided in subparagraph (B), an interested party may request a review of an order under section 751(c) at the same time the party requests an investigation under subsection (a), if the order involves the same or comparable subject merchandise. Upon receipt of such request, the administering authority, after consulting with the Commission, shall initiate a review of the order under section 751(c). The Commission shall combine such review with the investigation under this section.

“(B) EXCEPTION.—If the administering authority determines that the interested party who requested an investigation under this section is a related party or an importer within the meaning of section 771(4)(B), the administering authority may decline a request by such party to initiate a review of an order under section 751(c) which involves the same or comparable subject merchandise.

“(2) CUMULATION.—If a review under section 751(c) is initiated under paragraph (1), such review shall be treated as having been initiated on the same day as the investigation under this section, and the Commission may, in accordance with section 771(7)(G), cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which such investigations are treated as initiated on the same day.

“(3) TIME AND PROCEDURE FOR COMMISSION DETERMINATION.—The Commission shall render its determination in the investigation conducted under this section at the same time as the Commission's determination is made in the review under section 751(c) that is initiated pursuant to this subsection. The Commission shall in all other respects apply the procedures and standards set forth in section 751(c) to such section 751(c) reviews.”

(b) REVIEW OF DETERMINATIONS.—Section 516A(a)(2) (19 U.S.C. 1516a(a)(2)) is amended—

(1) in subparagraph (A)(i)(I), by striking “or (v)” and inserting “(v), or (viii)”, and

(2) in subparagraph (B), by adding at the end the following:

“(viii) A determination by the Commission under section 753(a)(1).”

(c) CONFORMING AMENDMENT.—The table of contents for title VII, as amended, is amended by inserting after the item relating to section 752 the following new item:

“Sec. 753. Special rules for injury investigations for certain section 303 countervailing duty orders and investigations.”

PART 4—ENFORCEMENT OF UNITED STATES RIGHTS UNDER THE SUBSIDIES AGREEMENT

SEC. 281. SUBSIDIES ENFORCEMENT.

(a) ASSISTANCE REGARDING MULTILATERAL SUBSIDY REMEDIES.—The administering authority shall provide information to the public upon request, and, to the extent feasible, assistance and advice to interested parties concerning—

(1) remedies and benefits available under relevant provisions of the Subsidies Agreement, and

(2) the procedures relating to such remedies and benefits.

(b) PROHIBITED SUBSIDIES.—

(1) NOTIFICATION OF TRADE REPRESENTATIVE.—If the administering authority determines pursuant to title VII of the Tariff Act of 1930 that a class or kind of merchandise is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement, the administering authority shall notify the Trade Representative and shall provide the Trade Representative with the information upon which the administering authority based its determination.

(2) REQUEST BY INTERESTED PARTY REGARDING PROHIBITED SUBSIDY.—An interested party may request that the administering authority determine if there is reason to believe that merchandise produced in a WTO member country is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement. The request shall contain such information as the administering authority may require to support the allegations contained in the request. If the administering authority, after analyzing the request and other information reasonably available to the administering authority, determines that there is reason to believe that such merchandise is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(c) SUBSIDIES ACTIONABLE UNDER THE AGREEMENT.—

(1) IN GENERAL.—If the administering authority determines pursuant to title VII of the Tariff Act of 1930 that a class or kind of merchandise is benefiting from a subsidy described in Article 6.1 of the Subsidies Agreement, the administering authority shall notify the Trade Representative, and shall provide the Trade Representative with the information upon which the administering authority based its determination.

(2) REQUEST BY INTERESTED PARTY REGARDING ADVERSE EFFECTS.—An interested party may request the administering authority to determine if there is reason to believe that a subsidy which is actionable under the Subsidies Agreement is causing adverse effects. The request shall contain such information as the administering authority may require to support the allegations contained in the request. At the request of the administering authority, the Commission shall assist the administering authority in analyzing the information pertaining to the existence of such adverse effects. If the administering authority, after analyzing the request and other information reasonably available to the administering authority, determines that there is reason to believe that a subsidy which is actionable under the Subsidies Agreement is causing adverse effects, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(d) INITIATION OF SECTION 301 INVESTIGATION.—On the basis of the notification and information provided by the administering authority pursuant to subsection (b) or (c), such other information as the Trade Representative may have or obtain, and where applicable, after consultation with an interested party referred to in subsection (b)(2) or (c)(2), the Trade Representative shall, unless such interested party objects, determine as expeditiously as possible, in accordance with the procedures in section 302(b)(1) of the Trade Act of 1974 (19 U.S.C. 2412(b)(1)), whether to initiate an investigation pursuant to title III of that Act (19 U.S.C. 2411 et seq.). At the request of the Trade Representative, the administering authority and the

Commission shall assist the Trade Representative in an investigation initiated pursuant to this subsection.

(e) NONACTIONABLE SUBSIDIES.—

(1) COMPLIANCE WITH ARTICLE 8 OF THE SUBSIDIES AGREEMENT.—

(A) MONITORING.—In order to monitor whether a subsidy meets the conditions and criteria described in Article 8.2 of the Subsidies Agreement and is nonactionable, the Trade Representative shall provide the administering authority on a timely basis with any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program. The administering authority shall review such information and reports, and where appropriate, shall recommend to the Trade Representative that the Trade Representative seek pursuant to Article 8.3 or 8.4 of the Subsidies Agreement additional information regarding the notified subsidy program or a subsidy granted pursuant to the notified subsidy program. If the administering authority has reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(B) REQUEST BY INTERESTED PARTY REGARDING VIOLATION OF ARTICLE 8.—An interested party may request the administering authority to determine if there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists. The request shall contain such information as the administering authority may require to support the allegations contained in the request. If the administering authority, after analyzing the request and other information reasonably available to the administering authority, determines that additional information is needed, the administering authority shall recommend to the Trade Representative that the Trade Representative seek, pursuant to Article 8.3 or 8.4 of the Subsidies Agreement, additional information regarding the particular notified subsidy program or a subsidy granted pursuant to the notified subsidy program. If the administering authority determines that there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(C) ACTION BY TRADE REPRESENTATIVE.—

(i) If the Trade Representative, on the basis of the notification and information provided by the administering authority pursuant to subparagraph (A) or (B), and such other information as the Trade Representative may have or obtain, and after consulting with the interested party referred to in subparagraph (B) and appropriate domestic industries, determines that there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the Trade Representative shall invoke the procedures of Article 8.4 or 8.5 of the Subsidies Agreement.

(ii) For purposes of clause (i), the Trade Representative shall determine that there is reason to believe that a violation of Article 8 exists in any case in which the Trade Representative determines that a notified subsidy program or a subsidy granted pursuant to a notified subsidy program does not satisfy the conditions and criteria required for a nonactionable subsidy program under this Act, the Subsidies Agreement, and the statement of administrative action approved under section 101(a).

(D) NOTIFICATION OF ADMINISTERING AUTHORITY.—The Trade Representative shall

notify the administering authority whenever a violation of Article 8 of the Subsidies Agreement has been found to exist pursuant to Article 8.4 or 8.5 of that Agreement.

(2) SERIOUS ADVERSE EFFECTS.—

(A) REQUEST BY INTERESTED PARTY.—An interested party may request the administering authority to determine if there is reason to believe that serious adverse effects resulting from a program referred to in Article 8.2 of the Subsidies Agreement exist. The request shall contain such information as the administering authority may require to support the allegations contained in the request.

(B) ACTION BY ADMINISTERING AUTHORITY.—Within 90 days after receipt of the request described in subparagraph (A), the administering authority, after analyzing the request and other information reasonably available to the administering authority, shall determine if there is reason to believe that serious adverse effects resulting from a program referred to in Article 8.2 of the Subsidies Agreement exist. If the determination of the administering authority is affirmative, it shall so notify the Trade Representative and shall include supporting information with the notification. The Commission shall assist the administering authority in analyzing the information pertaining to the existence of such serious adverse effects if the administering authority requests the Commission's assistance. If the subsidy program that is alleged to result in serious adverse effects has been the subject of a countervailing duty investigation or review under subtitle A or C of title VII of the Tariff Act of 1930, the administering authority shall take into account the determinations made by the administering authority and the Commission in such investigation or review and the administering authority shall complete its analysis as expeditiously as possible.

(C) ACTION BY TRADE REPRESENTATIVE.—The Trade Representative, on the basis of the notification and information provided by the administering authority pursuant to subparagraph (B), and such other information as the Trade Representative may have or obtain, shall determine as expeditiously as possible, but not later than 30 days after receipt of the notification provided by the administering authority, if there is reason to believe that serious adverse effects exist resulting from the subsidy program which is the subject of the administering authority's notification. The Trade Representative shall make an affirmative determination regarding the existence of such serious adverse effects unless the Trade Representative finds that the notification of the administering authority is not supported by the facts.

(D) CONSULTATIONS.—If the Trade Representative determines that there is reason to believe that serious adverse effects resulting from the subsidy program exist, the Trade Representative, unless the interested party referred to in subparagraph (A) objects, shall invoke the procedures of Article 9 of the Subsidies Agreement, and shall request consultations pursuant to Article 9.2 of the Subsidies Agreement with respect to such serious adverse effects. If such consultations have not resulted in a mutually acceptable solution within 60 days after the request is made for such consultations, the Trade Representative shall refer the matter to the Subsidies Committee pursuant to Article 9.3 of the Subsidies Agreement.

(E) DETERMINATION BY SUBSIDIES COMMITTEE.—If the Trade Representative determines that—

(1) the Subsidies Committee has been prevented from making an affirmative determination regarding the existence of serious adverse effects under Article 9 of the Subsidies Agreement by reason of the refusal of the WTO member country with respect to which the consultations have been invoked to join in an affirmative consensus—

(I) that such serious adverse effects exist, or

(II) regarding a recommendation to such WTO member country to modify the subsidy program in such a way as to remove the serious adverse effects, or

(ii) the Subsidies Committee has not presented its conclusions regarding the existence of such serious adverse effects within 120 days after the date the matter was referred to it, as required by Article 9.4 of the Subsidies Agreement,

the Trade Representative shall, within 30 days after such determination, make a determination under section 304(a)(1) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1)) regarding what action to take under section 301(a)(1)(A) of that Act.

(F) NONCOMPLIANCE WITH COMMITTEE RECOMMENDATION.—In the event that the Subsidies Committee makes a recommendation under Article 9.4 of the Subsidies Agreement and the WTO member country with respect to which such recommendation is made does not comply with such recommendation within 6 months after the date of the recommendation, the Trade Representative shall make a determination under section 304(a)(1) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1)) regarding what action to take under section 301(a) of that Act.

(f) NOTIFICATION, CONSULTATION, AND PUBLICATION.—

(1) NOTIFICATION OF CONGRESS.—The Trade Representative shall submit promptly to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and other appropriate committees of the Congress any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program.

(2) PUBLICATION IN THE FEDERAL REGISTER.—The administering authority shall publish regularly in the Federal Register a summary notice of any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding notified subsidy programs.

(3) CONSULTATIONS WITH CONGRESS AND PRIVATE SECTOR.—The Trade Representative and the administering authority promptly shall consult with the committees referred to in paragraph (1), and with interested representatives of the private sector, regarding all information submitted or reports made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program.

(4) ANNUAL REPORT.—Not later than February 1 of each year beginning in 1996, the Trade Representative and the administering authority shall issue a joint report to the Congress detailing—

(A) the subsidies practices of major trading partners of the United States, including subsidies that are prohibited, are causing serious prejudice, or are nonactionable, under the Subsidies Agreement, and

(B) the monitoring and enforcement activities of the Trade Representative and the administering authority during the preceding calendar year which relate to subsidies practices.

(g) COOPERATION OF OTHER AGENCIES.—All agencies, departments, and independent

agencies of the Federal Government shall cooperate fully with one another in carrying out the provisions of this section, and, upon the request of the administering authority, shall furnish to the administering authority all records, papers, and information in their possession which relate to the requirements of this section.

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

(1) ADVERSE EFFECTS.—The term "adverse effects" has the meaning given that term in Articles 5(a) and 5(c) of the Subsidies Agreement.

(2) ADMINISTERING AUTHORITY.—The term "administering authority" has the meaning given that term in section 771(1) of the Tariff Act of 1930 (19 U.S.C. 1677(1)).

(3) COMMISSION.—The term "Commission" means the United States International Trade Commission.

(4) INTERESTED PARTY.—The term "interested party" means a party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) of the Tariff Act of 1930 (19 U.S.C. 1677(9) (A), (C), (D), (E), (F), or (G)).

(5) NONACTIONABLE SUBSIDY.—The term "nonactionable subsidy" means a subsidy described in Article 8.1(b) of the Subsidies Agreement.

(6) NOTIFIED SUBSIDY PROGRAM.—The term "notified subsidy program" means a subsidy program which has been notified pursuant to Article 8.3 of the Subsidies Agreement.

(7) SERIOUS ADVERSE EFFECTS.—The term "serious adverse effects" has the meaning given that term in Article 9.1 of the Subsidies Agreement.

(8) SUBSIDIES AGREEMENT.—The term "Subsidies Agreement" means the Agreement on Subsidies and Countervailing Measures described in section 771(8) of the Tariff Act of 1930 (19 U.S.C. 1677(8)).

(9) SUBSIDIES COMMITTEE.—The term "Subsidies Committee" means the committee established pursuant to Article 24 of the Subsidies Agreement.

(10) SUBSIDY.—The term "subsidy" has the meaning given that term in Article 1 of the Subsidies Agreement.

(11) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(12) VIOLATION OF ARTICLE 8.—The term "violation of Article 8" means the failure of a notified subsidy program or an individual subsidy granted pursuant to a notified subsidy program to meet the applicable conditions and criteria described in Article 8.2 of the Subsidies Agreement.

(1) TREATMENT OF PROPRIETARY INFORMATION.—Notwithstanding any other provision of law, the administering authority may provide the Trade Representative with a copy of proprietary information submitted to, or obtained by, the administering authority that the Trade Representative considers relevant in carrying out its responsibilities under this part. The Trade Representative shall protect from public disclosure proprietary information obtained from the administering authority under this part.

SEC. 282. REVIEW OF SUBSIDIES AGREEMENT.

(a) GENERAL OBJECTIVES.—The general objectives of the United States under this part are—

(1) to ensure that parts II and III of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) (hereafter in this section referred to as the "Subsidies Agreement") are effective in disciplining the use of subsidies and in remedying the adverse effects of subsidies, and

(2) to ensure that part IV of the Subsidies Agreement does not undermine the benefits

derived from any other part of that Agreement.

(b) SPECIFIC OBJECTIVE.—The specific objective of the United States under this part shall be to create a mechanism which will provide for an ongoing review of the operation of part IV of the Subsidies Agreement.

(c) SUNSET OF NONCOUNTERAVAILABLE SUBSIDIES PROVISIONS.—

(1) IN GENERAL.—Subparagraphs (B), (C), (D), and (E) of section 771(5B) of the Tariff Act of 1930 shall cease to apply as provided in subparagraph (G)(i) of such section, unless, before the date referred to in such subparagraph (G)(i)—

(A) the Subsidies Committee determines to extend Articles 6.1, 8, and 9 of the Subsidies Agreement as in effect on the date on which the Subsidies Agreement enters into force or in a modified form, in accordance with Article 31 of such Agreement,

(B) the President consults with the Congress in accordance with paragraph (2), and

(C) an implementing bill is submitted and enacted into law in accordance with paragraphs (3) and (4).

(2) CONSULTATION WITH CONGRESS BEFORE SUBSIDIES COMMITTEE AGREES TO EXTEND.—Before a determination is made by the Subsidies Committee to extend Articles 6.1, 8, and 9 of the Subsidies Agreement, the President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding such extension.

(3) IMPLEMENTATION OF EXTENSION.—

(A) NOTIFICATION AND SUBMISSION.—Any extension of subparagraphs (B), (C), (D), and (E) of section 771(5B) of the Tariff Act of 1930 shall take effect if (and only if)—

(i) after the Subsidies Committee determines to extend Articles 6.1, 8, and 9 of the Subsidies Agreement, the President submits to the committees referred to in paragraph (2) a copy of the document describing the terms of such extension, together with—

(I) a draft of an implementing bill,

(II) a statement of any administrative action proposed to implement the extension, and

(III) the supporting information described in subparagraph (C); and

(ii) the implementing bill is enacted into law.

(B) IMPLEMENTING BILL.—The implementing bill referred to in subparagraph (A) shall contain only those provisions that are necessary or appropriate to implement an extension of the provisions of section 771(5B) (B), (C), (D), and (E) of the Tariff Act of 1930 as in effect on the day before the date of the enactment of the implementing bill or as modified to reflect the determination of the Subsidies Committee to extend Articles 6.1, 8, and 9 of the Subsidies Agreement.

(C) SUPPORTING INFORMATION.—The supporting information required under subparagraph (A)(i)(III) consists of—

(i) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(ii) a statement regarding—

(I) how the extension serves the interests of United States commerce, and

(II) why the implementing bill and proposed administrative action is required or appropriate to carry out the extension.

(4) APPLICATION OF CONGRESSIONAL "FAST TRACK" PROCEDURES TO IMPLEMENTING BILL.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(A) in subsection (b)(1)—

(i) by inserting " , or with respect to an extension described in section 282(c)(3) of the

Uruguay Round Agreements Act," after "trade agreements",

(i) by striking "or section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988" and inserting ", section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act", and

(ii) by inserting "or such extension" in subparagraphs (A) and (C) after "agreements" each place it appears, and

(B) in subsection (c)(1)—

(1) by inserting "or section 282 of the Uruguay Round Agreements Act" after "section 102", and

(ii) by inserting "or extension" after "agreement" each place it appears.

(5) REPORT BY THE TRADE REPRESENTATIVE.—Not later than the date referred to in section 771 (5B) (G)(i) of the Tariff Act of 1930, the Trade Representative shall submit to the Congress a report setting forth the provisions of law which were enacted to implement Articles 6.1, 8, and 9 of the Subsidies Agreement and should be repealed or modified if such provisions are not extended.

(d) REVIEW OF THE OPERATION OF THE SUBSIDIES AGREEMENT.—The Secretary of Commerce, in consultation with other appropriate departments and agencies of the Federal Government, shall undertake an ongoing review of the operation of the Subsidies Agreement. The review shall address—

(1) the effectiveness of part II of the Subsidies Agreement in disciplining the use of subsidies which are prohibited under Article 3 of the Agreement,

(2) the effectiveness of part III and, in particular, Article 6.1 of the Subsidies Agreement, in remedying the adverse effects of subsidies which are actionable under the Agreement, and

(3) the extent to which the provisions of part IV of the Subsidies Agreement may have undermined the benefits derived from other parts of the Agreement, and, in particular—

(A) the extent to which WTO member countries have cooperated in reviewing and improving the operation of part IV of the Subsidies Agreement,

(B) the extent to which the provisions of Articles 8.4 and 8.5 of the Subsidies Agreement have been effective in identifying and remedying violations of the conditions and criteria described in Article 8.2 of the Agreement, and

(C) the extent to which the provisions of Article 9 of the Subsidies Agreement have been effective in remedying the serious adverse effects of subsidy programs described in Article 8.2 of the Agreement.

Not later than 4 years and 6 months after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report on the review required under this subsection.

SEC. 283. AMENDMENTS TO TITLE VII OF THE TARIFF ACT OF 1930.

(a) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Section 703(b) of the Tariff Act of 1930 (19 U.S.C. 1671b(b)), as amended, is amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF ARTICLE 8 VIOLATION.—If the only subsidy under investigation is a subsidy with respect to which the administering authority received notice from the Trade Representative of a violation of Article 8 of the Subsidies Agreement, paragraph (1) shall be applied by substituting '60 days' for '65 days'."

(b) SUBSIDY PRACTICE DISCOVERED DURING A PROCEEDING.—Section 775 of the Tariff Act of

1930 (19 U.S.C. 1677d) is amended to read as follows:

"SEC. 775. COUNTERVAILABLE SUBSIDY PRACTICES DISCOVERED DURING A PROCEEDING.

"If, in the course of a proceeding under this title, the administering authority discovers a practice which appears to be a countervailable subsidy, but was not included in the matters alleged in a countervailing duty petition, or if the administering authority receives notice from the Trade Representative that a subsidy or subsidy program is in violation of Article 8 of the Subsidies Agreement, then the administering authority—

"(1) shall include the practice, subsidy, or subsidy program in the proceeding if the practice, subsidy, or subsidy program appears to be a countervailable subsidy with respect to the merchandise which is the subject of the proceeding, or

"(2) shall transfer the information (other than confidential information) concerning the practice, subsidy, or subsidy program to the library maintained under section 777(a)(1), if the practice, subsidy, or subsidy program appears to be a countervailable subsidy with respect to any other merchandise."

(c) ADMINISTRATIVE REVIEWS.—Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675), as amended, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) REVIEWS TO IMPLEMENT RESULTS OF SUBSIDIES ENFORCEMENT PROCEEDING.—

"(1) VIOLATIONS OF ARTICLE 8 OF THE SUBSIDIES AGREEMENT.—If—

"(A) the administering authority receives notice from the Trade Representative of a violation of Article 8 of the Subsidies Agreement,

"(B) the administering authority has reason to believe that merchandise subject to an existing countervailing duty order or suspended investigation is benefiting from the subsidy or subsidy program found to have been in violation of Article 8 of the Subsidies Agreement, and

"(C) no review pursuant to subsection (a)(1) is in progress,

the administering authority shall conduct a review of the order or suspended investigation to determine whether the subject merchandise benefits from the subsidy or subsidy program found to have been in violation of Article 8 of the Subsidies Agreement. If the administering authority determines that the subject merchandise is benefiting from the subsidy or subsidy program, it shall make appropriate adjustments in the estimated duty to be deposited or appropriate revisions to the terms of the suspension agreement.

"(2) WITHDRAWAL OF SUBSIDY OR IMPOSITION OF COUNTERMEASURES.—If the Trade Representative notifies the administering authority that, pursuant to Article 4 or Article 7 of the Subsidies Agreement—

"(A)(i) the United States has imposed countermeasures, and

"(ii) such countermeasures are based on the effects in the United States of imports of merchandise that is the subject of a countervailing duty order, or

"(B) a WTO member country has withdrawn a countervailable subsidy provided with respect to merchandise subject to a countervailing duty order,

the administering authority shall conduct a review to determine if the amount of the estimated duty to be deposited should be adjusted or the order should be revoked.

"(3) EXPEDITED REVIEW.—The administering authority shall conduct reviews under this subsection on an expedited basis, and shall publish the results of such reviews in the Federal Register."

Subtitle C—Effective Date

SEC. 291. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 261, the amendments made by this title shall take effect on the date described in subsection (b) and apply with respect to—

(1) investigations initiated —

(A) on the basis of petitions filed under section 702(b), 732(b), or 783(b) of the Tariff Act of 1930 after the date described in subsection (b), or

(B) by the administering authority under section 702(a) or 732(a) of such Act after such date.

(2) reviews initiated under section 751 of such Act—

(A) by the administering authority or the Commission on their own initiative after such date, or

(B) pursuant to a request filed after such date,

(3) investigations initiated under section 753 of such Act after such date,

(4) petitions filed under section 780 of such Act after such date, and

(5) inquiries initiated under section 781 of such Act—

(A) by the administering authority on its own initiative after such date, or

(B) pursuant to a request filed after such date.

(b) DATE DESCRIBED.—The date described in this subsection is the date on which the WTO Agreement (as defined in section 2(9)) enters into force with respect to the United States.

TITLE III—ADDITIONAL

IMPLEMENTATION OF AGREEMENTS

Subtitle A—Safeguards

SEC. 301. INVESTIGATIONS, DETERMINATIONS, AND RECOMMENDATIONS BY INTERNATIONAL TRADE COMMISSION.

(a) TREATMENT OF CONFIDENTIAL INFORMATION.—Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended by adding at the end the following: "The Commission may request that parties providing confidential business information furnish non-confidential summaries thereof or, if such parties indicate that the information in the submission cannot be summarized, the reasons why a summary cannot be provided. If the Commission finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summarized form, the Commission may disregard the submission."

(b) ADMINISTRATIVE PROTECTIVE ORDERS.—Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended by adding at the end the following:

"(1) LIMITED DISCLOSURE OF CONFIDENTIAL BUSINESS INFORMATION UNDER PROTECTIVE ORDER.—The Commission shall promulgate regulations to provide access to confidential business information under protective order to authorized representatives of interested parties who are parties to an investigation under this section."

(c) NOTICE OF PROCEEDINGS.—Section 202(b) of the Trade Act of 1974 (19 U.S.C. 2252(b)) is amended by striking paragraphs (3) and (4) and inserting the following:

"(3) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties and

consumers an opportunity to be present, to present evidence, to comment on the adjustment plan, if any, submitted under subsection (a), to respond to the presentations of other parties and consumers, and otherwise to be heard."

(d) CRITICAL CIRCUMSTANCES.—

(1) IN GENERAL.—Section 202(d)(2) of the Trade Act of 1974 (19 U.S.C. 2252(d)(2)) is amended to read as follows:

"(2)(A) When a petition filed under subsection (a) alleges that critical circumstances exist and requests that provisional relief be provided under this subsection with respect to imports of the article identified in the petition, the Commission shall, not later than 60 days after the petition containing the request was filed, determine, on the basis of available information, whether—

"(i) there is clear evidence that increased imports (either actual or relative to domestic production) of the article are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article; and

"(ii) delay in taking action under this chapter would cause damage to that industry that would be difficult to repair.

"(B) If the determinations under subparagraph (A)(i) and (ii) are affirmative, the Commission shall find the amount or extent of provisional relief that is necessary to prevent or remedy the serious injury. In carrying out this subparagraph, the Commission shall give preference to increasing or imposing a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury.

"(C) The Commission shall immediately report to the President its determinations under subparagraph (A)(i) and (ii) and, if the determinations are affirmative, the finding under subparagraph (B).

"(D) Within 30 days after receiving a report from the Commission under subparagraph (C) containing an affirmative determination under subparagraph (A)(i) and (ii), the President, if he considers provisional relief to be warranted and after taking into account the finding of the Commission under subparagraph (B), shall proclaim, for a period not to exceed 200 days, such provisional relief that the President considers necessary to prevent or remedy the serious injury. Such relief shall take the form of an increase in, or the imposition of, a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury."

(2) TIME LIMITS FOR DETERMINATIONS.—Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended—

(A) in subsection (b)(2)—

(i) in subparagraph (A) by inserting "(180 days if the petition alleges that critical circumstances exist)" after "120 days"; and

(ii) in subparagraph (B) by inserting "(210 days if the petition alleges that critical circumstances exist)" after "150 days"; and

(B) in subsection (f)(1) by inserting "(240 days if the petition alleges that critical circumstances exist)" after "180 days".

(3) ACTION BY THE PRESIDENT.—Section 203(a)(4) of the Trade Act of 1974 (19 U.S.C. 2253(a)(4)) is amended—

(A) by striking "The" and inserting "(A) Subject to subparagraph (B), the";

(B) by inserting after "60 days" the following: "(50 days if the President has proclaimed provisional relief under section 202(d)(2)(D) with respect to the article concerned"; and

(C) by striking "; except that" and all that follows through "received." and inserting a period and the following:

"(B) If a supplemental report is requested under paragraph (5), the President shall take action under paragraph (1) within 30 days after the supplemental report is received, except that, in a case in which the President has proclaimed provisional relief under section 202(d)(2)(D) with respect to the article concerned, action by the President under paragraph (1) may not be taken later than the 200th day after the provisional relief was proclaimed."

(4) CONFORMING AMENDMENTS.—Section 202(d) of the Trade Act of 1974 (19 U.S.C. 2252(d)) is amended—

(A) in paragraph (3)—

(i) by striking "(2)(B)" and inserting "(2)(D)"; and

(ii) by striking "subsection (b)(1)" and inserting "paragraph (2)(A)"; and

(B) in paragraph (4)(A)(i) by inserting "or (2)(D)" after "(1)(G)".

(e) FACTORS IN MAKING DETERMINATIONS.—Section 202(c) of the Trade Act of 1974 (19 U.S.C. 2252(c)) is amended—

(1) in paragraph (1)(B)(i) by inserting "productivity," after "wages,"; and

(2) in paragraph (6)—

(A) by amending subparagraph (A) to read as follows:

"(A)(i) The term 'domestic industry' means, with respect to an article, the producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article.

"(ii) The term 'domestic industry' includes producers located in the United States insular possessions."; and

(B) by adding at the end the following:

"(C) The term 'serious injury' means a significant overall impairment in the position of a domestic industry.

"(D) The term 'threat of serious injury' means serious injury that is clearly imminent.

(f) LIMITATIONS ON INVESTIGATIONS.—Section 202(h) of the Trade Act of 1974 (19 U.S.C. 2252(h)) is amended by adding at the end the following:

"(3)(A) Not later than the date on which the Textiles Agreement enters into force with respect to the United States, the Secretary of Commerce shall publish in the Federal Register a list of all articles that are subject to the Textiles Agreement. An investigation may be conducted under this section concerning imports of any article that is subject to the Textiles Agreement only if the United States has integrated that article into GATT 1994 pursuant to the Textiles Agreement, as set forth in notices published in the Federal Register by the Secretary of Commerce, including the notice published under section 331 of the Uruguay Round Agreements Act.

"(B) For purposes of this paragraph:

"(i) The term 'Textiles Agreement' means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act.

"(ii) The term 'GATT 1994' has the meaning given that term in section 2(1)(B) of the Uruguay Round Agreements Act."

SEC. 302. ACTION BY PRESIDENT AFTER DETERMINATION OF IMPORT INJURY.

(a) AUTHORITY TO ENTER INTO INTERNATIONAL AGREEMENTS.—Section 203 of the Trade Act of 1974 (19 U.S.C. 2253) is amended—

(1) in subsection (a)(3)(E) by striking "orderly marketing";

(2) in subsection (d)(1) by striking "orderly marketing agreements" and inserting "agreements described in subsection (a)(3)(E)";

(3) in subsection (f)—

(A) in the subsection heading by striking "ORDERLY MARKETING AND OTHER" and inserting "CERTAIN";

(B) in paragraph (1)—

(i) by striking "orderly marketing agreements" the first place it appears and inserting "agreements of the type described in subsection (a)(3)(E)"; and

(ii) by striking "orderly marketing agreements with foreign countries" and inserting "agreements of the type described in subsection (a)(3)(E)"; and

(C) in paragraph (2) by striking "orderly marketing agreement implemented under subsection (a)" and inserting "agreement implemented under subsection (a)(3)(E)"; and

(4) in subsection (g)(2)—

(A) in the first sentence by striking "orderly marketing or other"; and

(B) in the second sentence—

(i) by striking "orderly marketing agreement" and inserting "agreement of the type described in subsection (a)(3)(E) that is"; and

(ii) by striking "agreements" and inserting "agreement".

(b) LIMITATIONS ON ACTIONS.—

(1) DURATION OF ACTIONS.—Section 203(e)(1) of the Trade Act of 1974 (19 U.S.C. 2253(e)(1)) is amended to read as follows:

"(1)(A) Subject to subparagraph (B), the duration of the period in which an action taken under this section may be in effect shall not exceed 4 years. Such period shall include the period, if any, in which provisional relief under section 202(d) was in effect.

"(B)(i) Subject to clause (ii), the President, after receiving an affirmative determination from the Commission under section 204(c) (or, if the Commission is equally divided in its determination, a determination which the President considers to be an affirmative determination of the Commission), may extend the effective period of any action under this section if the President determines that—

"(I) the action continues to be necessary to prevent or remedy the serious injury; and

"(II) there is evidence that the domestic industry is making a positive adjustment to import competition.

"(i) The effective period of any action under this section, including any extensions thereof, may not, in the aggregate, exceed 8 years."

(2) LIMITATION ON QUANTITATIVE RESTRICTIONS.—Section 203(e)(4) of the Trade Act of 1974 (19 U.S.C. 2253(e)(4)) is amended to read as follows:

"(4) Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the average quantity or value of such article entered into the United States in the most recent 3 years that are representative of imports of such article and for which data are available, unless the President finds that the importation of a different quantity or value is clearly justified in order to prevent or remedy the serious injury."

(3) PHASING-DOWN OF ACTIONS.—Section 203(e)(5) of the Trade Act of 1974 (19 U.S.C. 2253(e)(5)) is amended to read as follows:

"(5) An action described in subsection (a)(3)(A), (B), or (C) that has an effective period of more than 1 year shall be phased

down at regular intervals during the period in which the action is in effect."

(4) LIMITATIONS ON NEW ACTIONS AND INVESTIGATIONS OF SAME ARTICLE.—(A) Section 203(e) of the Trade Act of 1974 (19 U.S.C. 2253(e)) is amended by adding at the end the following:

"(7)(A) If an article was the subject of an action under subparagraph (A), (B), (C), or (E) of subsection (a)(3), no new action may be taken under any of those subparagraphs with respect to such article for—

"(i) a period beginning on the date on which the previous action terminates that is equal to the period in which the previous action was in effect, or

"(ii) a period of 2 years beginning on the date on which the previous action terminates,

whichever is greater.

"(B) Notwithstanding subparagraph (A), if the previous action under subparagraph (A), (B), (C), or (E) of subsection (a)(3) with respect to an article was in effect for a period of 180 days or less, the President may take a new action under any of those subparagraphs with respect to such article if—

"(i) at least 1 year has elapsed since the previous action went into effect; and

"(ii) an action described in any of those subparagraphs has not been taken with respect to such article more than twice in the 5-year period immediately preceding the date on which the new action with respect to such article first becomes effective."

(B) Section 202(h)(2) of the Trade Act of 1974 (19 U.S.C. 2252(h)(2)) is amended to read as follows:

"(2) No new investigation shall be conducted with respect to an article that is or has been the subject of an action under section 203(a)(3)(A), (B), (C), or (E) if the last day on which the President could take action under section 203 in the new investigation is a date earlier than that permitted under section 203(e)(7)."

(c) REPORTS ON MONITORING.—Section 204(a) of the Trade Act of 1974 (19 U.S.C. 2254(a)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) If the initial period during which the action taken under section 203 is in effect exceeds 3 years, or if an extension of such action exceeds 3 years, the Commission shall submit a report on the results of the monitoring under paragraph (1) to the President and to the Congress not later than the date that is the mid-point of the initial period, and of each such extension, during which the action is in effect;" and

(2) in paragraph (4) by striking "extension".

(d) INVESTIGATION OF EXTENSION OF ACTION.—Section 204 of the Trade Act of 1974 (19 U.S.C. 2254) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) EXTENSION OF ACTION.—

"(1) Upon request of the President, or upon petition on behalf of the industry concerned filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under section 203 is to terminate, the Commission shall investigate to determine whether action under section 203 continues to be necessary to prevent or remedy serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

"(2) The Commission shall publish notice of the commencement of any proceeding

under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

"(3) The Commission shall transmit to the President a report on its investigation and determination under this subsection not later than 60 days before the action under section 203 is to terminate, unless the President specifies a different date."

SEC. 303. MISCELLANEOUS AMENDMENTS.

Title II of the Trade Act of 1974 is amended as follows:

(1) Section 202(a)(2)(B)(ii) (19 U.S.C. 2252(a)(2)(B)(ii)) is amended by striking ", or at any time before the 150th day after the date of filing be amended to request,".

(2) Section 202(b)(1)(A) (19 U.S.C. 2252(b)(1)(A)) is amended by striking "(b)" and inserting "(a)".

(3) Section 202(d)(1) (19 U.S.C. 2252(d)(1)) is amended—

(A) in subparagraph (C)(i) by striking "paragraph (2)" and inserting "subparagraph (B)"; and

(B) by striking "or threat thereof" each place it appears in subparagraphs (E) and (G).

(4) Section 202(d)(4)(A)(i) (19 U.S.C. 2252(d)(4)(A)(i)) is amended by striking "203(a)" and inserting "202(b)".

(5) Section 202(c)(6) (19 U.S.C. 2252(c)(6)) is amended by striking "subsection" and inserting "section".

(6) Section 202(f)(2)(G)(ii) (19 U.S.C. 2252(f)(2)(G)(ii)) is amended by striking "is" and inserting "are".

(7) Section 203(a)(2)(C) (19 U.S.C. 2253(a)(2)(C)) is amended by striking "201(b)" and inserting "202(a)".

(8) Section 203(c) (19 U.S.C. 2253(c)) is amended by striking "(c)(2)" and inserting "(d)(2)".

(9) Section 203(e)(2) (19 U.S.C. 2253(e)(2)) is amended—

(A) by striking "may be taken under subsection (a)(1)(A), (B), or (C) or under section 202(d)(2)(B)" and inserting "of a type described in subsection (a)(3)(A), (B), or (C) may be taken under subsection (a)(1), under section 202(d)(1)(G), or under section 202(d)(2)(D)"; and

(B) by striking "or threat thereof".

(10) Section 203(e)(6)(B) (19 U.S.C. 2253(e)(6)(B)) is amended—

(A) by striking "203(c)" and inserting "202(e)"; and

(B) by striking "203(a)" and inserting "202(b)".

SEC. 304. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

(b) SECTION 301(b).—The amendment made by section 301(b) takes effect on the date of the enactment of this Act.

Subtitle B—Foreign Trade Barriers and Unfair Trade Practices

SEC. 311. IDENTIFICATION OF FOREIGN ANTI-COMPETITIVE PRACTICES.

(a) REPORT TO CONGRESS.—

(1) CONTENTS OF REPORT.—Section 181(b)(2) of the Trade Act of 1974 (19 U.S.C. 2241(b)(2)) is amended—

(A) in subparagraph (A) by striking "or" after the comma;

(B) in subparagraph (B) by striking the period and inserting "or"; and

(C) by adding after subparagraph (B) the following:

"(C) a section on foreign anticompetitive practices, the toleration of which by foreign governments is adversely affecting exports of United States goods or services."

(2) ASSISTANCE OF OTHER AGENCIES.—Section 181(c) of the Trade Act of 1974 (19 U.S.C. 2241(c)) is amended by adding at the end of paragraph (1) the following: "In preparing the section of the report required by subsection (b)(2)(C), the Trade Representative shall consult in particular with the Attorney General."

SEC. 312. CONSULTATION WITH COMMITTEES.

Section 181(b)(3) of the Trade Act of 1974 (19 U.S.C. 2241(b)(3)) is amended by adding at the end the following: "After the submission of the report required by paragraph (1), the Trade Representative shall also consult periodically with, and take into account the views of, the committees described in that paragraph regarding means to address the foreign trade barriers identified in the report, including the possible initiation of investigations under section 302 or other trade actions."

SEC. 313. IDENTIFICATION OF COUNTRIES THAT DENY PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.

Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended—

(1) in subsection (b) by adding at the end the following:

"(4) In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—

"(A) the history of intellectual property laws and practices of the foreign country, including any previous identification under subsection (a)(2), and

"(B) the history of efforts of the United States, and the response of the foreign country, to achieve adequate and effective protection and enforcement of intellectual property rights;" and

(2) in subsection (d)—

(A) in paragraph (3) by amending the matter preceding subparagraph (A) to read as follows:

"(3) A foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product protected by a copyright or related right, patent, trademark, mask work, trade secret, or plant breeder's right, through the use of laws, procedures, practices, or regulations which—; and

(B) by adding at the end the following:

"(4) A foreign country may be determined to deny adequate and effective protection of intellectual property rights, notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;" and

(3) by adding at the end the following:

"(g) ANNUAL REPORT.—The Trade Representative shall, by not later than the date by which countries are identified under subsection (a), transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on actions taken under this section during the 12 months preceding such report, and the reasons for such actions, including a description of progress made in achieving improved intellectual property protection and market access for persons relying on intellectual property rights."

SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) SCOPE OF AUTHORITY.—

(1) **IN GENERAL.**—Subsections (a)(1) and (b)(2) of section 301 of the Trade Act of 1974 (19 U.S.C. 2411(a)(1) and (b)(2)) are each amended by adding the following sentence at the end:

"Actions may be taken that are within the power of the President with respect to trade in any goods or services, or with respect to any other area of pertinent relations with the foreign country."

(2) **IMPORT RESTRICTIONS.**—Section 301(c)(5) of the Trade Act of 1974 (19 U.S.C. 2411(c)(5)) is amended by striking the matter preceding subparagraph (B) and inserting the following:

"(5) If the Trade Representative determines that actions to be taken under subsection (a) or (b) are to be in the form of import restrictions, the Trade Representative shall—

"(A) give preference to the imposition of duties over the imposition of other import restrictions, and"

(b) **RELATIONSHIP WITH OTHER AUTHORITIES.**—Section 301(c) of the Trade Act of 1974 (19 U.S.C. 2411(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "or" after the semicolon at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) in a case in which the act, policy, or practice also fails to meet the eligibility criteria for receiving duty-free treatment under subsections (b) and (c) of section 502 of this Act, subsections (b) and (c) of section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b) and (c)), or subsections (c) and (d) of section 203 of the Andean Trade Preference Act (19 U.S.C. 3202(c) and (d)), withdraw, limit, or suspend such treatment under such provisions, notwithstanding the provisions of subsection (a)(3) of this section; or"

(c) **DEFINITION OF AN UNREASONABLE ACT, POLICY, OR PRACTICE.**—Section 301(d)(3) of the Trade Act of 1974 (19 U.S.C. 2411(d)(3)) is amended—

(1) in subparagraph (B)(i) by striking subclauses (II) and (III) and inserting the following:

"(II) provision of adequate and effective protection of intellectual property rights notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act,

"(III) nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection, or

"(IV) market opportunities, including the toleration by a foreign government of systematic anticompetitive activities by enterprises or among enterprises in the foreign country that have the effect of restricting, on a basis that is inconsistent with commercial considerations, access of United States goods or services to a foreign market,"; and (2) by adding at the end the following:

"(F)(i) For the purposes of subparagraph (B)(i)(II), adequate and effective protection of intellectual property rights includes adequate and effective means under the laws of the foreign country for persons who are not citizens or nationals of such country to secure, exercise, and enforce rights and enjoy

commercial benefits relating to patents, trademarks, copyrights and related rights, mask works, trade secrets, and plant breeder's rights.

"(ii) For purposes of subparagraph (B)(1)(IV), the denial of fair and equitable nondiscriminatory market access opportunities includes restrictions on market access related to the use, exploitation, or enjoyment of commercial benefits derived from exercising intellectual property rights in protected works or fixations or products embodying protected works."

(d) **TIME LIMITS FOR DETERMINATIONS OF UNFAIR TRADE PRACTICES.**—Section 304(a) of the Trade Act of 1974 (19 U.S.C. 2414(a)) is amended—

(1) in subparagraph (A) of paragraph (2), by striking "(other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979)"

(2)(A) in subparagraph (A) of paragraph (3), by inserting "does not consider that a trade agreement, including the Agreement on Trade-Related Aspects of Intellectual Property (referred to in section 101(d)(15) of the Uruguay Round Agreements Act), is involved or" after "the Trade Representative" the first place it appears, and

(B) in subparagraph (B) of paragraph (3), in the matter preceding clause (1), by striking "any investigation initiated by reason of section 302(b)(2)" and inserting "an investigation initiated by reason of section 302(b)(2) (other than an investigation involving a trade agreement)", and

(3) in paragraph (4), by striking "(other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979)".

(e) **MONITORING OF FOREIGN COMPLIANCE.**—Subsections (a) and (b) of section 306 of the Trade Act of 1974 (19 U.S.C. 2416) are amended to read as follows:

"(a) **IN GENERAL.**—The Trade Representative shall monitor the implementation of each measure undertaken, or agreement that is entered into, by a foreign country to provide a satisfactory resolution of a matter subject to investigation under this chapter or subject to dispute settlement proceedings to enforce the rights of the United States under a trade agreement providing for such proceedings.

"(b) **FURTHER ACTION.**—

(1) **IN GENERAL.**—If, on the basis of the monitoring carried out under subsection (a), the Trade Representative considers that a foreign country is not satisfactorily implementing a measure or agreement referred to in subsection (a), the Trade Representative shall determine what further action the Trade Representative shall take under section 301(a). For purposes of section 301, any such determination shall be treated as a determination made under section 304(a)(1)."

(2) **WTO DISPUTE SETTLEMENT RECOMMENDATIONS.**—If the measure or agreement referred to in subsection (a) concerns the implementation of a recommendation made pursuant to dispute settlement proceedings under the World Trade Organization, and the Trade Representative considers that the foreign country has failed to implement it, the Trade Representative shall make the determination in paragraph (1) no later than 30 days after the expiration of the reasonable period of time provided for such implementation under paragraph 21 of the Understanding on Rules and Procedures Governing the Settlement of Disputes that is referred to in section 101(d)(16) of the Uruguay Round Agreements Act."

(f) **EXTENSION OF SECTION 310 OF THE TRADE ACT OF 1974.**—Section 310 of the Trade Act of 1974 (19 U.S.C. 2420) is amended to read as follows:

"SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

"(a) **IDENTIFICATION.**—

"(1) Within 180 days after the submission in calendar year 1995 of the report required by section 181(b), the Trade Representative shall—

"(A) review United States trade expansion priorities,

"(B) identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent, and

"(C) submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and publish in the Federal Register a report on the priority foreign country practices identified.

"(2) In identifying priority foreign country practices under paragraph (1) of this section, the Trade Representative shall take into account all relevant factors, including—

"(A) the major barriers and trade distorting practices described in the National Trade Estimate Report required under section 181(b);

"(B) the trade agreements to which a foreign country is a party and its compliance with those agreements;

"(C) the medium- and long-term implications of foreign government procurement plans; and

"(D) the international competitive position and export potential of United States products and services.

"(3) The Trade Representative may include in the report, if appropriate—

"(A) a description of foreign country practices that may in the future warrant identification as priority foreign country practices; and

"(B) a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, by existing bilateral trade agreements, or as part of trade negotiations with other countries and progress is being made toward the elimination of such practices.

"(b) **INITIATION OF INVESTIGATIONS.**—By no later than the date which is 21 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1), the Trade Representative shall initiate under section 302(b)(1) investigations under this chapter with respect to all of the priority foreign country practices identified.

"(c) **AGREEMENTS FOR THE ELIMINATION OF BARRIERS.**—In the consultations with a foreign country that the Trade Representative is required to request under section 303(a) with respect to an investigation initiated by reason of subsection (b), the Trade Representative shall seek to negotiate an agreement that provides for the elimination of the practices that are the subject of the investigation as quickly as possible or, if elimination of the practices is not feasible, an agreement that provides for compensatory trade benefits.

"(d) **REPORTS.**—The Trade Representative shall include in the semiannual report required by section 309 a report on the status of any investigations initiated pursuant to subsection (b) and, where appropriate, the extent to which such investigations have led

to increased opportunities for the export of products and services of the United States."

SEC. 315. OBJECTIVES IN INTELLECTUAL PROPERTY.

It is the objective of the United States—

(1) to accelerate the implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15),

(2) to seek enactment and effective implementation by foreign countries of laws to protect and enforce intellectual property rights that supplement and strengthen the standards of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) and the North American Free Trade Agreement and, in particular—

(A) to conclude bilateral and multilateral agreements that create obligations to protect and enforce intellectual property rights that cover new and emerging technologies and new methods of transmission and distribution, and

(B) to prevent or eliminate discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights,

(3) to secure fair, equitable, and non-discriminatory market access opportunities for United States persons that rely upon intellectual property protection,

(4) to take an active role in the development of the intellectual property regime under the World Trade Organization to ensure that it is consistent with other United States objectives, and

(5) to take an active role in the World Intellectual Property Organization (WIPO) to develop a cooperative and mutually supportive relationship between the World Trade Organization and WIPO.

SEC. 316. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

(b) SECTION 314(f).—The amendment made by section 314(f) takes effect on the date of the enactment of this Act.

Subtitle C—Unfair Practices in Import Trade

SEC. 321. UNFAIR PRACTICES IN IMPORT TRADE.

(a) AMENDMENTS TO SECTION 337 OF THE TARIFF ACT OF 1930.—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended as follows:

(1) INVESTIGATION.—Subsection (b) is amended—

(A) by striking "TIME LIMITS" in the heading;

(B) in paragraph (1) by striking all that follows the second sentence and inserting the following: "The Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of notice of such investigation. To promote expeditious adjudication, the Commission shall, within 45 days after an investigation is initiated, establish a target date for its final determination."; and

(C) in paragraph (3)—

(i) in the first sentence—

(I) by striking "the Tariff Act of 1930" and inserting "this Act"; and

(II) by striking "such Act" and inserting "such subtitle"; and

(ii) by striking the fifth sentence.

(2) DETERMINATION; REVIEW.—Subsection (c) is amended—

(A) in the first sentence by striking "a settlement agreement" and inserting "an agreement between the private parties to the investigation, including an agreement to present the matter for arbitration";

(B) by inserting the following after the third sentence: "A respondent may raise any counterclaim in a manner prescribed by the Commission. Immediately after a counterclaim is received by the Commission, the respondent raising such counterclaim shall file a notice of removal with a United States district court in which venue for any of the counterclaims raised by the party would exist under section 1391 of title 28, United States Code. Any counterclaim raised pursuant to this section shall relate back to the date of the original complaint in the proceeding before the Commission. Action on such counterclaim shall not delay or affect the proceeding under this section, including the legal and equitable defenses that may be raised under this subsection."; and

(C) by adding at the end the following: "Determinations by the Commission under subsections (e), (f), and (j) with respect to forfeiture of bonds and under subsection (h) with respect to the imposition of sanctions for abuse of discovery or abuse of process shall also be reviewable in accordance with section 706 of title 5, United States Code."

(3) ENTRY UNDER BOND.—Subsection (e) is amended—

(A) in the last sentence of paragraph (1) by striking "determined by the Commission" and all that follows through the end of the sentence and inserting "prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the Commission later determines that the respondent has violated the provisions of this section, the bond may be forfeited to the complainant.";

(B) by adding at the end of paragraph (2) the following: "If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent."; and

(C) by adding at the end the following new paragraph:

"(4) The Commission shall prescribe the terms and conditions under which bonds may be forfeited under paragraphs (1) and (2)."

(4) CEASE AND DESIST ORDERS.—Subsection (f)(1) is amended by adding at the end the following: "If a temporary cease and desist order is issued in addition to, or in lieu of, an exclusion order under subsection (e), the Commission may require the complainant to post a bond, in an amount determined by the Commission to be sufficient to protect the respondent from any injury, as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent. The Commission shall prescribe the terms and conditions under which the bonds may be forfeited under this paragraph."

(5) CONDITIONS APPLICABLE FOR GENERAL EXCLUSION ORDERS.—(A) Subsection (d) is amended—

(1) by inserting "(1)" before "If";

(ii) in the first sentence by striking "there is violation" and inserting "there is a violation"; and

(iii) by adding at the end the following new paragraph:

"(2) The authority of the Commission to order an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that—

"(A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or

"(B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products."

(B) Subsection (g)(2) is amended—

(i) by striking "and" at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(iii) by adding after subparagraph (B) the following:

"(C) the requirements of subsection (d)(2) are met."

(6) ENTRY UNDER BOND AFTER REFERRAL TO THE PRESIDENT.—Subsection (j)(3) is amended by striking "shall be entitled to entry under bond" and all that follows through the end of the sentence and inserting "shall, until such determination becomes final, be entitled to entry under bond prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the determination becomes final, the bond may be forfeited to the complainant. The Commission shall prescribe the terms and conditions under which bonds may be forfeited under this paragraph."

(7) ACCESS TO CONFIDENTIAL INFORMATION.—Subsection (n)(2) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) an officer or employee of the Commission who is directly concerned with—

"(i) carrying out the investigation or related proceeding in connection with which the information is submitted,

"(ii) the administration of a bond posted pursuant to subsection (e), (f), or (j),

"(iii) the administration or enforcement of an exclusion order issued pursuant to subsection (d), (e), or (g), a cease and desist order issued pursuant to subsection (f), or a consent order issued pursuant to subsection (c),

"(iv) proceedings for the modification or rescission of a temporary or permanent order issued under subsection (d), (e), (f), (g), or (i), or a consent order issued under this section, or

"(v) maintaining the administrative record of the investigation or related proceeding."; and

(B) by amending subparagraph (C) to read as follows:

"(C) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under subsection (d), (e), or (g) resulting from the investigation or related proceeding in connection with which the information is submitted."

(8) TECHNICAL AMENDMENT.—Subsection (1) is amended by striking "Claims Court" and inserting "Court of Federal Claims".

(b) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) STAY OF ACTIONS.—

(A) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission

"(a) STAY.—In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the

proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission, but only if such request is made within—

“(1) 30 days after the party is named as a respondent in the proceeding before the Commission, or

“(2) 30 days after the district court action is filed,

whichever is later.

“(b) USE OF COMMISSION RECORD.—Notwithstanding section 337(n)(1) of the Tariff Act of 1930, after dissolution of a stay under subsection (a), the record of the proceeding before the United States International Trade Commission shall be transmitted to the district court and shall be admissible in the civil action, subject to such protective order as the district court determines necessary, to the extent permitted under the Federal Rules of Evidence and the Federal Rules of Civil Procedure.”.

(B) CLERICAL AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

“1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission.”.

(2) COUNTERCLAIMS.—Section 1446 of title 28, United States Code, is amended by adding at the end the following:

“(f) With respect to any counterclaim removed to a district court pursuant to section 337(c) of the Tariff Act of 1930, the district court shall resolve such counterclaim in the same manner as an original complaint under the Federal Rules of Civil Procedure, except that the payment of a filing fee shall not be required in such cases and the counterclaim shall relate back to the date of the original complaint in the proceeding before the International Trade Commission under section 337 of that Act.”.

(3) JURISDICTION.—

(A) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

“§ 1368. Counterclaims in unfair practices in international trade.

“The district courts shall have original jurisdiction of any civil action based on a counterclaim raised pursuant to section 337(c) of the Tariff Act of 1930, to the extent that it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim in the proceeding under section 337(a) of that Act.”.

(B) CLERICAL AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end the following:

“1368. Counterclaims in unfair practices in international trade.”.

SEC. 322. EFFECTIVE DATE.

The amendments made by this subtitle apply—

(1) with respect to complaints filed under section 337 of the Tariff Act of 1930 on or after the date on which the WTO Agreement enters into force with respect to the United States, or

(2) in cases under such section 337 in which no complaint is filed, with respect to investigations initiated under such section on or after such date.

Subtitle D—Textiles

SEC. 331. TEXTILE PRODUCT INTEGRATION.

Not later than 120 days after the date that the WTO Agreement, as defined in section 2(9) of the Uruguay Round Implementation Act, enters into force with respect to the United States, the Secretary of Commerce shall publish in the Federal Register a notice containing the list of products to be integrated in each stage set out in Article 2(8) of the Agreement on Textiles and Clothing referred to in section 101(d)(4). After publication of such list, the list may not be changed unless otherwise required by statute or the international obligations of the United States, to correct technical errors, or to reflect reclassifications. Within 30 days after the publication of such list, the Trade Representative shall notify the list to the Textiles Monitoring Body established under Article 8 of the Agreement on Textiles and Clothing.

SEC. 332. AMENDMENT TO SECTION 204 OF THE AGRICULTURAL ACT OF 1956.

Section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854) is amended by amending the second sentence to read as follows: “In addition, if a multilateral agreement, including but not limited to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Implementation Act, has been or is concluded under the authority of this section among countries accounting for a significant part of world trade in the articles with respect to which the agreement was concluded, the President may also issue, in order to carry out such agreement, regulations governing the entry or withdrawal from warehouse of the same articles which are the products of countries not parties to the agreement, or countries to which the United States does not apply the agreement.”.

SEC. 333. TEXTILE TRANSSHIPMENTS.

Part V of title IV of the Tariff Act of 1930 is amended by inserting after section 592 the following:

“SEC. 592A. SPECIAL PROVISIONS REGARDING CERTAIN VIOLATIONS.

“(a) PUBLICATION OF NAMES OF CERTAIN VIOLATORS.—

“(1) PUBLICATION.—The Secretary of the Treasury is authorized to publish in the Federal Register a list of the name of any producer, manufacturer, supplier, seller, exporter, or other person located outside the customs territory of the United States—

“(A) against whom the Customs Service has issued a penalty claim under section 592, and

“(B) if a petition with respect to that claim has been filed under section 618, against whom a final decision has been issued under such section after exhaustion of administrative remedies,

citing any of the violations of the customs laws referred to in paragraph (2). Such list shall be published not later than March 31 and September 30 of each year.

“(2) VIOLATIONS.—The violations of the customs laws referred to in paragraph (1) are the following:

“(A) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products.

“(B) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry

into the customs territory of the United States of textile or apparel products.

“(C) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labelled as to country of origin or source.

“(D) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

“(3) REMOVAL FROM LIST.—Any person whose name has been included in a list published under paragraph (1) may petition the Secretary to be removed from such list. If the Secretary finds that such person has not committed any violations described in paragraph (2) for a period of not less than 3 years after the date on which the person's name was so published, the Secretary shall remove such person from the list as of the next publication of the list under paragraph (2).

“(4) REASONABLE CARE REQUIRED FOR SUBSEQUENT IMPORTS.—

“(A) RESPONSIBILITY OF IMPORTERS AND OTHERS.—After the name of a person has been published under paragraph (1), the Secretary of the Treasury shall require any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labelling that are accurate as to its origin. Such reasonable care shall not include reliance solely on a source of information which is the named person.

“(B) FAILURE TO EXERCISE REASONABLE CARE.—If the Customs Service determines that merchandise is not from the country claimed on the documentation accompanying the merchandise, the failure to exercise reasonable care described in subparagraph (A) shall be considered when the Customs Service determines whether the importer of record is in violation of section 484(a).

“(b) LIST OF HIGH RISK COUNTRIES.—

“(1) LIST.—The President or his designee, upon the advice of the Secretaries of Commerce and Treasury, and the heads of other appropriate departments and agencies, is authorized to publish a list of countries in which illegal activities have occurred involving transshipped textile or apparel products or activities designed to evade quotas of the United States on textile or apparel products, if those countries fail to demonstrate a good faith effort to cooperate with United States authorities in ceasing such activities. Such list shall be published in the Federal Register not later than March 31 of each year. Any country that is on the list and that subsequently demonstrates a good faith effort to cooperate with United States authorities in ceasing illegal activities described in the first sentence shall be removed from the list, and such removal shall be published in the Federal Register as soon as practicable.

“(2) REASONABLE CARE REQUIRED FOR SUBSEQUENT IMPORTS.—

“(A) RESPONSIBILITY OF IMPORTERS OF RECORD.—The Secretary of the Treasury shall require any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products indicated, on the

documentation, packaging, or labelling accompanying such products, to be from any country on the list published under paragraph (1) to show, to the satisfaction of the Secretary, that such importer, consignee, or purchaser has exercised reasonable care to ascertain the true country of origin of the textile or apparel products.

"(B) FAILURE TO EXERCISE REASONABLE CARE.—If the Customs Service determines that merchandise is not from the country claimed on the documentation accompanying the merchandise, the failure to exercise reasonable care described in subparagraph (A) shall be considered when the Customs Service determines whether the importer of record is in violation of section 484(a).

"(3) DEFINITION.—For purposes of this subsection, the term 'country' means a foreign country or territory, including any overseas dependent territory or possession of a foreign country."

SEC. 334. RULES OF ORIGIN FOR TEXTILE AND APPAREL PRODUCTS.

(a) REGULATORY AUTHORITY.—The Secretary of the Treasury shall prescribe rules implementing the principles contained in subsection (b) for determining the origin of textiles and apparel products. Such rules shall be promulgated in final form not later than July 1, 1995.

(b) PRINCIPLES.—

(1) IN GENERAL.—Except as otherwise provided for by statute, a textile or apparel product, for purposes of the customs laws and the administration of quantitative restrictions, originates in a country, territory, or insular possession, and is the growth, product, or manufacture of that country, territory, or insular possession, if—

(A) the product is wholly obtained or produced in that country, territory, or possession;

(B) the product is a yarn, thread, twine, cordage, rope, cable, or braiding and—

(i) the constituent staple fibers are spun in that country, territory, or possession, or

(ii) the continuous filament is extruded in that country, territory, or possession,

(C) the product is a fabric, including a fabric classified under chapter 59 of the HTS, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in that country, territory, or possession; or

(D) the product is any other textile or apparel product that is wholly assembled in that country, territory, or possession from its component pieces.

(2) SPECIAL RULES.—Notwithstanding paragraph (1)(D)—

(A) the origin of a good that is classified under one of the following HTS headings or subheadings shall be determined under subparagraph (A), (B), or (C) of paragraph (1), as appropriate: 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6303, 6304, 6305, 6306, 6307.10, 6307.90, 6308, or 9404.90; and

(B) a textile or apparel product which is knit to shape shall be considered to originate in, and be the growth, product, or manufacture of, the country, territory, or possession in which it is knit.

(3) MULTICOUNTRY RULE.—If the origin of a good cannot be determined under paragraph (1) or (2), then that good shall be considered to originate in, and be the growth, product, or manufacture of—

(A) the country, territory, or possession in which the most important assembly or manufacturing process occurs, or

(B) if the origin of the good cannot be determined under subparagraph (A), the last

country, territory, or possession in which important assembly or manufacturing occurs.

(4) COMPONENTS CUT IN THE UNITED STATES.—(A) The value of a component that is cut to shape (but not to length, width, or both) in the United States from foreign fabric and exported to another country, territory, or insular possession for assembly into an article that is then returned to the United States—

(i) shall not be included in the dutiable value of such article, and

(ii) may be applied toward determining the percentage referred to in General Note 7(b)(1)(B) of the HTS, subject to the limitation provided in that note.

(B) No article (except a textile or apparel product) assembled in whole of components described in subparagraph (A), or of such components and components that are products of the United States, in a beneficiary country as defined in General Note 7(a) of the HTS shall be treated as a foreign article, or as subject to duty if—

(i) the components after exportation from the United States, and

(ii) the article itself before importation into the United States

do not enter into the commerce of any foreign country other than such a beneficiary country.

(5) EXCEPTION FOR UNITED STATES-ISRAEL FREE TRADE AGREEMENT.—This section shall not affect, for purposes of the customs laws and administration of quantitative restrictions, the status of goods that, under rulings and administrative practices in effect immediately before the enactment of this Act, would have originated in, or been the growth, product, or manufacture of, a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1987. For such purposes, such rulings and administrative practices that were applied, immediately before the enactment of this Act, to determine the origin of textile and apparel products covered by such agreement shall continue to apply after the enactment of this Act, and on and after the effective date described in subsection (c), unless such rulings and practices are modified by the mutual consent of the parties to the agreement.

(c) EFFECTIVE DATE.—This section shall apply to goods entered, or withdrawn from warehouse, for consumption on or after July 1, 1996, except that this section shall not apply to goods if—

(1) the contract for the sale of such goods to the United States is entered into before July 20, 1994;

(2) all of the material terms of sale in such contract, including the price and quantity of the goods, are fixed and determinable before July 20, 1994;

(3) a copy of the contract is filed with the Commissioner of Customs within 60 days after the date of the enactment of this Act, together with a certification that the contract meets the requirements of paragraphs (1) and (2); and

(4) the goods are entered, or withdrawn from warehouse, for consumption on or before January 1, 1998.

The origin of goods to which this section does not apply shall be determined in accordance with the applicable rules in effect on July 20, 1994.

SEC. 335. EFFECTIVE DATE.

Except as provided in section 334, this subtitle and the amendments made by this subtitle take effect on the date on which the

WTO Agreement enters into force with respect to the United States.

Subtitle E—Government Procurement

SEC. 341. MONITORING AND ENFORCEMENT OF THE AGREEMENT ON GOVERNMENT PROCUREMENT.

(a) IN GENERAL.—Section 305(f)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(f)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking "a year" and inserting "the 18 months";

(2) by striking "or" at the end of subparagraph (B),

(3) by redesignating subparagraph (C) as subparagraph (D), and

(4) by inserting after subparagraph (B), the following new subparagraph:

"(C) the procedures result in a determination providing a specific period of time for the other participant to bring its practices into compliance with the Agreement, or".

(b) SANCTIONS AFTER DISPUTE RESOLUTION FAILS.—

(1) SANCTIONS.—Paragraph (3) of section 305(f) of such Act (19 U.S.C. 2515(f)(3)) is amended to read as follows:

"(3) SANCTIONS AFTER DISPUTE RESOLUTION FAILS.—

"(A) FAILURES RESULTING IN SANCTIONS.—

If—

"(i) within 18 months from the date dispute settlement procedures are initiated with a signatory country pursuant to this section—

"(I) such procedures are not concluded, or

"(II) the country has not met the requirements of subparagraph (A) or (B) of paragraph (2), or

"(ii) the period of time provided for pursuant to paragraph (2)(C) has expired and procedures for suspending concessions under the Agreement have been completed,

then the sanctions described in subparagraph (B) shall be imposed.

"(B) SANCTIONS.—

"(i) IN GENERAL.—If subparagraph (A) applies to any signatory country—

"(I) the signatory country shall be considered as a signatory not in good standing of the Agreement and the prohibition on procurement contained in section 4 of the Act of March 3, 1933 (41 U.S.C. 10b-1) shall apply to such country, and

"(II) the President shall revoke the waiver of discriminatory purchasing requirements granted to the signatory country pursuant to section 301(a).

"(ii) TIME SANCTIONS ARE IMPOSED.—Any sanction—

"(I) described in clause (1)(I) shall apply from the date that is the last day of the 18-month period described in subparagraph (A)(i) or, in the case of paragraph (2)(C), from the date procedures for suspending concessions under the Agreement have been completed, and

"(II) described in clause (1)(II) shall apply beginning on the day after the date described in subclause (I)."

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 305(f) of such Act (19 U.S.C. 2515(f)(4)) is amended by striking "subparagraph (A) or (B) of paragraph (3)" and inserting "subclause (I) or (II) of paragraph (3)(B)(i)".

(c) REPORT TO CONGRESS.—

(1) Section 305(d)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(d)(2)) is amended by adding at the end the following new subparagraphs:

"(D)(i) are not signatories to the Agreement;

"(ii) fail to apply transparent and competitive procedures to its government procurement equivalent to those in the Agreement; and

"(iii) whose products or services are acquired in significant amounts by the United States Government; or

"(E)(i) are not signatories to the Agreement;

"(ii) fail to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement; and

"(iii) whose products or services are acquired in significant amounts by the United States Government."

(2) Section 305(d)(3)(C) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(d)(3)(C)) is amended by adding before the period at the end the following: ", including the failure to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement".

SEC. 342. CONFORMING AMENDMENTS.

(a) WAIVER OF DISCRIMINATORY PURCHASING REQUIREMENTS REGARDING PURCHASES OF CIVIL AIRCRAFT.—Section 303 of the Trade Agreements Act of 1979 (19 U.S.C. 2513) is amended by inserting "referred to in section 2(c) and approved under section 2(a)" after "Civil Aircraft".

(b) EXPANSION OF COVERAGE OF THE AGREEMENT.—Section 304 of the Trade Agreements Act of 1979 (19 U.S.C. 2514) is amended—

(1) in subsections (a) and (c) by striking "part IX, paragraph 6" and inserting "article XXIV(7);

(2) in subsection (c) by striking "part VI, paragraph 9" and inserting "article XIX(5)"; and

(3) in subsection (e) by striking "date of enactment of this Act" and inserting "date it enters into force with respect to the United States".

(c) ANNUAL REPORT ON FOREIGN DISCRIMINATION.—Section 305(d) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(d)) is amended by striking out "April 30, 1990, and annually on April 30 thereafter," and inserting "April 30 of each year."

(d) LABOR SURPLUS AREA STUDIES.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516), and the item relating to such section in the table of contents for such Act, are repealed.

(e) AVAILABILITY OF INFORMATION TO CONGRESSIONAL ADVISORS.—Section 307 of the Trade Agreements Act of 1979 (19 U.S.C. 2517) is amended by striking "part VI, paragraph 9," and inserting "article XIX(5)".

(f) DEFINITIONS.—Section 308 of the Trade Agreements Act of 1979 (19 U.S.C. 2518) is amended—

(1) in paragraph (1) by striking "section 2(c) of this Act" and inserting "section 101(d)(17) of the Uruguay Round Agreements Act"; and

(2) in paragraph (4)—

(A) in subparagraph (C) by striking "having a contract value" and all that follows through the end of the subparagraph and inserting "for which the United States is obligated to waive Buy National restrictions under—

"(i) the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel, regardless of the thresholds provided for in the Agreement (as defined in paragraph (1)), or

"(ii) any subsequent agreement between the United States and Israel which lowers on a reciprocal basis the applicable threshold for entities covered by the Agreement."; and

(B) in subparagraph (D) by striking "GATT" the first place it appears and all that follows through the end of the subparagraph and inserting "the Agreement (as defined in paragraph (1)), but for the thresholds provided for in the Agreement."

(g) CONFORMING AMENDMENTS.—Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note) is amended—

(1) by striking ", Mexico, or Canada" each place that it appears and inserting "or in any eligible country"; and

(2) by adding at the end the following: "For purposes of this section, an 'eligible country' is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative."

SEC. 343. RECIPROCAL COMPETITIVE PROCUREMENT PRACTICES.

(a) APPLICABILITY.—Section 302(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2512(a)) is amended to read as follows:

"(a) AUTHORITY TO BAR PROCUREMENT FROM NON-DESIGNATED COUNTRIES.—

"(1) IN GENERAL.—Subject to paragraph (2), the President, in order to encourage additional countries to become parties to the Agreement and to provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products—

"(A) shall, with respect to procurement covered by the Agreement, prohibit the procurement, after the date on which any waiver under section 301(a) first takes effect, of products—

"(i) which are products of a foreign country or instrumentality which is not designated pursuant to section 301(b), and

"(ii) which would otherwise be eligible products; and

"(B) may, with respect to procurement covered by the Agreement, take such other actions within the President's authority as the President deems necessary.

"(2) EXCEPTION.—Paragraph (1) shall not apply in the case of procurements for which—

"(A) there are no offers of products or services of the United States or of eligible products; or

"(B) the offers of products or services of the United States or of eligible products are insufficient to fulfill the requirements of the United States Government."

(b) ADDITIONAL WAIVER AUTHORITY.—Section 302(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2512(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) waive the prohibition required by subsection (a)(1) on procurement of products of a foreign country or instrumentality which has not yet become a party to the Agreement but—

"(A) has agreed to apply transparent and competitive procedures to its government procurement equivalent to those in the Agreement, and

"(B) maintains and enforces effective prohibitions on bribery and other corrupt practices in connection with its government procurement"; and

(2) by adding after paragraph (3) the following:

"Before exercising the waiver authority under paragraph (1), the President shall consult with the appropriate private sector advisory committees established under section 135 of the Trade Act of 1974 and with the appropriate committees of the Congress."

(c) CONFORMING AMENDMENT.—Section 305(g) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)) is amended—

(1) in paragraph (1)—

(A) by striking "(B) or (C)" and inserting "(B), (C), (D), or (E)"; and

(B) by striking "their discriminatory procurement practices" and inserting "the practices regarding government procurement identified under subparagraph (B)(ii), (C)(ii), (D)(ii), or (E)(ii) (as the case may be)"; and

(2) in paragraph (3) by striking "discrimination identified pursuant to subsection (d)(2)(B) or (C)" and inserting "the practices regarding government procurement identified under subparagraph (B)(ii), (C)(ii), (D)(ii), or (E)(ii) (as the case may be)".

SEC. 344. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle take effect on the date on which the Agreement on Government Procurement referred to in section 101(d)(17) enters into force with respect to the United States.

(b) SECTION 342(g).—The amendments made by section 342(g) take effect on the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle F—Technical Barriers to Trade

SEC. 351. TECHNICAL BARRIERS TO TRADE.

(a) REFERENCES.—All references in this section are to title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) unless otherwise specified.

(b) SECTION 401.—Section 401 is amended—

(1) by striking "Nothing" and inserting "(b) UNNECESSARY OBSTACLES.—Nothing"; and

(2) by inserting after the section heading the following:

"(a) NO BAR TO ENGAGING IN STANDARDS ACTIVITY.—Nothing in this title may be construed—

"(1) to prohibit a Federal agency from engaging in activity related to standards-related measures, including any such measure relating to safety, the protection of human, animal, or plant life or health, the environment, or consumers; or

"(2) to limit the authority of a Federal agency to determine the level it considers appropriate of safety or of protection of human, animal, or plant life or health, the environment, or consumers."

(c) SECTION 402.—Section 402(4) is amended—

(1) by striking "CERTIFICATION ACCESS" in the paragraph heading and inserting "ACCESS";

(2) by striking "certification system" and inserting "conformity assessment procedure"; and

(3) by striking "certification under that system" and inserting "an assessment of conformity and the mark of the system, if any";

(d) SECTION 414.—Section 414(b)(1) is amended—

(1) by inserting "(A)" after "relating to";

(2) by striking "certification systems" and inserting "technical regulations, conformity assessment procedures,";

(3) by striking "such standards, systems" and inserting "such standards, technical regulations, conformity assessment procedures,"; and

(4) after "local" by inserting "and (B) the membership and participation of Federal, State, or local government bodies or private bodies in the United States in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements concerning standards-related activities".

(e) DEFINITIONS.—Section 451 is amended—
(1) so that paragraph (1) reads as follows:

“(1) AGREEMENT.—The term ‘Agreement’ means the Agreement on Technical Barriers to Trade referred to in section 101(d)(5) of the Uruguay Round Agreements Act.”;

(2) so that paragraph (2) reads as follows:

“(2) CONFORMITY ASSESSMENT PROCEDURE.—The term ‘conformity assessment procedure’ means any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.”;

(3) in paragraph (4), by striking “certification system” and inserting “conformity assessment procedure” each place it occurs;

(4) so that paragraph (6)(A) reads as follows:
“(A) the membership of which is open to representatives, whether public or private, of the United States and at least all Members.”;

(5) in paragraph (7), by striking “certification system” and inserting “conformity assessment procedure”;

(6) so that paragraph (8) reads as follows:

“(8) MEMBER.—The term ‘Member’ means a WTO member as defined in section 2(10) of the Uruguay Round Agreements Act.”;

(7) so that paragraph (13) reads as follows:

“(13) STANDARD.—The term ‘standard’ means a document approved by a recognized body, that provides, for common and repeated use, rules, guidelines, or characteristics for products or related processes and production methods, with which compliance is not mandatory. Such term may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.”;

(8) in paragraph (14), by striking “or any certification system” and inserting “, technical regulation, or conformity assessment procedure”;

(9) by redesignating paragraph (17) as paragraph (18) and inserting after paragraph (16) the following:

“(17) TECHNICAL REGULATION.—The term ‘technical regulation’ means a document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. Such term may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.”.

(f) REPORTS TO CONGRESS.—Section 453 is amended by inserting “through 2001” after “succeeding 3-year period”.

(g) EFFECTIVE DATE.—Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) is amended by striking section 454.

SEC. 352. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

TITLE IV—AGRICULTURE-RELATED PROVISIONS

Subtitle A—Agriculture

PART I—MARKET ACCESS

SEC. 401. SECTION 22 AMENDMENTS.

(a) AMENDMENT TO SECTION 22.—

(1) GENERALLY.—Subsection (f) of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624(f)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

“(f) No quantitative limitation or fee shall be imposed under this section with respect to

any article that is the product of a WTO member (as defined in section 2(10) of the Uruguay Round Agreements Act).”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of entry into force of the WTO Agreement with respect to the United States, except that with respect to wheat, that amendment shall take effect on the later of such date or September 12, 1995.

(b) CONFORMING AMENDMENTS.—

(1) SECTION 202 OF THE AGRICULTURAL ACT OF 1956.—Section 202 of the Agricultural Act of 1956 (7 U.S.C. 1852) is amended—

(A) by striking subsection (a); and

(B) in subsection (b), by striking “(b)”.

(2) COTTON IMPORT QUOTAS.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended—

(A) in subsection (a)(5)(F)(i)—

(i) by striking “this section” and inserting “the Uruguay Round Agreements Act”; and

(ii) by striking “limited global”;

(B) in subsection (a)(5)(F)(iv), by striking “special quota period has” and inserting “quota period has”;

(C) by adding at the end of subsection (a)(5)(F) the following:

“(v) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d)), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)), and General Note 3(a)(iv) to the HTS.

“(vi) DEFINITION.—As used in this subparagraph, the term ‘special import quota’ means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.”; and

(D) in subsection (n)—

(i) in the subsection heading, by striking “SPECIAL”;

(ii) in paragraph (1), by striking “this section” and inserting “the Uruguay Round Agreements Act”;

(iii) in paragraph (1), by striking “special” each place it appears;

(iv) by redesignating paragraph (1)(C) as paragraph (1)(D);

(v) by inserting after subparagraph (B) of paragraph (1) the following:

“(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d)), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)), and General Note 3(a)(iv) to the HTS.”; and

(vi) in paragraph (1)(D) (as redesignated by clause (iv)), by adding at the end the following:

“(iii) LIMITED GLOBAL IMPORT QUOTA.—As used in this subsection, the term ‘limited global import quota’ means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.”; and

(vii) in paragraph (2), by striking “special quota period may” and inserting “quota period may”.

SEC. 402. CHEESE AND CHOCOLATE CRUMB IMPORTS.

(a) REPEAL OF SECTIONS 701 AND 703.—Sections 701 and 703 of the Trade Agreements Act of 1979 (93 Stat. 268) are hereby repealed.

(b) PRESIDENTIAL ACTION.—Section 702(d)(1) (93 Stat. 268) of the Trade Agreements Act of 1979 is amended to read as follows:

“(1) IN GENERAL.—Not later than 7 days after receiving a report under subsection (c)(3) with respect to an article of cheese subject to an in-quota rate of duty (or not later than 3 days after receiving a report under paragraph (2) in any case in which such paragraph applies), the President shall proclaim the imposition of a fee on the importation of such article from the country involved in such amount (not to exceed the amount of the subsidy determined under subsection (b)(2)(B)) as may be necessary to ensure that the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, and shall direct the Commissioner of Customs to administer and enforce such fee. Any such fee imposed shall be in addition to any customs duty or other fee imposed by law.”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 702 of the Trade Agreements Act of 1979 is amended by striking “of quota cheese” each place it appears and inserting “of cheese subject to an in-quota rate of duty”.

(2) Section 702(c)(2) of such Act is amended—

(A) by striking “the Special Representative for Trade Negotiations” and inserting “the United States Trade Representative”, and

(B) by striking “The Special Representative” and inserting “The United States Trade Representative”.

(3) Subsections (c)(3)(B) and (e) of section 702 of such Act are each amended by striking “or quantitative limitation”.

(4) Section 702(f) of such Act is amended—

(A) by inserting “(as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act)” after “Tariff Act of 1930”, and

(B) by striking “under title I of this Act” and inserting “under title VII of the Tariff Act of 1930”.

(5) Section 702(g)(2) of such Act is amended by striking “or quantitative limitations”.

(6) Section 702(h) of such Act is amended by adding at the end the following new paragraphs:

“(4) CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY.—The term ‘cheese subject to an in-quota rate of duty’ means the articles and the quantities of such articles provided for in the Additional U.S. Notes 14 through 23 of chapter 4 of Schedule XX (as defined in section 2(5) of the Uruguay Round Agreements Act).

“(5) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.”.

SEC. 403. MEAT IMPORT ACT.

The Meat Import Act of 1979 (19 U.S.C. 2253 note) is repealed.

SEC. 404. ADMINISTRATION OF TARIFF-RATE QUOTAS.

(a) ORDERLY MARKETING.—In implementing the tariff-rate quotas set out in Schedule XX for the entry, or withdrawal from warehouse, for consumption of goods in the United States, the President shall take such action as may be necessary to ensure that imports of agricultural products do not disrupt the orderly marketing of commodities in the United States.

(b) INADEQUATE SUPPLY.—Where imports of an agricultural product are subject to a tariff-rate quota, and where the President determines and proclaims that the supply of the same or directly competitive or substitutable agricultural product will be inadequate, because of a natural disaster, disease, or major national market disruption,

to meet domestic demand at reasonable prices, the President may temporarily increase the quantity of imports of the agricultural product that is subject to the in-quota rate of duty established under the tariff-rate quota.

(c) **MONITORING.**—The Secretary of Agriculture shall monitor the domestic supply of agricultural products subject to a tariff-rate quota as the Secretary considers appropriate and shall advise the President when the domestic supply of the products and substitutable products combined with the estimated imports of the products under the tariff-rate quota may be inadequate to meet domestic demand at reasonable prices.

(d) **COVERAGE OF TARIFF-RATE QUOTAS.**—

(1) **EXCLUSIONS.**—The President may, subject to terms and conditions determined appropriate by the President, provide that the entry, or withdrawal from warehouse, for consumption in the United States of an agricultural product shall not be subject to the over-quota rate of duty established under a tariff-rate quota if the agricultural product—

(A) is imported by, or for the account of, any agency of the United States or of any foreign embassy;

(B) is imported as a sample for taking orders, for the personal use of the importer, or for the testing of equipment;

(C) is a commercial sample or is entered for exhibition, display, or sampling at a trade fair or for research; or

(D) is a blended syrup provided for in subheadings 1702.20.28, 1702.30.28, 1702.40.28, 1702.60.28, 1702.90.58, 1806.20.92, 1806.20.93, 1806.90.38, 1806.90.40, 2101.10.38, 2101.20.38, 2106.90.38, or 2106.90.67 of Schedule XX, if entered from a foreign trade zone by a foreign trade zone user whose facilities were in operation on June 1, 1990, to the extent that the annual quantity entered into the customs territory from such zone does not contain a quantity of sugar of nondomestic origin greater than the quantity authorized by the Foreign Trade Zones Board for processing in that zone during calendar year 1985.

(2) **RECLASSIFICATION.**—Subject to the consultation and layover requirements of section 115, the President may proclaim a modification to the coverage of a tariff-rate quota for any agricultural product if the President determines the modification is necessary or appropriate to conform the tariff-rate quota to Schedule XX as a result of a reclassification of any item by the Secretary of the Treasury.

(3) **ALLOCATION.**—The President may allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas and may modify any allocation as determined appropriate by the President.

(4) **BILATERAL AGREEMENT.**—The President may proclaim an increase in the tariff-rate quota for beef if the President determines that an increase is necessary to implement—

(A) the March 24, 1994, agreement between the United States and Argentina; or

(B) the March 9, 1994, agreement between the United States and Uruguay.

(5) **CONTINUATION OF SUGAR HEADNOTE.**—The President is authorized to proclaim additional United States note 3 to chapter 17 of the HTS, and to proclaim the modifications to the note, as determined appropriate by the President to reflect Schedule XX.

(e) **CONFORMING AMENDMENTS.**—

(1) **SECTION 213 OF THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.**—Section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d)) is amended to read as follows:

“(d) **TARIFF-RATE QUOTAS.**—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.”

(2) **SECTION 204 OF THE ANDEAN TRADE PREFERENCE ACT.**—Section 204 of the Andean Trade Preference Act (19 U.S.C. 3203) is amended by adding at the end the following new subsection:

“(g) **TARIFF-RATE QUOTAS.**—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this Act.”

(3) **GSP.**—Section 503 of the Trade Act of 1974 (19 U.S.C. 2463) is amended by adding at the end the following new subsection:

“(d) **TARIFF-RATE QUOTAS.**—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.”

(4) **GENERAL NOTE 3(a) TO THE HTS.**—General Note 3(a)(iv) to the HTS is amended by adding at the end the following:

“(F) No quantity of an agricultural product that is subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this paragraph.”

(5) **DUTY DRAWBACK.**—

(A) **GENERALLY.**—Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end the following new subsection:

“(w) **LIMITED APPLICABILITY FOR CERTAIN AGRICULTURAL PRODUCTS.**—No drawback shall be available with respect to an agricultural product subject to the over-quota rate of duty established under a tariff-rate quota, except pursuant to subsection (j)(1).”

(B) **EFFECTIVE DATE.**—The amendment made by subparagraph (A) shall take effect on the earlier of the date of entry into force of the WTO Agreement with respect to the United States or January 1, 1995.

(6) **RESTRICTIONS ON IMPORTED PEANUTS.**—Paragraph (6) of section 358e(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(f)(6)) is amended by inserting after “issues a proclamation” the following: “under section 404(b) of the Uruguay Round Agreements Act expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or”

SEC. 405. SPECIAL AGRICULTURAL SAFEGUARD AUTHORITY.

(a) **DETERMINATION OF TRIGGER LEVELS.**—Consistent with Article 5 as determined by the President, the President shall cause to be published in the Federal Register—

(1) the list of special safeguard agricultural goods not later than the date of entry into force of the WTO Agreement with respect to the United States; and

(2) for each special safeguard agricultural good—

(A) the trigger level specified in subparagraph 1(a) of Article 5, on an annual basis;

(B) the trigger price specified in subparagraph 1(b) of Article 5; and

(C) the relevant period.

(b) **DETERMINATION OF SAFEGUARD.**—If the President determines with respect to a special safeguard agricultural good that it is appropriate to impose—

(1) the price-based safeguard in accordance with subparagraph 1(a) of Article 5; or

(2) the volume-based safeguard in accordance with subparagraph 1(b) of Article 5,

the President shall, consistent with Article 5 as determined by the President, determine the amount of the duty to be imposed, the period such duty shall be in effect, and any

other terms and conditions applicable to the duty.

(c) **IMPOSITION OF SAFEGUARD.**—The President shall direct the Secretary of the Treasury to impose a duty on a special safeguard agricultural good entered, or withdrawn from warehouse, for consumption in the United States in accordance with a determination made under subsection (b).

(d) **NO SIMULTANEOUS SAFEGUARD.**—A duty may not be in effect for a special safeguard agricultural good pursuant to this section during any period in which such good is the subject of any action proclaimed pursuant to section 202 or 203 of the Trade Act of 1974 (19 U.S.C. 2252 or 2253).

(e) **EXCLUSION OF NAFTA COUNTRIES.**—The President may exempt from any duty imposed under this section any good originating in a NAFTA country (as determined in accordance with section 202 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332)).

(f) **ADVICE OF SECRETARY OF AGRICULTURE.**—The Secretary of Agriculture shall advise the President on the implementation of this section.

(g) **TERMINATION DATE.**—This section shall cease to be effective on the date, as determined by the President, that the special safeguard provisions of Article 5 are no longer in force with respect to the United States.

(h) **DEFINITIONS.**—For purposes of this section—

(1) the term “Article 5” means Article 5 of the Agreement on Agriculture described in section 101(d)(2);

(2) the term “relevant period” means the period determined by the President to be applicable to a special safeguard agricultural good for purposes of applying this section; and

(3) the term “special safeguard agricultural good” means an agricultural good on which an additional duty may be imposed pursuant to the special safeguard provisions of Article 5.

PART II—EXPORTS

SEC. 411. EXPORT PROGRAMS.

(a) **EXPORT ENHANCEMENT PROGRAM.**—

(1) **SHORT TITLE.**—This subsection may be cited as the “Export Enhancement Program Amendments of 1994”.

(2) **TITLE HEADING.**—Title III of the Agricultural Trade Act of 1978 (7 U.S.C. 5651 et seq.) is amended by striking the title heading and inserting the following:

“TITLE III—EXPORT ENHANCEMENT PROGRAM”.

(3) **GENERAL AUTHORITY.**—Subsection (a) of section 301 of such Act (7 U.S.C. 5651(a)) is amended to read as follows:

“(a) **IN GENERAL.**—The Commodity Credit Corporation shall carry out an export enhancement program in accordance with this section to encourage the commercial sale of United States agricultural commodities in world markets at competitive prices. The program shall be carried out in a market sensitive manner. Activities under the program shall not be limited to responses to unfair trade practices.”

(4) **FUNDING.**—Section 301 of such Act (7 U.S.C. 5651) is amended—

(A) in subsection (e), by striking “1995” and inserting “2001”; and

(B) by adding at the end the following:

“(g) **CONSISTENCY WITH INTERNATIONAL OBLIGATIONS.**—Notwithstanding any other provision of this section, the Commodity Credit Corporation shall administer and carry out the program authorized by this section in a

manner consistent, as determined by the President, with the obligations undertaken by the United States set forth in the Uruguay Round Agreements."

(b) DAIRY EXPORT INCENTIVE PROGRAM.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14) is amended by striking "1995" and inserting "2001".

(c) EXPORT SALES OF DAIRY PRODUCTS.—Subsection (a) of section 1163 of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 1731 note) is amended to read as follows:

"(a) In each fiscal year, the Secretary of Agriculture may sell dairy products for export, at such prices as the Secretary determines appropriate, in a quantity and allocated as determined by the Secretary, consistent with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, if the disposition of the commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and patterns of commercial trade."

(d) MARKET PROMOTION PROGRAM.—(1) Section 203(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(c)) is amended—

(A) by striking paragraph (2);
(B) by striking "PARTICIPATION.—" and all that follows through "To" in paragraph (1) and inserting "PARTICIPATION.—To";
(C) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(D) by aligning the margins of paragraphs (1), (2), and (3) (as so redesignated) so as to align with the margin of paragraph (1) of subsection (d).

(2) Section 203(f)(2) of such Act (7 U.S.C. 5623(f)(2)) is amended—

(A) by striking subparagraph (D);
(B) by inserting "or" at the end of subparagraph (C); and
(C) by redesignating subparagraph (E) as subparagraph (D).

(e) FOOD AID.—
(1) POLICY.—In light of the Uruguay Round Agreement on Agriculture and the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net-Food Importing Developing Countries, the United States reaffirms the commitment of the United States to providing food aid to developing countries.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the President should initiate consultations with other donor nations to consider appropriate levels of food aid commitments to meet the legitimate needs of developing countries; and

(B) the United States should increase its contribution of bona fide food assistance to developing countries consistent with the Agreement on Agriculture.

SEC. 412. OTHER CONFORMING AMENDMENTS.

(a) PUBLIC LAW 99-332.—Section 106 of Public Law 99-332 (98 Stat. 287), is repealed.

(b) AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 1984.—Section 625(A) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1984, as given the force of law by section 101(d) of Public Law 99-151 (97 Stat. 1853), is repealed.

(c) AGRICULTURAL ACT OF 1956.—Section 203 of the Agriculture Act of 1956 (7 U.S.C. 1853) is repealed.

PART III—OTHER PROVISIONS

SEC. 421. AUTHORITY FOR CERTAIN ACTIONS UNDER ARTICLE XXVIII.

(a) IN GENERAL.—In the application of section 125(c) of the Trade Act of 1974 (19

U.S.C. 2135) with respect to any item provided for in subheadings 2401.10.60, 2401.20.30, 2401.20.80, 2401.30.30, 2401.30.60, 2401.30.90, 2403.10.00, 2403.91.40, or 2403.99.00 of the HTS, "350" shall be substituted for "20" where it appears in such section.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 422. TOBACCO IMPORTS.

(a) DOMESTIC MARKETING ASSESSMENT.—Section 320C of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314i) is amended by adding at the end the following new subsection:

"(g) EFFECTIVE DATE.—This section shall be effective only for calendar year 1994."

(b) BUDGET DEFICIT ASSESSMENT.—

(1) IMPORTER ASSESSMENTS.—Section 106(g) of the Agricultural Act of 1949 (7 U.S.C. 1445(g)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) Effective only for each of the 1994 through 1998 crops of tobacco for which price support is made available under this Act, each producer and purchaser of such tobacco, and each importer of the same kind of tobacco, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

"(A) in the case of a producer or purchaser of domestic tobacco, .5 percent of the national price support level for each such crop; and

"(B) in the case of an importer of tobacco, 1 percent of the national support price for the same kind of tobacco; as provided for in this section."; and

(B) in paragraph (2), by striking "assessments and purchaser" and inserting ", purchaser, and importer".

(2) CONFORMING AMENDMENT.—Section 106 of such Act (7 U.S.C. 1445) is amended by striking subsection (h).

(c) WAIVER AUTHORITY.—The President may waive the application to imported tobacco of section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2) or the amendment made in subsection (c) of section 1106 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 323) if the President determines that the waiver is necessary or appropriate pursuant to an international agreement entered into by the United States.

(d) DUTY DRAWBACK.—Section 313(w) of the Tariff Act of 1930 (19 U.S.C. 1313) (as added by section 404(d)(5)) is further amended—

(1) by striking "PRODUCTS.—No" and inserting "PRODUCTS.—"; and

(2) by adding at the end the following new paragraph:

"(2) APPLICATION TO TOBACCO.—Notwithstanding paragraph (1), drawback shall also be available pursuant to subsection (a) with respect to any tobacco subject to the over-quota rate of duty established under a tariff-rate quota."

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective beginning on the effective date of the Presidential proclamation, authorized under section 421, establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco.

SEC. 423. TOBACCO PROCLAMATION AUTHORITY.

(a) IN GENERAL.—The President, after consultation with the Committee on Ways and Means of the House of Representatives and with the Committee on Finance of the

Senate, may proclaim the reduction or elimination of any duty with respect to cigar binder and filler tobacco, wrapper tobacco, or oriental tobacco set forth in Schedule XX.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 424. REPORT TO CONGRESS ON ACCESS TO CANADIAN DAIRY AND POULTRY MARKETS.

The President, not later than 6 months after the date of entry into force of the WTO Agreement with respect to the United States, shall submit a report to the Congress on the extent to which Canada is complying with its obligations under the Uruguay Round Agreements with respect to dairy and poultry products and with its related obligations under the North American Free Trade Agreement.

SEC. 425. STUDY OF MILK MARKETING ORDER SYSTEM.

The Secretary of Agriculture shall conduct a study to determine the effects of the Uruguay Round Agreements on the Federal milk marketing order system. Not later than 6 months after the date of entry into force of the WTO Agreement with respect to the United States, the Secretary of Agriculture shall report to the Congress on the results of the study.

SEC. 426. ADDITIONAL PROGRAM FUNDING.

(a) USE OF ADDITIONAL FUNDS.—Consistent, as determined by the President, with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, the Commodity Credit Corporation shall use, in addition to any other funds appropriated or made available for such purposes, any funds made available under subsection (b) for authorized export promotion, foreign market development, export credit financing, and promoting the development, commercialization, and marketing of products resulting from alternative uses of agricultural commodities.

(b) AMOUNT OF ADDITIONAL FUNDS.—Amounts shall be credited to the Commodity Credit Corporation in fiscal year 1995 equal to the lesser of the dollar amount of—

(1) the fiscal year 1995 Pay-As-You-Go savings; and

(2) the 5-year Pay-As-You-Go savings; under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, resulting from the enactment of the Federal Crop Insurance Reform Act of 1994.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this section.

Subtitle B—Sanitary and Phytosanitary Measures

SEC. 431. SANITARY AND PHYTOSANITARY MEASURES.

(a) TRADE AGREEMENTS ACT OF 1979.—Section 414 of the Trade Agreements Act of 1979 (19 U.S.C. 2544) is amended by adding at the end the following:

"(c) SANITARY AND PHYTOSANITARY MEASURES.—

"(1) PUBLIC INFORMATION.—The standards information center shall, in addition to the functions specified under subsection (b), make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—

"(A) any sanitary or phytosanitary measure of general application, including any inspection procedure or approval procedure proposed, adopted, or maintained by a Federal agency or agency of a State or local government;

"(B) the procedures of a Federal agency or an agency of a State or local government

for risk assessment and factors the agency considers in conducting the assessment;

"(C) the determination of the levels of protection that a Federal agency or an agency of a State or local government considers appropriate; and

"(D) the membership and participation of the Federal Government and State and local governments in international and regional sanitary and phytosanitary organizations and systems, and in bilateral and multilateral arrangements regarding sanitary and phytosanitary measures, and the provisions of those systems and arrangements.

"(2) DEFINITIONS.—The definitions in section 463 apply for purposes of this subsection."

(b) RAILWAY CAR INSPECTION.—Subsection (a) of the Act of January 31, 1942 (56 Stat. 40, chapter 31; 7 U.S.C. 149), is amended by striking "from Mexico".

(c) FEDERAL PLANT PEST ACT.—The Federal Plant Pest Act (7 U.S.C. 150aa et seq.) is amended—

(1) so that section 103 (7 U.S.C. 150bb) reads as follows:

"SEC. 103. MOVEMENT OF PESTS PROHIBITED.

"(a) IN GENERAL.—No person shall import or enter any plant pest into the United States, or move any plant pest interstate, or accept delivery of any plant pest moving from any foreign country into or through the United States, or interstate, unless the movement is made in accordance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.

"(b) REGULATIONS.—The regulations promulgated by the Secretary to implement subsection (a) may include regulations requiring that a plant pest moving into or through the United States, or interstate—

"(1) be accompanied by a permit issued by the Secretary prior to the movement of the plant pest; or

"(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary, by appropriate officials of the country or State from which the plant pest is to be moved."; and

(2) in section 104 (7 U.S.C. 150cc)—

(A) so that subsection (a) reads as follows:

"(a) Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless it is mailed in conformance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.";

(B) by striking subsection (b); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) PLANT QUARANTINE ACT.—The Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the "Plant Quarantine Act") is amended—

(1) so that the first section (7 U.S.C. 151) reads as follows:

"SECTION 1. IMPORTATION OF NURSERY STOCK.

"(a) IN GENERAL.—No person shall—

"(1) import or enter into the United States any nursery stock; or

"(2) accept delivery of any nursery stock moving from any foreign country into or through the United States; unless the movement is made in accordance with such regulations as the Secretary of Agriculture may promulgate to prevent dissemination into the United States of plant pests, plant diseases, or insect pests.

"(b) REGULATIONS.—The regulations promulgated by the Secretary of Agriculture to implement subsection (a) may include regulations requiring that nursery stock moving into or through the United States—

"(1) be accompanied by a permit issued by the Secretary of Agriculture prior to the movement of the nursery stock;

"(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary of Agriculture, by appropriate officials of the country or State from which the nursery stock is to be moved;

"(3) be grown under postentry quarantine conditions by or under the supervision of the Secretary of Agriculture for the purposes of determining whether the nursery stock may be infested with plant pests or insect pests, or infected with plant diseases, not discernible by port-of-entry inspection; and

"(4) if the nursery stock is found to be infested with plant pests or insect pests or infected with plant diseases, be subject to remedial measures the Secretary of Agriculture determines to be necessary to prevent the spread of plant pests, insect pests, or plant diseases."; and

(2) so that the last sentence of section 2 (7 U.S.C. 156) reads as follows: "This section does not apply to nursery stock that is imported or entered from a country or a region of a country that the Secretary of Agriculture designates, pursuant to procedures set forth in such regulations as the Secretary may promulgate, as exempt from the requirements of this section."

(e) HONEYBEE IMPORTATION.—The first section of the Act of August 31, 1922 (42 Stat. 833, chapter 301; 7 U.S.C. 281) (commonly known as the "Honeybee Act"), is amended to read as follows:

"SECTION 1. HONEYBEE IMPORTATION.

"(a) IN GENERAL.—The Secretary of Agriculture is authorized to prohibit or restrict the importation or entry of honeybees and honeybee semen into or through the United States in order to prevent the introduction and spread of diseases and parasites harmful to honeybees, the introduction of genetically undesirable germ plasm of honeybees, or the introduction and spread of undesirable species or subspecies of honeybees and the semen of honeybees.

"(b) REGULATIONS.—The Secretary of Agriculture and the Secretary of the Treasury are each authorized to prescribe such regulations as the respective Secretary determines necessary to carry out this section.

"(c) ENFORCEMENT.—Honeybees or honeybee semen offered for importation into, intercepted entering, or having entered the United States, other than in accordance with regulations promulgated by the Secretary of Agriculture and the Secretary of the Treasury, shall be destroyed or immediately exported.

"(d) DEFINITION.—As used in this Act, the term 'honeybee' means all life stages and the germ plasm of honeybees of the genus *Apis*, except honeybee semen."

(f) FEDERAL NOXIOUS WEED ACT OF 1974.—Section 4 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2803) is amended so that subsections (a) through (b) read as follows:

"(a) No person shall import or enter any noxious weed identified in a regulation promulgated by the Secretary into or through the United States or move any noxious weed interstate, unless the movement is in accordance with such conditions as the Secretary may prescribe by regulation under this Act to prevent the dissemination into the United States, or interstate, of such noxious weeds.

"(b) The regulations prescribed by the Secretary to implement subsection (a) may

include regulations requiring that any noxious weed imported or entered into the United States or moving interstate be accompanied by a permit issued by the Secretary prior to the movement of the noxious weed."

(g) TARIFF ACT OF 1930.—Section 306(b) of the Tariff Act of 1930 (19 U.S.C. 1306(b)) is amended by inserting before the period at the end the following: ", or is, and is likely to remain, a region of low prevalence of rinderpest and foot-and-mouth disease".

(h) IMPORTATION OF ANIMALS.—Section 6 of the Act of August 30, 1890 (26 Stat. 416, chapter 839; 21 U.S.C. 104), is amended to read as follows:

"SEC. 6. IMPORTATION OF ANIMALS.

"(a) IN GENERAL.—The Secretary of Agriculture may by regulation prohibit or restrict the importation or entry of any cattle, sheep, or other ruminants, or swine, that are diseased or infected with any disease, or that have been exposed to an infection, into or through the United States to prevent the dissemination into the United States of a disease.

"(b) PENALTIES.—

"(1) CRIMINAL.—Any person who knowingly violates any regulation promulgated by the Secretary pursuant to this section, or any provision of sections 7 through 10 or any regulation promulgated by the Secretary pursuant to such sections, shall be fined under title 18, United States Code, or imprisoned not more than 1 year, or both.

"(2) CIVIL.—Any person who violates any such provision or any such regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding \$1,000. The Secretary may issue an order assessing the civil penalty only after notice and an opportunity for an agency hearing on the record. The order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of the order may not be reviewed in an action to collect such civil penalty."

(i) INSPECTION OF ANIMALS.—Section 10 of the Act of August 30, 1890 (26 Stat. 417, chapter 839; 21 U.S.C. 105), is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—Except as provided in subsection (b), the" and inserting "The";

(B) in the first sentence, by striking "shall cause careful inspection to be made by a suitable officer of all" and inserting "may cause careful inspection of any"; and

(C) in the third sentence, by striking "they shall not be allowed to be placed" and inserting "the Secretary may prohibit or restrict their placement"; and

(2) by striking subsection (b).

(j) INTERNATIONAL ANIMAL QUARANTINE STATION.—The 6th sentence in the first section of Public Law 91-239 (21 U.S.C. 135) is amended—

(1) by striking "North American"; and

(2) by striking "within the United States".

(k) POULTRY PRODUCTS INSPECTION ACT.—Section 17(d) of the Poultry Products Inspection Act (21 U.S.C. 466) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Notwithstanding any other provision of law, all poultry, or parts or products of poultry, capable of use as human food offered for importation into the United States shall—

"(A) be subject to inspection, sanitary, quality, species verification, and residue standards that achieve a level of sanitary protection equivalent to that achieved under United States standards; and

"(B) have been processed in facilities and under conditions that achieve a level of sanitary protection equivalent to that achieved under United States standards."; and

(2) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

"(A) The Secretary may treat as equivalent to a United States standard a standard of an exporting country described in paragraph (1) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies determined appropriate by the Secretary, to demonstrate that the standard of the exporting country achieves the level of sanitary protection achieved under the United States standard. For the purposes of this subsection, the term 'sanitary protection' means protection to safeguard public health.";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

(1) FEDERAL MEAT INSPECTION ACT.—Section 20(e) of the Federal Meat Inspection Act (21 U.S.C. 620(e)) is amended—

(1) so that subparagraphs (A) through (B) of paragraph (1) read as follows:

"(A) A certification by the Secretary that foreign plants exporting carcasses or meat or meat products referred to in subsection (a) have complied with requirements that achieve a level of sanitary protection equivalent to that achieved under United States requirements with regard to all inspection, building construction standards, and all other provisions of this Act and regulations issued under this Act.

"(B) The Secretary may treat as equivalent to a United States requirement a requirement described in subparagraph (A) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies determined appropriate by the Secretary, to demonstrate that the requirement achieves the level of sanitary protection achieved under the United States requirement. For the purposes of this subsection, the term 'sanitary protection' means protection to safeguard public health.";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (7) as paragraphs (2) through (6), respectively.

SEC. 432. INTERNATIONAL STANDARD-SETTING ACTIVITIES.

Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle F—International Standard-Setting Activities"

"SEC. 491. NOTICE OF UNITED STATES PARTICIPATION IN INTERNATIONAL STANDARD-SETTING ACTIVITIES.

"(a) IN GENERAL.—The President shall designate an agency to be responsible for informing the public of the sanitary and phytosanitary standard-setting activities of each international standard-setting organization.

"(b) NOTIFICATION.—Not later than June 1 of each year, the agency designated under subsection (a) with respect to each international standard-setting organization shall publish notice in the Federal Register of the information specified in subsection (c) with respect to that organization. The notice shall cover the period ending on June 1 of the year in which the notice is published, and beginning on the date of the preceding notice under this subsection, except that the

first such notice shall cover the 1-year period ending on the date of the notice.

"(c) REQUIRED INFORMATION.—The information to be provided in the notice under subsection (b) is—

"(1) the sanitary or phytosanitary standards under consideration or planned for consideration by that organization;

"(2) for each sanitary or phytosanitary standard specified in paragraph (1)—

"(A) a description of the consideration or planned consideration of the standard;

"(B) whether the United States is participating or plans to participate in the consideration of the standard;

"(C) the agenda for the United States participation, if any; and

"(D) the agency responsible for representing the United States with respect to the standard.

"(d) PUBLIC COMMENT.—The agency specified in subsection (c)(2)(D) shall provide an opportunity for public comment with respect to the standards for which the agency is responsible and shall take the comments into account in participating in the consideration of the standards and in proposing matters to be considered by the organization.

"SEC. 492. EQUIVALENCE DETERMINATIONS.

"(a) IN GENERAL.—An agency may not determine that a sanitary or phytosanitary measure of a foreign country is equivalent to a sanitary or phytosanitary measure established under the authority of Federal law unless the agency determines that the sanitary or phytosanitary measure of the foreign country provides at least the same level of sanitary or phytosanitary protection as the comparable sanitary or phytosanitary measure established under the authority of Federal law.

"(b) FDA DETERMINATION.—If the Commissioner proposes to issue a determination of the equivalency of a sanitary or phytosanitary measure of a foreign country to a measure that is required to be promulgated as a rule under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or other statute administered by the Food and Drug Administration, the Commissioner shall issue a proposed regulation to incorporate such determination and shall include in the notice of proposed rulemaking the basis for the determination that the sanitary or phytosanitary measure of a foreign country provides at least the same level of sanitary or phytosanitary protection as the comparable Federal sanitary or phytosanitary measure. The Commissioner shall provide opportunity for interested persons to comment on the proposed regulation. The Commissioner shall not issue a final regulation based on the proposal without taking into account the comments received.

"(c) NOTICE.—If the Commissioner proposes to issue a determination of the equivalency of a sanitary or phytosanitary measure of a foreign country to a sanitary or phytosanitary measure of the Food and Drug Administration that is not required to be promulgated as a rule under the Federal Food, Drug, and Cosmetic Act or other statute administered by the Food and Drug Administration, the Commissioner shall publish a notice in the Federal Register that identifies the basis for the determination that the measure provides at least the same level of sanitary or phytosanitary protection as the comparable Federal sanitary or phytosanitary measure. The Commissioner shall provide opportunity for interested persons to comment on the notice. The Commissioner shall not issue a final determination on the issue of equivalency without taking into account the comments received.

"SEC. 493. DEFINITIONS.

"(a) IN GENERAL.—As used in this subtitle:

"(1) AGENCY.—The term 'agency' means a Federal department or agency (or combination of Federal departments or agencies).

"(2) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Food and Drugs.

"(3) INTERNATIONAL STANDARD-SETTING ORGANIZATION.—The term 'international standard-setting organization' means an organization consisting of representatives of 2 or more countries, the purpose of which is to negotiate, develop, promulgate, or amend an international standard.

"(4) SANITARY OR PHYTOSANITARY STANDARD.—The term 'sanitary or phytosanitary standard' means a standard intended to form a basis for a sanitary or phytosanitary measure.

"(5) INTERNATIONAL STANDARD.—The term 'international standard' means a standard, guideline, or recommendation—

"(A) regarding food safety, adopted by the Codex Alimentarius Commission, including a standard, guideline, or recommendation regarding decomposition elaborated by the Codex Committee on Fish and Fishery Products, food additives, contaminants, hygienic practice, and methods of analysis and sampling;

"(B) regarding animal health and zoonoses, developed under the auspices of the International Office of Epizootics;

"(C) regarding plant health, developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with the North American Plant Protection Organization; or

"(D) established by or developed under any other international organization agreed to by the NAFTA countries (as defined in section 2(4) of the North American Free Trade Agreement Implementation Act) or by the WTO members (as defined in section 2(10) of the Uruguay Round Agreements Act).

"(b) OTHER DEFINITIONS.—The definitions set forth in section 463 apply for purposes of this subtitle except that in applying paragraph (7) of section 463 with respect to a sanitary or phytosanitary measure of a foreign country, any reference in such paragraph to the United States shall be deemed to be a reference to that foreign country."

Subtitle C—Standards

SEC. 441. THE FEDERAL SEED ACT.

The Federal Seed Act (7 U.S.C. 1551 et seq.) is amended—

(1) in section 301(a) (7 U.S.C. 1581(a))—

(A) by striking "(a)";

(B) in paragraph (1), by striking ", or is required to be stained and is not so stained, under the terms of this title,";

(C) by striking paragraph (3); and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in section 302 (7 U.S.C. 1582)—

(A) in subsection (a), by striking "staining," both places it appears; and

(B) by striking subsection (e);

(3) by striking section 303 (7 U.S.C. 1585) and inserting the following new section:

"SEC. 303. CERTAIN SEEDS NOT ADAPTED FOR GENERAL AGRICULTURAL USE.

"Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country is not adapted for general agricultural use in the United States, the Secretary shall publish the determination and the reasons for the determination.";

(4) in section 304 (7 U.S.C. 1586)—

(A) in subsection (a)—

(1) by inserting "or" at the end of paragraph (2);

(ii) by striking the semicolon at the end of paragraph (3) and inserting a period; and
(iii) by striking paragraphs (4) through (7);

(B) by striking subsection (b); and
(C) by redesignating subsection (c) as subsection (b).

Subtitle D—General Effective Date

SEC. 451. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this title, this title, and the amendments made by this title, shall take effect on the date of entry into force of the WTO Agreement with respect to the United States.

TITLE V—INTELLECTUAL PROPERTY

SEC. 501. DEFINITION.

For purposes of this title—

(1) the term "WTO Agreement" has the meaning given that term in section 2(9) of the Uruguay Round Agreements Act; and

(2) the term "WTO member country" has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act.

Subtitle A—Copyright Provisions

SEC. 511. RENTAL RIGHTS IN COMPUTER PROGRAMS.

Section 804(c) of the Computer Software Rental Amendments Act of 1990 (17 U.S.C. 109 note; 104 Stat. 5136) is amended by striking the first sentence.

SEC. 512. CIVIL PENALTIES FOR UNAUTHORIZED FIXATION OF AND TRAFFICKING IN SOUND RECORDINGS AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES.

(a) IN GENERAL.—Title 17, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 11—SOUND RECORDINGS AND MUSIC VIDEOS

"Sec.

"1101. Unauthorized fixation and trafficking in sound recordings and music videos.

"§ 1101. Unauthorized fixation and trafficking in sound recordings and music videos

"(a) UNAUTHORIZED ACTS.—Anyone who, without the consent of the performer or performers involved—

"(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation,

"(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance, or

"(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States,

shall be subject to the remedies provided in sections 502 through 505, to the same extent as an infringer of copyright.

"(b) DEFINITION.—As used in this section, the term "traffic in" means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent to transport, transfer, or dispose of.

"(c) APPLICABILITY.—This section shall apply to any act or acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act.

"(d) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the common law or statutes of any State."

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"11. Sound Recordings and Music Videos

SEC. 513. CRIMINAL PENALTIES FOR UNAUTHORIZED FIXATION OF AND TRAFFICKING IN SOUND RECORDINGS AND MUSIC VIDEOS OR LIVE MUSICAL PERFORMANCES.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by inserting after section 2319 the following:

"§ 2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances

"(a) OFFENSE.—Whoever, without the consent of the performer or performers involved, knowingly and for purposes of commercial advantage or private financial gain—

"(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation;

"(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance; or

"(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States;

shall be imprisoned for not more than 5 years or fined in the amount set forth in this title, or both, or if the offense is a second or subsequent offense, shall be imprisoned for not more than 10 years or fined in the amount set forth in this title, or both.

"(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court shall order the forfeiture and destruction of any copies or phonorecords created in violation thereof, as well as any plates, molds, matrices, masters, tapes, and film negatives by means of which such copies or phonorecords may be made. The court may also, in its discretion, order the forfeiture and destruction of any other equipment by means of which such copies or phonorecords may be reproduced, taking into account the nature, scope, and proportionality of the use of the equipment in the offense.

"(c) SEIZURE AND FORFEITURE.—If copies or phonorecords of sounds or sounds and images of a live musical performance are fixed outside of the United States without the consent of the performer or performers involved, such copies or phonorecords are subject to seizure and forfeiture in the United States in the same manner as property imported in violation of the customs laws. The Secretary of the Treasury shall, not later than 60 days after the date of the enactment of the Uruguay Round Agreements Act, issue regulations to carry out this subsection, including regulations by which any performer may, upon payment of a specified fee, be entitled to notification by the United States Customs Service of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.

"(d) DEFINITIONS.—As used in this section—

"(1) the terms 'copy', 'fixed', 'musical work', 'phonorecord', 'reproduce', 'sound recordings', and 'transmit' mean those terms within the meaning of title 17; and

"(2) the term 'traffic in' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent to transport, transfer, or dispose of.

"(e) APPLICABILITY.—This section shall apply to any Act or Acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319 the following:

"2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances."

SEC. 514. RESTORED WORKS.

(a) IN GENERAL.—Section 104A of title 17, United States Code, is amended to read as follows:

"§ 104A. Copyright in restored works

"(a) AUTOMATIC PROTECTION AND TERM.—

"(1) TERM.—

"(A) Copyright subsists, in accordance with this section, in restored works, and vests automatically on the date of restoration.

"(B) Any work in which copyright is restored under this section shall subsist for the remainder of the term of copyright that the work would have otherwise been granted in the United States if the work never entered the public domain in the United States.

"(2) EXCEPTION.—Any work in which the copyright was ever owned or administered by the Alien Property Custodian and in which the restored copyright would be owned by a government or instrumentality thereof, is not a restored work.

"(b) OWNERSHIP OF RESTORED COPYRIGHT.—A restored work vests initially in the author or initial rightholder of the work as determined by the law of the source country of the work.

"(c) FILING OF NOTICE OF INTENT TO ENFORCE RESTORED COPYRIGHT AGAINST RELIANCE PARTIES.—On or after the date of restoration, any person who owns a copyright in a restored work or an exclusive right therein may file with the Copyright Office a notice of intent to enforce that person's copyright or exclusive right or may serve such a notice directly on a reliance party. Acceptance of a notice by the Copyright Office is effective as to any reliance parties but shall not create a presumption of the validity of any of the facts stated therein. Service on a reliance party is effective as to that reliance party and any other reliance parties with actual knowledge of such service and of the contents of that notice.

"(d) REMEDIES FOR INFRINGEMENT OF RESTORED COPYRIGHTS.—

"(1) ENFORCEMENT OF COPYRIGHT IN RESTORED WORKS IN THE ABSENCE OF A RELIANCE PARTY.—As against any party who is not a reliance party, the remedies provided in chapter 5 of this title shall be available on or after the date of restoration of a restored copyright with respect to an act of infringement of the restored copyright that is commenced on or after the date of restoration.

"(2) ENFORCEMENT OF COPYRIGHT IN RESTORED WORKS AS AGAINST RELIANCE PARTIES.—As against a reliance party, except to the extent provided in paragraphs (3) and (4), the remedies provided in chapter 5 of this title shall be available, with respect to an act of infringement of a restored copyright, on or after the date of restoration of the restored copyright if the requirements of either of the following subparagraphs are met:

"(A)(i) The owner of the restored copyright (or such owner's agent) or the owner of an exclusive right therein (or such owner's agent) files with the Copyright Office, during

the 24-month period beginning on the date of restoration, a notice of intent to enforce the restored copyright; and

"(I)(I) the act of infringement commenced after the end of the 12-month period beginning on the date of publication of the notice in the Federal Register;

"(II) the act of infringement commenced before the end of the 12-month period described in subclause (I) and continued after the end of that 12-month period, in which case remedies shall be available only for infringement occurring after the end of that 12-month period; or

"(III) copies or phonorecords of a work in which copyright has been restored under this section are made after publication of the notice of intent in the Federal Register.

"(B)(i) The owner of the restored copyright (or such owner's agent) or the owner of an exclusive right therein (or such owner's agent) serves upon a reliance party a notice of intent to enforce a restored copyright; and

"(i)(I) the act of infringement commenced after the end of the 12-month period beginning on the date the notice of intent is received;

"(II) the act of infringement commenced before the end of the 12-month period described in subclause (I) and continued after the end of that 12-month period, in which case remedies shall be available only for the infringement occurring after the end of that 12-month period; or

"(III) copies or phonorecords of a work in which copyright has been restored under this section are made after receipt of the notice of intent.

In the event that notice is provided under both subparagraphs (A) and (B), the 12-month period referred to in such subparagraphs shall run from the earlier of publication or service of notice.

"(3) EXISTING DERIVATIVE WORKS.—(A) In the case of a derivative work that is based upon a restored work and is created—

"(i) before the date of the enactment of the Uruguay Round Agreements Act, if the source country of the derivative work is an eligible country on such date, or

"(ii) before the date of adherence or proclamation, if the source country of the derivative work is not an eligible country on such date of enactment,

a reliance party may continue to exploit that work for the duration of the restored copyright if the reliance party pays to the owner of the restored copyright reasonable compensation for conduct which would be subject to a remedy for infringement but for the provisions of this paragraph.

"(B) In the absence of an agreement between the parties, the amount of such compensation shall be determined by an action in United States district court, and shall reflect any harm to the actual or potential market for or value of the restored work from the reliance party's continued exploitation of the work, as well as compensation for the relative contributions of expression of the author of the restored work and the reliance party to the derivative work.

"(4) COMMENCEMENT OF INFRINGEMENT FOR RELIANCE PARTIES.—For purposes of section 412, in the case of reliance parties, infringement shall be deemed to have commenced before registration when acts which would have constituted infringement had the restored work been subject to copyright were commenced before the date of restoration.

"(e) NOTICES OF INTENT TO ENFORCE A RESTORED COPYRIGHT.—

"(1) NOTICES OF INTENT FILED WITH THE COPYRIGHT OFFICE.—(A)(i) A notice of intent

filed with the Copyright Office to enforce a restored copyright shall be signed by the owner of the restored copyright or the owner of an exclusive right therein, who files the notice under subsection (d)(2)(A)(i) (hereafter in this paragraph referred to as the 'owner'), or by the owner's agent, shall identify the title of the restored work, and shall include an English translation of the title and any other alternative titles known to the owner by which the restored work may be identified, and an address and telephone number at which the owner may be contacted. If the notice is signed by an agent, the agency relationship must have been constituted in a writing signed by the owner before the filing of the notice. The Copyright Office may specifically require in regulations other information to be included in the notice, but failure to provide such other information shall not invalidate the notice or be a basis for refusal to list the restored work in the Federal Register.

"(ii) If a work in which copyright is restored has no formal title, it shall be described in the notice of intent in detail sufficient to identify it.

"(iii) Minor errors or omissions may be corrected by further notice at any time after the notice of intent is filed. Notices of corrections for such minor errors or omissions shall be accepted after the period established in subsection (d)(2)(A)(i). Notices shall be published in the Federal Register pursuant to subparagraph (B).

"(B)(i) The Register of Copyrights shall publish in the Federal Register, commencing not later than 4 months after the date of restoration for a particular nation and every 4 months thereafter for a period of 2 years, lists identifying restored works and the ownership thereof if a notice of intent to enforce a restored copyright has been filed.

"(i) Not less than 1 list containing all notices of intent to enforce shall be maintained in the Public Information Office of the Copyright Office and shall be available for public inspection and copying during regular business hours pursuant to sections 705 and 708. Such list shall also be published in the Federal Register on an annual basis for the first 2 years after the applicable date of restoration.

"(C) The Register of Copyrights is authorized to fix reasonable fees based on the costs of receipt, processing, recording, and publication of notices of intent to enforce a restored copyright and corrections thereto.

"(D)(i) Not later than 90 days before the date the Agreement on Trade-Related Aspects of Intellectual Property referred to in section 101(d)(15) of the Uruguay Round Agreements Act enters into force with respect to the United States, the Copyright Office shall issue and publish in the Federal Register regulations governing the filing under this subsection of notices of intent to enforce a restored copyright.

"(ii) Such regulations shall permit owners of restored copyrights to file simultaneously for registration of the restored copyright.

"(2) NOTICES OF INTENT SERVED ON A RELIANCE PARTY.—(A) Notices of intent to enforce a restored copyright may be served on a reliance party at any time after the date of restoration of the restored copyright.

"(B) Notices of intent to enforce a restored copyright served on a reliance party shall be signed by the owner or the owner's agent, shall identify the restored work and the work in which the restored work is used, if any, in detail sufficient to identify them, and shall include an English translation of the title, any other alternative titles known

to the owner by which the work may be identified, the use or uses to which the owner objects, and an address and telephone number at which the reliance party may contact the owner. If the notice is signed by an agent, the agency relationship must have been constituted in writing and signed by the owner before service of the notice.

"(3) EFFECT OF MATERIAL FALSE STATEMENTS.—Any material false statement knowingly made with respect to any restored copyright identified in any notice of intent shall make void all claims and assertions made with respect to such restored copyright.

"(f) IMMUNITY FROM WARRANTY AND RELATED LIABILITY.—

"(1) IN GENERAL.—Any person who warrants, promises, or guarantees that a work does not violate an exclusive right granted in section 106 shall not be liable for legal, equitable, arbitral, or administrative relief if the warranty, promise, or guarantee is breached by virtue of the restoration of copyright under this section, if such warranty, promise, or guarantee is made before January 1, 1995.

"(2) PERFORMANCES.—No person shall be required to perform any act if such performance is made infringing by virtue of the restoration of copyright under the provisions of this section, if the obligation to perform was undertaken before January 1, 1995.

"(g) PROCLAMATION OF COPYRIGHT RESTORATION.—Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States, restored copyright protection on substantially the same basis as provided under this section, the President may by proclamation extend restored protection provided under this section to any work—

"(1) of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation; or

"(2) which was first published in that nation.

The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under such a proclamation.

"(h) DEFINITIONS.—For purposes of this section and section 109(a):

"(1) The term 'date of adherence or proclamation' means the earlier of the date on which a foreign nation which, as of the date the WTO Agreement enters into force with respect to the United States, is not a nation adhering to the Berne Convention or a WTO member country, becomes—

"(A) a nation adhering to the Berne Convention or a WTO member country; or

"(B) subject to a Presidential proclamation under subsection (g).

"(2) The 'date of restoration' of a restored copyright is the later of—

"(A) the date on which the Agreement on Trade-Related Aspects of Intellectual Property referred to in section 101(d)(15) of the Uruguay Round Agreements Act enters into force with respect to the United States, if the source country of the restored work is a nation adhering to the Berne Convention or a WTO member country on such date; or

"(B) the date of adherence or proclamation, in the case of any other source country of the restored work.

"(3) The term 'eligible country' means a nation, other than the United States, that is a WTO member country, adheres to the Berne Convention, or is subject to a proclamation under section 104A(g).

"(4) The term 'reliance party' means any person who—

"(A) with respect to a particular work, engages in acts, before the source country of that work becomes an eligible country, which would have violated section 106 if the restored work had been subject to copyright protection, and who, after the source country becomes an eligible country, continues to engage in such acts;

"(B) before the source country of a particular work becomes an eligible country, makes or acquires 1 or more copies or phonorecords of that work; or

"(C) as the result of the sale or other disposition of a derivative work covered under subsection (d)(3), or significant assets of a person described in subparagraph (A) or (B), is a successor, assignee, or licensee of that person.

"(5) The term 'restored copyright' means copyright in a restored work under this section.

"(6) The term 'restored work' means an original work of authorship that—

"(A) is protected under subsection (a);

"(B) is not in the public domain in its source country through expiration of term of protection;

"(C) is in the public domain in the United States due to—

"(i) noncompliance with formalities imposed at any time by United States copyright law, including failure of renewal, lack of proper notice, or failure to comply with any manufacturing requirements;

"(ii) lack of subject matter protection in the case of sound recordings fixed before February 15, 1972; or

"(iii) lack of national eligibility; and

"(D) has at least one author or rightholder who was, at the time the work was created, a national or domiciliary of an eligible country, and if published, was first published in an eligible country and not published in the United States during the 30-day period following publication in such eligible country.

"(7) The term 'rightholder' means the person—

"(A) who, with respect to a sound recording, first fixes a sound recording with authorization, or

"(B) who has acquired rights from the person described in subparagraph (A) by means of any conveyance or by operation of law.

"(8) The 'source country' of a restored work is—

"(A) a nation other than the United States;

"(B) in the case of an unpublished work—

"(i) the eligible country in which the author or rightholder is a national or domiciliary, or, if a restored work has more than 1 author or rightholder, the majority of foreign authors or rightholders are nationals or domiciliaries of eligible countries; or

"(ii) if the majority of authors or rightholders are not foreign, the nation other than the United States which has the most significant contacts with the work; and

"(C) in the case of a published work—

"(i) the eligible country in which the work is first published, or

"(ii) if the restored work is published on the same day in 2 or more eligible countries, the eligible country which has the most significant contacts with the work.

"(9) The terms 'WTO Agreement' and 'WTO member country' have the meanings given those terms in paragraphs (9) and (10), respectively, of section 2 of the Uruguay Round Agreements Act."

(b) LIMITATION.—Section 109(a) of title 17, United States Code, is amended by adding at the end the following: "Notwithstanding the

preceding sentence, copies or phonorecords of works subject to restored copyright under section 104A that are manufactured before the date of restoration of copyright or, with respect to reliance parties, before publication or service of notice under section 104A(e), may be sold or otherwise disposed of without the authorization of the owner of the restored copyright for purposes of direct or indirect commercial advantage only during the 12-month period beginning on—

"(1) the date of the publication in the Federal Register of the notice of intent filed with the Copyright Office under section 104A(d)(2)(A), or

"(2) the date of the receipt of actual notice served under section 104A(d)(2)(B), whichever occurs first."

(c) CONFORMING AMENDMENT.—The item relating to section 104A in the table of sections for chapter 1 of title 17, United States Code, is amended to read as follows:

"104A. Copyright in restored works."

Subtitle B—Trademark Provisions

SEC. 521. DEFINITION OF "ABANDONED".

Section 45 of the Act entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1127) (hereafter in this title referred to as the "Trademark Act of 1946"), is amended by amending the paragraph defining "abandoned" to read as follows:

"A mark shall be deemed to be 'abandoned' if either of the following occurs:

"(1) When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for 3 consecutive years shall be prima facie evidence of abandonment. 'Use' of a mark means the bona fide use of such mark made in the ordinary course of trade, and not made merely to reserve a right in a mark.

"(2) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to become the generic name for the goods or services on or in connection with which it is used or otherwise to lose its significance as a mark. Purchaser motivation shall not be a test for determining abandonment under this paragraph."

SEC. 522. NONREGISTRABILITY OF MISLEADING GEOGRAPHIC INDICATIONS FOR WINES AND SPIRITS.

Subsection (a) of section 2 of the Trademark Act of 1946 (15 U.S.C. 1052(a)) is amended to read as follows:

"(a) Consists of or comprises immoral, deceptive, or scandalous matter; or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute; or a geographical indication which, when used on or in connection with wines or spirits, identifies a place other than the origin of the goods and is first used on or in connection with wines or spirits by the applicant on or after one year after the date on which the WTO Agreement (as defined in section 2(9) of the Uruguay Round Agreements Act) enters into force with respect to the United States."

SEC. 523. EFFECTIVE DATE.

The amendments made by this subtitle take effect one year after the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle C—Patent Provisions

SEC. 531. TREATMENT OF INVENTIVE ACTIVITY.

(a) IN GENERAL.—Section 104 of title 35, United States Code, is amended to read as follows:

"§ 104. Invention made abroad

"(a) IN GENERAL.—

"(1) PROCEEDINGS.—In proceedings in the Patent and Trademark Office, in the courts, and before any other competent authority, an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country other than a NAFTA country or a WTO member country, except as provided in sections 119 and 365 of this title.

"(2) RIGHTS.—If an invention was made by a person, civil or military—

"(A) while domiciled in the United States, and serving in any other country in connection with operations by or on behalf of the United States,

"(B) while domiciled in a NAFTA country and serving in another country in connection with operations by or on behalf of that NAFTA country, or

"(C) while domiciled in a WTO member country and serving in another country in connection with operations by or on behalf of that WTO member country,

that person shall be entitled to the same rights of priority in the United States with respect to such invention as if such invention had been made in the United States, that NAFTA country, or that WTO member country, as the case may be.

"(3) USE OF INFORMATION.—To the extent that any information in a NAFTA country or a WTO member country concerning knowledge, use, or other activity relevant to proving or disproving a date of invention has not been made available for use in a proceeding in the Patent and Trademark Office, a court, or any other competent authority to the same extent as such information could be made available in the United States, the Commissioner, court, or such other authority shall draw appropriate inferences, or take other action permitted by statute, rule, or regulation, in favor of the party that requested the information in the proceeding.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'NAFTA country' has the meaning given that term in section 2(4) of the North American Free Trade Agreement Implementation Act; and

"(2) the term 'WTO member country' has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to all patent applications that are filed on or after the date that is 12 months after the date of entry into force of the WTO Agreement with respect to the United States.

(2) ESTABLISHMENT OF DATE.—An applicant for a patent, or a patentee, may not establish a date of invention for purposes of title 35, United States Code, that is earlier than 12 months after the date of entry into force of the WTO Agreement with respect to the United States by reference to knowledge or use, or other activity, in a WTO member country, except as provided in sections 119 and 365 of such title.

SEC. 532. PATENT TERM AND INTERNAL PRIORITY.

(a) PATENT RIGHTS.—

(1) CONTENTS AND TERM OF PATENT.—Section 154 of title 35, United States Code, is amended to read as follows:

§ 154. Contents and term of patent

"(a) IN GENERAL.—

"(1) CONTENTS.—Every patent shall contain a short title of the invention and a grant to the patentee, his heirs or assigns, of the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States, and, if the invention is a process, of the right to exclude others from using, offering for sale or selling throughout the United States, or importing into the United States, products made by that process, referring to the specification for the particulars thereof.

"(2) TERM.—Subject to the payment of fees under this title, such grant shall be for a term beginning on the date on which the patent issues and ending 20 years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, from the date on which the earliest such application was filed.

"(3) PRIORITY.—Priority under section 119, 365(a), or 365(b) of this title shall not be taken into account in determining the term of a patent.

"(4) SPECIFICATION AND DRAWING.—A copy of the specification and drawing shall be annexed to the patent and be a part of such patent.

"(b) TERM EXTENSION.—

"(1) INTERFERENCE DELAY OR SECRECY ORDERS.—If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

"(2) EXTENSION FOR APPELLATE REVIEW.—If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

"(3) LIMITATIONS.—The period of extension referred to in paragraph (2)—

"(A) shall include any period beginning on the date on which an appeal is filed under section 134 or 141 of this title, or on which an action is commenced under section 145 of this title, and ending on the date of a final decision in favor of the applicant;

"(B) shall be reduced by any time attributable to appellate review before the expiration of 3 years from the filing date of the application for patent; and

"(C) shall be reduced for the period of time during which the applicant for patent did not act with due diligence, as determined by the Commissioner.

"(4) LENGTH OF EXTENSION.—The total duration of all extensions of a patent under this subsection shall not exceed 5 years.

"(c) CONTINUATION.—

"(1) DETERMINATION.—The term of a patent that is in force on or that results from an application filed before the date that is 6 months after the date of the enactment of the Uruguay Round Agreements Act shall be the greater of the 20-year term as provided in subsection (a), or 17 years from grant, subject to any terminal disclaimers.

"(2) REMEDIES.—The remedies of sections 283, 284, and 285 of this title shall not apply to Acts which—

"(A) were commenced or for which substantial investment was made before the date that is 6 months after the date of the enactment of the Uruguay Round Agreements Act; and

"(B) became infringing by reason of paragraph (1).

"(3) REMUNERATION.—The acts referred to in paragraph (2) may be continued only upon the payment of an equitable remuneration to the patentee that is determined in an action brought under chapter 28 and chapter 29 (other than those provisions excluded by paragraph (2)) of this title."

(2) PROVISION OF FURTHER LIMITED REEXAMINATION AND CONDITIONS OF RESTRICTION REQUIREMENTS.—(A) The Commissioner of Patents and Trademarks shall prescribe regulations to provide for further limited reexamination of applications that have been pending for 2 years or longer as of the effective date of section 154(a)(2) of title 35, United States Code, as added by paragraph (1) of this subsection, taking into account any reference made in such application to any earlier filed application under section 120, 121, or 365(c) of such title. The Commissioner may establish appropriate fees for such further limited reexamination.

(B) The Commissioner of Patents and Trademarks shall prescribe regulations to provide for the examination of more than 1 independent and distinct invention in an application that has been pending for 3 years or longer as of the effective date of section 154(a)(2) of title 35, United States Code, as added by paragraph (1) of this subsection, taking into account any reference made in such application to any earlier filed application under section 120, 121, or 365(c) of such title. The Commissioner may establish appropriate fees for such examination.

(b) ESTABLISHMENT OF A DOMESTIC PRIORITY SYSTEM.—

(1) IN GENERAL.—Section 119 of title 35, United States Code, is amended—

(A) by amending the section caption to read as follows:

"§ 119. Benefit of earlier filing date; right of priority";

(B) by designating the undesignated paragraphs as subsections (a), (b), (c), and (d), respectively; and

(C) by adding at the end the following:

"(e)(1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application.

"(2) A provisional application filed under section 111(b) of this title may not be relied upon in any proceeding in the Patent and Trademark Office unless the fee set forth in subparagraph (A) or (C) of section 41(a)(1) of this title has been paid and the provisional application was pending on the filing date of the application for patent under section 111(a) or section 363 of this title."

(2) FEES.—Section 41(a)(1) of title 35, United States Code, is amended by adding at the end the following:

"(C) On filing each provisional application for an original patent, \$150."

(3) APPLICATIONS.—Section 111 of title 35, United States Code, is amended to read as follows:

"§ 111. Application

"(a) IN GENERAL.—

"(1) WRITTEN APPLICATION.—An application for patent shall be made, or authorized to be made, by the inventor, except as otherwise provided in this title, in writing to the Commissioner.

"(2) CONTENTS.—Such application shall include—

"(A) a specification as prescribed by section 112 of this title;

"(B) a drawing as prescribed by section 113 of this title; and

"(C) an oath by the applicant as prescribed by section 115 of this title.

"(3) FEE AND OATH.—The application must be accompanied by the fee required by law. The fee and oath may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner.

"(4) FAILURE TO SUBMIT.—Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee and oath was unavoidable or unintentional. The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

"(b) PROVISIONAL APPLICATION.—

"(1) AUTHORIZATION.—A provisional application for patent shall be made or authorized to be made by the inventor, except as otherwise provided in this title, in writing to the Commissioner. Such application shall include—

"(A) a specification as prescribed by the first paragraph of section 112 of this title; and

"(B) a drawing as prescribed by section 113 of this title.

"(2) CLAIM.—A claim, as required by the second through fifth paragraphs of section 112, shall not be required in a provisional application.

"(3) FEE.—(A) The application must be accompanied by the fee required by law.

"(B) The fee may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner.

"(C) Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee was unavoidable or unintentional.

"(4) FILING DATE.—The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

"(5) ABANDONMENT.—The provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.

"(6) OTHER BASIS FOR PROVISIONAL APPLICATION.—Subject to all the conditions in this

subsection and section 119(e) of this title, and as prescribed by the Commissioner, an application for patent filed under subsection (a) may be treated as a provisional application for patent.

"(7) NO RIGHT OF PRIORITY OR BENEFIT OF EARLIEST FILING DATE.—A provisional application shall not be entitled to the right of priority of any other application under section 119 or 365(a) of this title or to the benefit of an earlier filing date in the United States under section 120, 121, or 365(c) of this title.

"(8) APPLICABLE PROVISIONS.—The provisions of this title relating to applications for patent shall apply to provisional applications for patent, except as otherwise provided, and except that provisional applications for patent shall not be subject to sections 115, 131, 135, and 157 of this title."

(c) CONFORMING CHANGES.—

(1) Section 156(a)(2) of title 35, United States Code, is amended by inserting "under subsection (e)(1) of this section" after "extended".

(2) Section 172 of title 35, United States Code, is amended—

(A) by striking "section 119" and inserting "subsections (a) through (d) of section 119"; and

(B) by inserting at the end the following new sentence:

"The right of priority provided for by section 119(e) of this title shall not apply to designs."

(3) Section 173 of title 35, United States Code, is amended by inserting "from the date of grant" after "years".

(4) Section 365 of title 35, United States Code, is amended—

(A) in subsection (a), by striking "section 119" and inserting "subsections (a) through (d) of section 119"; and

(B) in subsection (b), by striking "the first paragraph of section 119" and inserting "section 119(a)".

(5) Section 373 of title 35, United States Code, is amended by striking "section 119" and inserting "subsections (a) through (d) of section 119".

(6) The table of sections for chapter 11 of title 35, United States Code, is amended—

(A) by striking the item relating to section 111 and inserting the following:

"111. Application."; and

(B) by striking the item relating to section 119 and inserting the following:

"119. Benefit of earlier filing date; right of priority."

SEC. 533. PATENT RIGHTS.

(a) DEFINITION OF INFRINGEMENT.—Section 271 of title 35, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ", offers to sell," after "uses"; and

(B) by inserting "or imports into the United States any patented invention" after "the United States";

(2) in subsection (c), by striking "sells" and inserting "offers to sell or sells within the United States or imports into the United States";

(3) in subsection (e)—

(A) in paragraph (1), by striking "or sell" and inserting "offer to sell, or sell within the United States or import into the United States";

(B) in paragraph (3), by striking "or selling" and inserting "offering to sell, or selling within the United States or importing into the United States";

(C) in paragraph (4)(B), by striking "or sale" and inserting "offer to sell, or sale within the United States or importation into the United States"; and

(D) in paragraph (4)(C), by striking "or sale" and inserting "offer to sell, or sale within the United States or importation into the United States";

(4) in subsection (g)—

(A) by striking "sells" and inserting "offers to sell, sells,";

(B) by striking "importation, sale," and inserting "importation, offer to sell, sale,"; and

(C) by striking "other use or" and inserting "other use, offer to sell, or"; and

(5) by adding at the end the following:

"(1) As used in this section, an 'offer for sale' or an 'offer to sell' by a person other than the patentee, or any designee of the patentee, is that in which the sale will occur before the expiration of the term of the patent."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 41(c) of title 35, United States Code, is amended to read as follows:

"(2) A patent, the term of which has been maintained as a result of the acceptance of a payment of a maintenance fee under this subsection, shall not abridge or affect the right of any person or that person's successors in business who made, purchased, offered to sell, or used anything protected by the patent within the United States, or imported anything protected by the patent into the United States after the 6-month grace period but prior to the acceptance of a maintenance fee under this subsection, to continue the use of, to offer for sale, or to sell to others to be used, offered for sale, or sold, the specific thing so made, purchased, offered for sale, used, or imported. The court before which such matter is in question may provide for the continued manufacture, use, offer for sale, or sale of the thing made, purchased, offered for sale, or used within the United States, or imported into the United States, as specified, or for the manufacture, use, offer for sale, or sale in the United States of which substantial preparation was made after the 6-month grace period but before the acceptance of a maintenance fee under this subsection, and the court may also provide for the continued practice of any process that is practiced, or for the practice of which substantial preparation was made, after the 6-month grace period but before the acceptance of a maintenance fee under this subsection, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced after the 6-month grace period but before the acceptance of a maintenance fee under this subsection."

(2) The second undesignated paragraph of section 252 of title 35, United States Code, is amended to read as follows:

"A reissued patent shall not abridge or affect the right of any person or that person's successors in business who, prior to the grant of a reissue, made, purchased, offered to sell, or used within the United States, or imported into the United States, anything patented by the reissued patent, to continue the use of, to offer to sell, or to sell to others to be used, offered for sale, or sold, the specific thing so made, purchased, offered for sale, used, or imported unless the making, using, offering for sale, or selling of such thing infringes a valid claim of the reissued patent which was in the original patent. The court before which such matter is in question may provide for the continued manufac-

ture, use, offer for sale, or sale of the thing made, purchased, offered for sale, used, or imported as specified, or for the manufacture, use, offer for sale, or sale in the United States of which substantial preparation was made before the grant of the reissue, and the court may also provide for the continued practice of any process patented by the reissue that is practiced, or for the practice of which substantial preparation was made, before the grant of the reissue, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the reissue."

(3) Section 262 of title 35, United States Code, is amended—

(A) by striking "use or sell" and inserting "use, offer to sell, or sell"; and

(B) by inserting "within the United States, or import the patented invention into the United States," after "invention".

(4) Section 272 of title 35, United States Code, is amended by striking "not sold" and inserting "not offered for sale or sold".

(5) Section 287 of title 35, United States Code, is amended—

(A) in subsection (a)—

(i) by striking "making or selling" and inserting "making, offering for sale, or selling within the United States"; and

(ii) by inserting "or importing any patented article into the United States," after "under them,"; and

(B) in subsection (b)—

(i) in paragraph (1)(C), by striking "use, or sale" and inserting "use, offer for sale, or sale";

(ii) in paragraph (4)(A), by striking "sold or" and inserting "sold, offered for sale, or" in the matter preceding clause (i);

(iii) in paragraph (4)(A)(ii), by striking "use, or sale" and inserting "use, offer for sale, or sale";

(iv) in paragraph (4)(C), by striking "have been sold" and inserting "have been offered for sale or sold"; and

(v) in paragraph (4)(C), by striking "United States before" and inserting "United States, or imported by the person into the United States, before".

(6) Section 292(a) of title 35, United States Code, is amended—

(A) by striking "used, or sold by him" and inserting "used, offered for sale, or sold by such person within the United States, or imported by the person into the United States"; and

(B) by striking "made or sold" and inserting "made, offered for sale, sold, or imported into the United States".

(7) Section 295 of title 35, United States Code, is amended by striking "sale, or use" and inserting "sale, offer for sale, or use".

(8) Section 307(b) of title 35, United States Code, is amended by striking "used anything" and inserting "used within the United States, or imported into the United States, anything".

SEC. 534. EFFECTIVE DATES AND APPLICATION.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this subtitle take effect on the date that is one year after the date on which the WTO Agreement enters into force with respect to the United States.

(b) PATENT APPLICATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by section 532 take effect on the date that is 6 months after the date of the enactment of this Act and shall apply to all patent applications filed in the United States on or after the effective date.

(2) SECTION 154(a)(1).—Section 154(a)(1) of title 35, United States Code, as amended by

section 532(a)(1) of this Act, shall take effect on the effective date described in subsection (a).

(3) **EARLIEST FILING.**—The term of a patent granted on an application that is filed on or after the effective date described in subsection (a) and that contains a specific reference to an earlier application filed under the provisions of section 120, 121, or 365(c) of title 35, United States Code, shall be measured from the filing date of the earliest filed application.

TITLE VI—RELATED PROVISIONS

Subtitle A—Expiring Provisions

SEC. 601. GENERALIZED SYSTEM OF PREFERENCES.

(a) **EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.**—Section 505(a) of the Trade Act of 1974 (19 U.S.C. 2465(a)) is amended by striking "September 30, 1994" and inserting "July 31, 1995".

(b) **RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.**—

(1) **IN GENERAL.**—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to paragraph (2), the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 1994, and

(B) that was made after September 30, 1994, and before such date of enactment,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(2) **REQUESTS.**—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 602. U.S. INSULAR POSSESSIONS.

(a) **EXTENSION OF VERIFICATION AND CERTIFICATE ISSUANCE PROVISIONS.**—Additional U.S. Note 5(h)(i) to chapter 91 of the HTS is amended by striking "and before January 1, 1995," and inserting "and before January 1, 2007,".

(b) **EXTENSION OF CERTIFICATE NUMBER PIC-EV-89.**—Notwithstanding any other provision of law, the production incentive certificate, number PIC-EV-89, issued jointly by the Secretary of Commerce and the Secretary of the Interior, pursuant to paragraph (h)(i)(B) of Additional U.S. Note 5 to chapter 91 of the HTS (formerly paragraph (h)(i)(II) of headnote 6 of schedule 7, part 2, subpart E of the Tariff Schedules of the United States), shall be deemed to have been reissued on the date of the enactment of this Act in the amount of the balance remaining on such certificate, and shall expire on the date that is 1 year after such date of enactment.

Subtitle B—Certain Customs Provisions

SEC. 611. REIMBURSEMENTS FROM CUSTOMS USER FEE ACCOUNT.

(a) **IN GENERAL.**—Subclause (II) of section 13031(f)(3)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(i)(II)) is amended to read as follows:

"(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any

fiscal year, exceed the difference between the total cost of all the premium pay for such year calculated under section 5(b) and the cost of the night and holiday premium pay that the Customs Service would have incurred for the same inspectional work on the day before the effective date of section 13813 of the Omnibus Budget Reconciliation Act of 1993,".

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to customs inspectional services performed on or after January 1, 1994.

SEC. 612. MERCHANDISE PROCESSING FEES.

(a) **IN GENERAL.**—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) in subsection (a)(9)—

(A) in subparagraph (A), by striking "0.17" and inserting "0.21";

(B) in subparagraph (B)(i), by striking "(but not to a rate of more than 0.19 percent nor less than 0.15 percent) that would" and inserting "(but not to a rate of more than 0.21 percent nor less than 0.15 percent) and the amounts specified in subsection (b)(8)(A)(i) (but not to more than \$485 nor less than \$21) to rates and amounts which would"; and

(C) in subparagraph (B)(ii), by striking "section 613A of the Tariff Act of 1930" and inserting "subsection (f)";

(2) in subsection (a)(10)—

(A) in subparagraph (C), by striking "entry or release," and inserting "entry or release,".

(B) in clause (ii), by striking "\$5" and inserting "\$6", and

(C) in clause (iii), by striking "\$8" and inserting "\$9", and

(3) in subsection (b)(8)(A)(i), by striking "\$400 or be less than \$21", and inserting "\$485 or be less than \$25, unless adjusted pursuant to subsection (a)(9)(B)".

(b) **EFFECTIVE DATE.**—The amendments made by this section apply to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1995.

Subtitle C—Conforming Amendments

SEC. 621. CONFORMING AMENDMENTS.

(a) **TRADE LAWS.**—

(1) Section 1317(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 1677k(a)(1)) is amended—

(A) by inserting "(A)" after "(1)";

(B) by striking "General Agreement on Tariffs and Trade" and inserting "GATT 1994"; and

(C) by adding at the end the following:

"(B) The term 'GATT 1994' has the meaning given that term in section 2(1)(B) of the Uruguay Round Agreements Act."

(2) Section 212(c)(4) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(c)(4)) is amended by striking "General" and all that follows through "1979" and inserting "WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(3) Section 203(d)(4) of the Andean Trade Preference Act (19 U.S.C. 3202(d)(4)) is amended by striking "General" and all that follows through "1979" and inserting "WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(4) Section 1106 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2905) is amended—

(A) in subsection (a), by striking "the GATT" and inserting "the GATT 1947, or to the WTO Agreement,";

(B) in subsections (b) and (c), by inserting after "the GATT" each place it appears "1947 or the WTO Agreement";

(C) by adding at the end the following new subsection:

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

"(1) The term 'GATT 1947' has the meaning given that term in section 2(1)(A) of the Uruguay Round Agreements Act.

"(2) The term 'WTO Agreement' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994 and the multilateral trade agreements (as such term is defined in section 2(4) of the Uruguay Round Agreements Act)."; and

(D) by inserting after "GENERAL AGREEMENT ON TARIFFS AND TRADE" in the heading "FOR THE WTO".

(5) Section 1107(a)(3) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2906(3)) is amended by striking "the General Agreement on Tariffs and Trade" and inserting "the GATT 1947 (as defined in section 2(1)(A) of the Uruguay Round Agreements Act)".

(6) Section 1378(2) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3107(2)) is amended by striking "the General Agreement on Tariffs and Trade" and inserting "the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (8) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(7) Section 1382 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3111) is amended by striking "the General Agreement on Tariffs and Trade" and inserting "the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(8) Section 141(c)(1) of the Trade Act of 1974 (19 U.S.C. 2171(c)(1)) is amended—

(A) in subparagraph (C) by inserting "all negotiations on any matter considered under the auspices of the World Trade Organization," after "including"; and

(B) in subparagraph (D) by inserting "including any matter considered under the auspices of the World Trade Organization," after "functions".

(9) Section 301(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)(A)) is amended by striking "the Contracting Parties" and all that follows through "Parties," and inserting "the Dispute Settlement Body (as defined in section 121(5) of the Uruguay Round Agreements Act) has adopted a report,".

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date on which the WTO Agreement enters into force with respect to the United States.

TITLE VII—REVENUE PROVISIONS

SEC. 700. AMENDMENT OF 1986 CODE AND TABLE OF CONTENTS.

(a) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) **TABLE OF CONTENTS.**—

TITLE VII—REVENUE PROVISIONS

Sec. 700. Amendment of 1986 Code and table of contents.

- Subtitle A—Withholding Tax Provisions
- Sec. 701. Withholding on distributions of Indian casino profits to tribal members.
- Sec. 702. Voluntary withholding on certain Federal payments and on unemployment compensation.
- Subtitle B—Provisions Relating to Estimated Taxes and Payments and Deposits of Taxes
- Sec. 711. Treatment of subpart F and section 936 income of taxpayers using annualized method for estimated tax.
- Sec. 712. Time for payments and deposits of certain taxes.
- Sec. 713. Reduction in rate of interest paid on certain corporate overpayments.
- Subtitle C—Earned Income Tax Credit
- Sec. 721. Extension of earned income tax credit to military personnel stationed outside the United States.
- Sec. 722. Certain nonresident aliens ineligible for earned income tax credit.
- Sec. 723. Income of prisoners disregarded in determining earned income tax credit.
- Subtitle D—Provisions Relating To Retirement Benefits
- Sec. 731. Treatment of excess pension assets used for retiree health benefits.
- Sec. 732. Rounding rules for cost-of-living adjustments.
- Sec. 733. Increase in inclusion of social security benefits paid to non-residents.
- Subtitle E—Other Provisions
- Sec. 741. Partnership distributions of marketable securities.
- Sec. 742. Taxpayer identification numbers required at birth.
- Sec. 743. Extension of Internal Revenue Service user fees.
- Sec. 744. Modification of substantial understatement penalty for corporations participating in tax shelters.
- Sec. 745. Modification of authority to set terms and conditions for savings bonds.
- Subtitle F—Pension Plan Funding and Premiums
- Sec. 750. Short title.
- PART I—PENSION PLAN FUNDING
- SUBPART A—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986
- Sec. 751. Minimum funding requirements.
- Sec. 752. Limitation on changes in current liability assumptions.
- Sec. 753. Anticipation of bargained benefit increases.
- Sec. 754. Modification of quarterly contribution requirement.
- Sec. 755. Exceptions to excise tax on non-deductible contributions.
- SUBPART B—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974
- Sec. 761. Minimum funding requirements.
- Sec. 762. Limitation on changes in current liability assumptions.
- Sec. 763. Anticipation of bargained benefit increases.
- Sec. 764. Modification of quarterly contribution requirement.
- SUBPART C—OTHER FUNDING PROVISIONS
- Sec. 766. Prohibition on benefit increases where plan sponsor is in bankruptcy.

- Sec. 767. Single sum distributions.
- Sec. 768. Adjustments to lien for missed minimum funding contributions.
- Sec. 769. Special funding rules for certain plans.
- PART II—AMENDMENTS RELATED TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974
- Sec. 771. Reportable events.
- Sec. 772. Certain information required to be furnished to PBGC.
- Sec. 773. Enforcement of minimum funding requirements.
- Sec. 774. Computation of additional PBGC premium.
- Sec. 775. Disclosure to participants.
- Sec. 776. Missing participants.
- Sec. 777. Modification of maximum guarantee for disability benefits.
- Sec. 778. Procedures to facilitate distribution of termination benefits.
- PART III—EFFECTIVE DATES
- Sec. 781. Effective dates.

Subtitle A—Withholding Tax Provisions

SEC. 701. WITHHOLDING ON DISTRIBUTIONS OF INDIAN CASINO PROFITS TO TRIBAL MEMBERS.

(a) IN GENERAL.—Section 3402 (relating to income tax collected at source) is amended by inserting after subsection (q) the following new subsection:

“(r) EXTENSION OF WITHHOLDING TO CERTAIN TAXABLE PAYMENTS OF INDIAN CASINO PROFITS.—

“(1) IN GENERAL.—Every person, including an Indian tribe, making a payment to a member of an Indian tribe from the net revenues of any class II or class III gaming activity conducted or licensed by such tribe shall deduct and withhold from such payment a tax in an amount equal to such payment's proportionate share of the annualized tax.

“(2) EXCEPTION.—The tax imposed by paragraph (1) shall not apply to any payment to the extent that the payment, when annualized, does not exceed an amount equal to the sum of—

“(A) the basic standard deduction (as defined in section 63(c)) for an individual to whom section 63(c)(2)(C) applies, and

“(B) the exemption amount (as defined in section 151(d)).

“(3) ANNUALIZED TAX.—For purposes of paragraph (1), the term ‘annualized tax’ means, with respect to any payment, the amount of tax which would be imposed by section 1(c) (determined without regard to any rate of tax in excess of 31 percent) on an amount of taxable income equal to the excess of—

“(A) the annualized amount of such payment, over

“(B) the amount determined under paragraph (2).

“(4) CLASSES OF GAMING ACTIVITIES, ETC.—For purposes of this subsection, terms used in paragraph (1) which are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), as in effect on the date of the enactment of this subsection, shall have the respective meanings given such terms by such section.

“(5) ANNUALIZATION.—Payments shall be placed on an annualized basis under regulations prescribed by the Secretary.

“(6) ALTERNATE WITHHOLDING PROCEDURES.—At the election of an Indian tribe, the tax imposed by this subsection on any payment made by such tribe shall be determined in accordance with such tables or computational procedures as may be specified in regulations prescribed by the Sec-

retary (in lieu of in accordance with paragraphs (2) and (3)).

“(7) COORDINATION WITH OTHER SECTIONS.—For purposes of this chapter and so much of subtitle F as relates to this chapter, payments to any person which are subject to withholding under this subsection shall be treated as if they were wages paid by an employer to an employee.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1994.

SEC. 702. VOLUNTARY WITHHOLDING ON CERTAIN FEDERAL PAYMENTS AND ON UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Subsection (p) of section 3402 (relating to voluntary withholding agreements) is amended to read as follows:

“(p) VOLUNTARY WITHHOLDING AGREEMENTS.—

“(1) CERTAIN FEDERAL PAYMENTS.—

“(A) IN GENERAL.—If, at the time a specified Federal payment is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages by an employer to an employee.

“(B) AMOUNT WITHHELD.—The amount to be deducted and withheld under this chapter from any payment to which any request under subparagraph (A) applies shall be an amount equal to the percentage of such payment specified in such request. Such a request shall apply to any payment only if the percentage specified is 7, 15, 28, or 31 percent or such other percentage as is permitted under regulations prescribed by the Secretary.

“(C) SPECIFIED FEDERAL PAYMENTS.—For purposes of this paragraph, the term ‘specified Federal payment’ means—

“(i) any payment of a social security benefit (as defined in section 86(d)),

“(ii) any payment referred to in the second sentence of section 451(d) which is treated as insurance proceeds,

“(iii) any amount which is includable in gross income under section 77(a), and

“(iv) any other payment made pursuant to Federal law which is specified by the Secretary for purposes of this paragraph.

“(D) REQUESTS FOR WITHHOLDING.—Rules similar to the rules that apply to annuities under subsection (o)(4) shall apply to requests under this paragraph and paragraph (2).

“(2) VOLUNTARY WITHHOLDING ON UNEMPLOYMENT BENEFITS.—If, at the time a payment of unemployment compensation (as defined in section 85(b)) is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages by an employer to an employee. The amount to be deducted and withheld under this chapter from any payment to which any request under this paragraph applies shall be an amount equal to 15 percent of such payment.

“(3) AUTHORITY FOR OTHER VOLUNTARY WITHHOLDING.—The Secretary is authorized by regulations to provide for withholding—

“(A) from remuneration for services performed by an employee for the employee's employer which (without regard to this paragraph) does not constitute wages, and

“(B) from any other type of payment with respect to which the Secretary finds that withholding would be appropriate under the provisions of this chapter,

If the employer and employee, or the person making and the person receiving such other type of payment, agree to such withholding. Such agreement shall be in such form and manner as the Secretary may by regulations prescribe. For purposes of this chapter (and so much of subtitle F as relates to this chapter), remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect."

(b) STATE LAW MUST PERMIT VOLUNTARY WITHHOLDING OF FEDERAL INCOME TAX FROM UNEMPLOYMENT COMPENSATION.—Section 3304(a) is amended by striking "and" at the end of paragraph (17), by redesignating paragraph (18) as paragraph (19), and by inserting after paragraph (17) the following new paragraph:

"(18) Federal individual income tax from unemployment compensation is to be deducted and withheld if an individual receiving such compensation voluntarily requests such deduction and withholding; and"

(c) WITHHOLDING FROM UNEMPLOYMENT COMPENSATION OF FEDERAL, STATE, AND LOCAL INCOME TAXES PERMITTED.—

(1) Subparagraph (C) of section 3304(a)(4) is amended by inserting after "health insurance" the following: ", or the withholding of Federal, State, or local individual income tax."

(2) Subsection (f) of section 3306 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) nothing in this subsection shall be construed to prohibit deducting any amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance, or the withholding of Federal, State, or local individual income tax, if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;"

(3) Paragraph (5) of section 303(a) of the Social Security Act is amended by inserting after "health insurance" the following: ", or the withholding of Federal, State, or local individual income tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1996.

Subtitle B—Provisions Relating to Estimated Taxes and Payments and Deposits of Taxes

SEC. 711. TREATMENT OF SUBPART F AND SECTION 936 INCOME OF TAXPAYERS USING ANNUALIZED METHOD FOR ESTIMATED TAX.

(a) CORPORATIONS.—Section 6655(e) (relating to lower required installment where annualized income installment is less) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF SUBPART F AND SECTION 936 INCOME.—

"(A) IN GENERAL.—Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under paragraph (2) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

"(B) PRIOR YEAR SAFE HARBOR.—

"(1) IN GENERAL.—If a taxpayer elects to have this subparagraph apply for any taxable year—

"(I) subparagraph (A) shall not apply, and

"(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in subparagraph (A) in an amount equal to 115 percent of the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year).

"(ii) SPECIAL RULE FOR NONCONTROLLING SHAREHOLDER.—

"(I) IN GENERAL.—If a taxpayer making the election under clause (1) is a noncontrolling shareholder of a corporation, clause (1)(II) shall be applied with respect to items of such corporation by substituting '100 percent' for '115 percent'.

"(II) NONCONTROLLING SHAREHOLDER.—For purposes of subclause (I), the term 'noncontrolling shareholder' means, with respect to any corporation, a shareholder which (as of the beginning of the taxable year for which the installment is being made) does not own (within the meaning of section 958(a)), and is not treated as owning (within the meaning of section 958(b)), more than 50 percent (by vote or value) of the stock in the corporation."

(b) INDIVIDUALS.—Section 6654(d)(2) (relating to lower required installment where annualized income installment is less) is amended by adding at the end the following new subparagraph:

"(D) TREATMENT OF SUBPART F AND SECTION 936 INCOME.—

"(i) IN GENERAL.—Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under subparagraph (B) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

"(ii) PRIOR YEAR SAFE HARBOR.—If a taxpayer elects to have this clause apply to any taxable year—

"(I) clause (1) shall not apply, and

"(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in clause (1) in an amount equal to the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after December 31, 1994.

SEC. 712. TIME FOR PAYMENTS AND DEPOSITS OF CERTAIN TAXES.

(a) DEPOSITS REQUIRED FOR SEMIMONTHLY PERIODS.—Subsection (f) of section 6302 (relating to collection authority) is amended to read as follows:

"(f) TIME FOR DEPOSIT OF CERTAIN EXCISE TAXES.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection and subsection (e), if any person is required under regulations to make deposits of taxes under subtitle D with respect to semimonthly periods, such person shall make deposits of such taxes for the period beginning on September 16 and ending on September 26 not later than September 29. In the case of taxes imposed

by sections 4261 and 4271, this paragraph shall not apply to periods before January 1, 1997.

"(2) TAXES ON OZONE DEPLETING CHEMICALS.—If any person is required under regulations to make deposits of taxes under subchapter D of chapter 38 with respect to semimonthly periods, in lieu of paragraph (1), such person shall make deposits of such taxes for—

"(A) the second semimonthly period in August, and

"(B) the period beginning on September 1 and ending on September 11,

not later than September 29.

"(3) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of deposits not required to be made by electronic funds transfer, paragraphs (1) and (2) shall be applied by substituting 'September 25' for 'September 26', 'September 10' for 'September 11', and 'September 28' for 'September 29'.

"(4) SPECIAL RULE WHERE DUE DATE ON SATURDAY OR SUNDAY.—If, but for this paragraph, the due date under paragraph (1), (2), or (3) would fall on a Saturday or Sunday, such due date shall be deemed to be—

"(A) in the case of Saturday, the preceding day, and

"(B) in the case of Sunday, the following day."

(b) TAXES ON DISTILLED SPIRITS, WINES, AND BEER.—

(1) Subsection (d) of section 5061 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR TAX DUE IN SEPTEMBER.—

"(A) IN GENERAL.—Notwithstanding the preceding provisions of this subsection, the taxes on distilled spirits, wines, and beer for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

"(B) SAFE HARBOR.—The requirement of subparagraph (A) shall be treated as met if the amount paid not later than September 29 is not less than $\frac{1}{15}$ of the taxes on distilled spirits, wines, and beer for the period beginning on September 1 and ending on September 15.

"(C) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of payments not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting 'September 25' for 'September 26', 'September 28' for 'September 29', and $\frac{2}{3}$ for $\frac{1}{15}$."

(2) Section 5061(d)(5), as redesignated by paragraph (1), is amended—

(A) by inserting "(or the immediately following day where the due date described in paragraph (4) falls on a Sunday)" before the period at the end, and

(B) by striking "14TH DAY" in the heading and inserting "DUE DATE".

(c) TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES.—

(1) Paragraph (2) of section 5703(b) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULE FOR TAX DUE IN SEPTEMBER.—

"(1) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

"(ii) SAFE HARBOR.—The requirement of clause (1) shall be treated as met if the

amount paid not later than September 29 is not less than $\frac{1}{4}$ of the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 1 and ending on September 15.

"(ii) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of payments not required to be made by electronic funds transfer, clauses (i) and (ii) shall be applied by substituting 'September 25' for 'September 26', 'September 28' for 'September 29', and ' $\frac{2}{8}$ ' for ' $\frac{1}{4}$ '."

(2) Section 5703(b)(2)(E), as redesignated by paragraph (1), is amended—

(A) by inserting "(or the immediately following day where the due date described in subparagraph (D) falls on a Sunday)" before the period at the end, and

(B) by striking "14TH DAY" in the heading and inserting "DUE DATE".

(d) COMMUNICATION SERVICES AND AIRLINE TICKETS.—Subsection (e) of section 6302 is amended to read as follows:

"(e) TIME FOR DEPOSIT OF TAXES ON COMMUNICATIONS SERVICES AND AIRLINE TICKETS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semi-monthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semi-monthly period following the period to which such amounts relate.

"(2) SPECIAL RULE FOR TAX DUE IN SEPTEMBER.—

"(A) AMOUNTS CONSIDERED COLLECTED.—In the case of a person required to make deposits of the tax imposed by—

"(i) section 4251, or

"(ii) effective on January 1, 1997, section 4261 or 4271,

with respect to amounts considered collected by such person during any semi-monthly period, the amount of such tax included in bills rendered or tickets sold during the period beginning on September 1 and ending on September 11 shall be deposited not later than September 29.

"(B) SPECIAL RULE WHERE SEPTEMBER 29 IS ON SATURDAY OR SUNDAY.—If September 29 falls on a Saturday or Sunday, the due date under subparagraph (A) shall be—

"(i) in the case of Saturday, the preceding day, and

"(ii) in the case of Sunday, the following day.

"(C) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of deposits not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting 'September 10' for 'September 11' and 'September 28' for 'September 29'.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. 713. REDUCTION IN RATE OF INTEREST PAID ON CERTAIN CORPORATE OVERPAYMENTS.

(a) IN GENERAL.—Paragraph (1) of section 6621(a) (defining overpayment rate) is amended by adding at the end the following new flush sentence:

"To the extent that an overpayment of tax by a corporation for any taxable period (as defined in subsection (c)(3)) exceeds \$10,000, subparagraph (B) shall be applied by substituting '0.5 percentage point' for '2 percentage points'."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for purposes of determining interest for periods after December 31, 1994.

Subtitle C—Earned Income Tax Credit

SEC. 721. EXTENSION OF EARNED INCOME TAX CREDIT TO MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subsection (c) of section 32 (relating to earned income credit) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES.—For purposes of paragraphs (1)(A)(i)(I) and (3)(E), the principal place of abode of a member of the Armed Forces of the United States shall be treated as in the United States during any period during which such member is stationed outside the United States while serving on extended active duty (as defined in section 1034(h)(3)) with the Armed Forces of the United States."

(b) REPORTING OF MILITARY EARNED INCOME.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and by inserting ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit)."

(c) ADVANCE PAYMENT OF EARNED INCOME CREDIT BASED ON MILITARY EARNED INCOME.—Paragraph (1) of section 3507(c) (defining earned income advance amount) is amended by adding at the end the following new sentence:

"In the case of an employee who is a member of the Armed Forces of the United States, the earned income advance amount shall be determined by taking into account such employee's earned income as determined for purposes of section 32."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to remuneration paid after December 31, 1994.

SEC. 722. CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 32(c) (defining eligible individual) is amended by adding at the end the following new subparagraph:

"(E) LIMITATION ON ELIGIBILITY OF NONRESIDENT ALIENS.—The term 'eligible individual' shall not include any individual who is a nonresident alien individual for any portion of the taxable year unless such individual is treated for such taxable year as a resident of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

SEC. 723. INCOME OF PRISONERS DISREGARDED IN DETERMINING EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 32(c)(2) (defining earned income) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iv) no amount received for services provided by an individual while the individual is an inmate at a penal institution shall be taken into account."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993.

Subtitle D—Provisions Relating To Retirement Benefits

SEC. 731. TREATMENT OF EXCESS PENSION ASSETS USED FOR RETIREE HEALTH BENEFITS.

(a) 5-YEAR EXTENSION.—Paragraph (5) of section 420(b) (defining qualified transfer) is amended by striking "1995" and inserting "2000".

(b) MINIMUM BENEFIT REQUIREMENTS.—Paragraph (3) of section 420(c) (relating to requirements of plans transferring assets) is amended to read as follows:

"(3) MAINTENANCE OF BENEFIT REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable health benefits provided by the employer during each taxable year during the benefit maintenance period are substantially the same as the applicable health benefits provided by the employer during the taxable year immediately preceding the taxable year of the qualified transfer.

"(B) ELECTION TO APPLY SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(C) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more benefit maintenance periods, this paragraph shall be applied by taking into account the highest level of benefits required to be provided under subparagraph (A) for such taxable year."

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 420(b)(1)(C) is amended by striking "cost" and inserting "benefits".

(2) Subparagraph (B) of section 420(e)(1) is amended to read as follows:

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by the amount which bears the same ratio to such amount as—

"(i) the value (as of the close of the plan year preceding the year of the qualified transfer) of the assets in all health benefits accounts or welfare benefit funds (as defined in section 419(e)(1)) set aside to pay for the qualified current retiree health liability, bears to

"(ii) the present value of the qualified current retiree health liabilities for all plan years (determined without regard to this subparagraph)."

(3) Subparagraph (D) of section 420(e)(1) is amended by striking "or in calculating applicable employer cost under subsection (c)(3)(B)" and inserting "and shall not be subject to the minimum benefit requirements of subsection (c)(3)".

(4) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "1991" and inserting "1995".

(B) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "1991" and inserting "1995".

(C) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(1) by striking "1996" and inserting "2001", and

(i) by striking "1991" and inserting "1995".

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsections (a) and (c)(3) shall apply to taxable years beginning after December 31, 1995.

(2) BENEFITS.—The amendments made by subsections (b) and (c)(1) and (2) shall apply to qualified transfers occurring after the date of the enactment of this Act.

SEC. 732. ROUNDING RULES FOR COST-OF-LIVING ADJUSTMENTS.

(a) COST-OF-LIVING ADJUSTMENT FOR COMPENSATION LIMIT.—Section 401(a)(17)(B) is amended to read as follows:

"(B) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust annually the \$150,000 amount in subparagraph (A) for increases in the cost-of-living at the same time and in the same manner as adjustments under section 415(d); except that the base period shall be the calendar quarter beginning October 1, 1993, and any increase which is not a multiple of \$10,000 shall be rounded to the next lowest multiple of \$10,000."

(b) COST-OF-LIVING ADJUSTMENT FOR MAXIMUM DEFINED BENEFIT AMOUNT AND MAXIMUM ANNUAL ADDITION.—

(1) IN GENERAL.—Section 415(d) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the \$90,000 amount in subsection (b)(1)(A),

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B), and

"(C) the \$30,000 amount in subsection (c)(1)(A),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

(2) METHOD.—The regulations prescribed under paragraph (1) shall provide for—

"(A) an adjustment with respect to any calendar year based on the increase in the applicable index for the calendar quarter ending September 30 of the preceding calendar year over such index for the base period, and

"(B) adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(3) BASE PERIOD.—For purposes of paragraph (2)—

"(A) \$90,000 AMOUNT.—The base period taken into account for purposes of paragraph (1)(A) is the calendar quarter beginning October 1, 1986.

"(B) SEPARATIONS AFTER DECEMBER 31, 1994.—The base period taken into account for purposes of paragraph (1)(B) with respect to individuals separating from service with the employer after December 31, 1994, is the calendar quarter beginning July 1 of the calendar year preceding the calendar year in which such separation occurs.

"(C) SEPARATIONS BEFORE JANUARY 1, 1995.—The base period taken into account for purposes of paragraph (1)(B) with respect to individuals separating from service with the employer before January 1, 1995, is the calendar quarter beginning October 1 of the calendar year preceding the calendar year in which such separation occurs.

"(D) \$30,000 AMOUNT.—The base period taken into account for purposes of paragraph

(1)(C) is the calendar quarter beginning October 1, 1993."

"(4) ROUNDING.—Any increase under subparagraph (A) or (C) of paragraph (1) which is not a multiple of \$5,000 shall be rounded to the next lowest multiple of \$5,000."

(2) CONFORMING AMENDMENT.—Section 415(c)(1)(A) is amended by striking "(or, if greater, ¼ of the dollar limitation in effect under subsection (b)(1)(A))".

(c) COST-OF-LIVING ADJUSTMENT FOR MAXIMUM SALARY DEFERRAL.—Section 402(g)(5) is amended by inserting before the period "; except that any increase under this paragraph which is not a multiple of \$500 shall be rounded to the next lowest multiple of \$500".

(d) COST-OF-LIVING ADJUSTMENT FOR ELIGIBILITY FOR SIMPLIFIED EMPLOYEE PENSIONS.—Section 408(k)(8) is amended by inserting before the period "; except that any increase in the \$300 amount which is not a multiple of \$50 shall be rounded to the next lowest multiple of \$50".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1994.

(2) ROUNDING NOT TO RESULT IN DECREASES.—The amendments made by this section providing for the rounding of indexed amounts shall not apply to any year to the extent the rounding would require the indexed amount to be reduced below the amount in effect for years beginning in 1994.

SEC. 733. INCREASE IN INCLUSION OF SOCIAL SECURITY BENEFITS PAID TO NON-RESIDENTS.

(a) IN GENERAL.—Subparagraph (A) of section 871(a)(3) (relating to taxation of Social Security benefits) is amended by striking "one-half" and inserting "85 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits paid after December 31, 1994, in taxable years ending after such date.

Subtitle E—Other Provisions

SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES.

(a) IN GENERAL.—Section 731 (relating to extent of recognition of gain or loss on distribution) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF MARKETABLE SECURITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(1) and section 737—

"(A) the term 'money' includes marketable securities, and

"(B) such securities shall be taken into account at their fair market value as of the date of the distribution.

"(2) MARKETABLE SECURITIES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'marketable securities' means financial instruments and foreign currencies which are, as of the date of the distribution, actively traded (within the meaning of section 1092(d)(1)).

"(B) OTHER PROPERTY.—Such term includes—

"(i) any interest in—

"(I) a common trust fund, or

"(II) a regulated investment company which is offering for sale or has outstanding any redeemable security (as defined in section 2(a)(32) of the Investment Company Act of 1940) of which it is the issuer,

"(ii) any financial instrument which, pursuant to its terms or any other arrangement, is readily convertible into, or exchangeable for, money or marketable securities,

"(iii) any financial instrument the value of which is determined substantially by reference to marketable securities,

"(iv) except to the extent provided in regulations prescribed by the Secretary, any interest in a precious metal which, as of the date of the distribution, is actively traded (within the meaning of section 1092(d)(1)) unless such metal was produced, used, or held in the active conduct of a trade or business by the partnership,

"(v) except as otherwise provided in regulations prescribed by the Secretary, interests in any entity if substantially all of the assets of such entity consist (directly or indirectly) of marketable securities, money, or both, and

"(vi) to the extent provided in regulations prescribed by the Secretary, any interest in an entity not described in clause (v) but only to the extent of the value of such interest which is attributable to marketable securities, money, or both.

"(C) FINANCIAL INSTRUMENT.—The term 'financial instrument' includes stocks and other equity interests, evidences of indebtedness, options, forward or futures contracts, notional principal contracts, and derivatives.

"(3) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the distribution from a partnership of a marketable security to a partner if—

"(i) the security was contributed to the partnership by such partner, except to the extent that the value of the distributed security is attributable to marketable securities or money contributed (directly or indirectly) to the entity to which the distributed security relates,

"(ii) to the extent provided in regulations prescribed by the Secretary, the property was not a marketable security when acquired by such partnership, or

"(iii) such partnership is an investment partnership and such partner is an eligible partner thereof.

"(B) LIMITATION ON GAIN RECOGNIZED.—In the case of a distribution of marketable securities to a partner, the amount taken into account under paragraph (1) shall be reduced (but not below zero) by the excess (if any) of—

"(i) such partner's distributive share of the net gain which would be recognized if all of the marketable securities of the same class and issuer as the distributed securities held by the partnership were sold (immediately before the transaction to which the distribution relates) by the partnership for fair market value, over

"(ii) such partner's distributive share of the net gain which is attributable to the marketable securities of the same class and issuer as the distributed securities held by the partnership immediately after the transaction, determined by using the same fair market value as used under clause (i).

Under regulations prescribed by the Secretary, all marketable securities held by the partnership may be treated as marketable securities of the same class and issuer as the distributed securities.

"(C) DEFINITIONS RELATING TO INVESTMENT PARTNERSHIPS.—For purposes of subparagraph (A)(iii)—

"(i) INVESTMENT PARTNERSHIP.—The term 'investment partnership' means any partnership which has never been engaged in a trade or business and substantially all of the assets (by value) of which have always consisted of—

"(I) money,

"(II) stock in a corporation,

“(III) notes, bonds, debentures, or other evidences of indebtedness.

“(IV) interest rate, currency, or equity notional principal contracts.

“(V) foreign currencies.

“(VI) interests in or derivative financial instruments (including options, forward or futures contracts, short positions, and similar financial instruments) in any asset described in any other subclause of this clause or in any commodity traded on or subject to the rules of a board of trade or commodity exchange.

“(VII) other assets specified in regulations prescribed by the Secretary.

“(VIII) any combination of the foregoing.

“(I) EXCEPTION FOR CERTAIN ACTIVITIES.—A partnership shall not be treated as engaged in a trade or business by reason of—

“(I) any activity undertaken as an investor, trader, or dealer in any asset described in clause (I), or

“(II) any other activity specified in regulations prescribed by the Secretary.

“(iii) ELIGIBLE PARTNER.—

“(I) IN GENERAL.—The term ‘eligible partner’ means any partner who, before the date of the distribution, did not contribute to the partnership any property other than assets described in clause (I).

“(II) EXCEPTION FOR CERTAIN NONRECOGNITION TRANSACTIONS.—The term ‘eligible partner’ shall not include the transferor or transferee in a nonrecognition transaction involving a transfer of any portion of an interest in a partnership with respect to which the transferor was not an eligible partner.

“(iv) LOOK-THRU OF PARTNERSHIP TIERS.—Except as otherwise provided in regulations prescribed by the Secretary—

“(I) a partnership shall be treated as engaged in any trade or business engaged in by, and as holding (instead of a partnership interest) a proportionate share of the assets of, any other partnership in which the partnership holds a partnership interest, and

“(II) a partner who contributes to a partnership an interest in another partnership shall be treated as contributing a proportionate share of the assets of the other partnership.

If the preceding sentence does not apply under such regulations with respect to any interest held by a partnership in another partnership, the interest in such other partnership shall be treated as if it were specified in a subclause of clause (I).

“(4) BASIS OF SECURITIES DISTRIBUTED.—

“(A) IN GENERAL.—The basis of marketable securities with respect to which gain is recognized by reason of this subsection shall be—

“(i) their basis determined under section 732, increased by

“(ii) the amount of such gain.

“(B) ALLOCATION OF BASIS INCREASE.—Any increase in basis attributable to the gain described in subparagraph (A)(i) shall be allocated to marketable securities in proportion to their respective amounts of unrealized appreciation before such increase.

“(5) SUBSECTION DISREGARDED IN DETERMINING BASIS OF PARTNER'S INTEREST IN PARTNERSHIP AND OF BASIS OF PARTNERSHIP PROPERTY.—Sections 733 and 734 shall be applied as if no gain were recognized, and no adjustment were made to the basis of property, under this subsection.

“(6) CHARACTER OF GAIN RECOGNIZED.—In the case of a distribution of a marketable security which is an unrealized receivable (as defined in section 751(c)) or an inventory item (as defined in section 751(d)(2)), any gain recognized under this subsection shall

be treated as ordinary income to the extent of any increase in the basis of such security attributable to the gain described in paragraph (4)(A)(i).

“(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations to prevent the avoidance of such purposes.”

(b) CONFORMING AMENDMENTS.—

(1) The last sentence of section 737(c)(1) is amended to read as follows: “For purposes of determining the basis of the distributed property (other than money), such increase shall be treated as occurring immediately before the distribution.”

(2) Section 737 is amended by adding at the end the following new subsection:

“(e) MARKETABLE SECURITIES TREATED AS MONEY.—

“For treatment of marketable securities as money for purposes of this section, see section 731(c).”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to distributions after the date of the enactment of this Act.

(2) CERTAIN DISTRIBUTIONS BEFORE JANUARY 1, 1995.—The amendments made by this section shall not apply to any marketable security distributed before January 1, 1995, by the partnership which held such security on July 27, 1994.

(3) DISTRIBUTIONS IN LIQUIDATION OF PARTNER'S INTEREST.—The amendments made by this section shall not apply to the distribution of a marketable security in liquidation of a partner's interest in a partnership if—

(A) such liquidation is pursuant to a written contract which is binding on July 15, 1994, and at all times thereafter before the distribution, and

(B) such contract provides for the purchase of such interest not later than a date certain for—

(i) a fixed value of marketable securities that are specified in the contract, or

(ii) other property.

The preceding sentence shall not apply if the partner has the right to elect that such distribution be made other than in marketable securities.

(4) DISTRIBUTIONS IN COMPLETE LIQUIDATION OF PUBLICLY TRADED PARTNERSHIPS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to the distribution of a marketable security in a qualified partnership liquidation if—

(i) the marketable securities were received by the partnership in a nonrecognition transaction in exchange for substantially all of the assets of the partnership.

(ii) the marketable securities are distributed by the partnership within 90 days after their receipt by the partnership, and

(iii) the partnership is liquidated before the beginning of the 1st taxable year of the partnership beginning after December 31, 1997.

(B) QUALIFIED PARTNERSHIP LIQUIDATION.—For purposes of subparagraph (A), the term “qualified partnership liquidation” means—

(i) a complete liquidation of a publicly traded partnership (as defined in section 7704(b) of the Internal Revenue Code of 1986) which is an existing partnership (as defined in section 1021(c)(2) of the Revenue Act of 1987), and

(ii) a complete liquidation of a partnership which is related to a partnership described in clause (i) if such liquidation is related to a

complete liquidation of the partnership described in clause (i).

(5) MARKETABLE SECURITIES.—For purposes of this subsection, the term “marketable securities” has the meaning given such term by section 731(c) of the Internal Revenue Code of 1986, as added by this section.

SEC. 742. TAXPAYER IDENTIFICATION NUMBERS REQUIRED AT BIRTH.

(a) EARNED INCOME CREDIT.—Clause (1) of section 32(c)(3)(D) is amended to read as follows:

“(1) IN GENERAL.—The requirements of this subparagraph are met if the taxpayer includes the name, age, and TIN of each qualifying child (without regard to this subparagraph) on the return of tax for the taxable year.”

(b) DEPENDENCY EXEMPTION.—Subsection (e) of section 6109 is amended to read as follows:

“(e) FURNISHING NUMBER FOR DEPENDENTS.—Any taxpayer who claims an exemption under section 151 for any dependent on a return for any taxable year shall include on such return the identifying number (for purposes of this title) of such dependent.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to returns for taxable years beginning after December 31, 1994.

(2) EXCEPTION.—The amendments made by this section shall not apply to—

(A) returns for taxable years beginning in 1995 with respect to individuals who are born after October 31, 1995, and

(B) returns for taxable years beginning in 1996 with respect to individuals who are born after November 30, 1996.

SEC. 743. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 (relating to fees for requests for ruling, determination, and similar letters) is amended by striking “October 1, 1995” and inserting “October 1, 2000”.

SEC. 744. MODIFICATION OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR CORPORATIONS PARTICIPATING IN TAX SHELTERS.

(a) IN GENERAL.—Subparagraph (C) of section 6662(d)(2) (relating to special rules in cases involving tax shelters) is amended by redesignating clause (I) as clause (II) and by inserting after clause (I) the following new clause:

“(II) SUBPARAGRAPH (B) NOT TO APPLY TO CORPORATIONS.—Subparagraph (B) shall not apply to any item of a corporation which is attributable to a tax shelter.”

(b) TECHNICAL AMENDMENTS.—

(1) Clause (1) of section 6662(d)(2)(C) is amended by striking “In the case of any item” and inserting “In the case of any item of a taxpayer other than a corporation which is”.

(2) Clause (iii) of section 6662(d)(2)(C), as redesignated by subsection (a), is amended by striking “clause (1)” and inserting “this subparagraph”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items related to transactions occurring after the date of the enactment of this Act.

SEC. 745. MODIFICATION OF AUTHORITY TO SET TERMS AND CONDITIONS FOR SAVINGS BONDS.

(a) IN GENERAL.—Subsection (b) of section 3105 of title 31, United States Code, is amended to read as follows:

“(b)(1) The Secretary may—

“(A) fix the investment yield for savings bonds; and

“(B) change the investment yield on an outstanding savings bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date of issue.

“(2) The Secretary may prescribe regulations providing that—

“(A) owners of savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection; and

“(B) savings bonds earning a different rate of interest before the regulations are prescribed shall earn a rate of interest consistent with paragraph (1).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after October 31, 1994.

Subtitle F—Pension Plan Funding and Premiums

SEC. 750. SHORT TITLE.

This subtitle may be cited as the “Retirement Protection Act of 1994”.

PART I—PENSION PLAN FUNDING

Subpart A—Amendments to the Internal Revenue Code of 1986

SEC. 751. MINIMUM FUNDING REQUIREMENTS.

(a) AMENDMENTS TO ADDITIONAL FUNDING REQUIREMENTS FOR SINGLE-EMPLOYER PLANS.—

(1) LIMITATIONS ON ADDITIONAL FUNDING REQUIREMENT FOR CERTAIN PLANS.—

(A) IN GENERAL.—Paragraph (1) of section 412(l) (relating to additional funding requirements for plans which are not multiemployer plans) is amended by striking “which has an unfunded current liability” and inserting “to which this subsection applies under paragraph (9)”.

(B) PLANS TO WHICH REQUIREMENT APPLIES.—Section 412(l) is amended by adding at the end the following new paragraph:

“(9) APPLICABILITY OF SUBSECTION.—

“(A) IN GENERAL.—Except as provided in paragraph (6)(A), this subsection shall apply to a plan for any plan year if its funded current liability percentage for such year is less than 90 percent.

“(B) EXCEPTION FOR CERTAIN PLANS AT LEAST 80 PERCENT FUNDED.—Subparagraph (A) shall not apply to a plan for a plan year if—

“(i) the funded current liability percentage for the plan year is at least 80 percent, and

“(ii) such percentage for each of the 2 immediately preceding plan years (or each of the 2d and 3d immediately preceding plan years) is at least 90 percent.

“(C) FUNDED CURRENT LIABILITY PERCENTAGE.—For purposes of subparagraphs (A) and (B), the term ‘funded current liability percentage’ shall be determined for any plan year—

“(i) without regard to paragraph (8)(E), and

“(ii) by using the rate of interest which is the highest rate allowable for the plan year under paragraph (7)(C).

“(D) TRANSITION RULES.—For purposes of this paragraph—

“(1) FUNDED PERCENTAGE FOR YEARS BEFORE 1995.—The funded current liability percentage for any plan year beginning before January 1, 1995, shall be treated as not less than 90 percent only if for such plan year the plan met one of the following requirements (as in effect for such year):

“(I) The full-funding limitation under subsection (c)(7) for the plan was zero.

“(II) The plan had no additional funding requirement under this subsection (or would have had no such requirement if its funded

current liability percentage had been determined under subparagraph (C)).

“(III) The plan’s additional funding requirement under this subsection did not exceed the lesser of 0.5 percent of current liability or \$5,000,000.

“(1) SPECIAL RULE FOR 1995 AND 1996.—For purposes of determining whether subparagraph (B) applies to any plan year beginning in 1995 or 1996, a plan shall be treated as meeting the requirements of subparagraph (B)(i) if the plan met the requirements of clause (i) of this subparagraph for any two of the plan years beginning in 1992, 1993, and 1994 (whether or not consecutive).”

(2) RELATIONSHIP OF ADDITIONAL FUNDING REQUIREMENT TO FUNDING STANDARD ACCOUNT CHARGES AND CREDITS.—

(A) Clause (ii) of section 412(l)(1)(A) is amended to read as follows:

“(i) the sum of the charges for such plan year under subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B) of subsection (b)(3), plus”.

(B) The last sentence in section 412(l)(1) of such Code is amended to read as follows:

“Such increase shall not exceed the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent.”

(3) AMENDMENT TO DEFICIT REDUCTION CONTRIBUTION.—Paragraph (2) of section 412(l) is amended—

(A) by striking “plus” at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting “, plus”; and

(C) by adding at the end the following new subparagraph:

“(C) the expected increase in current liability due to benefits accruing during the plan year.”

(4) INCREASE IN CURRENT LIABILITY DUE TO CHANGE IN REQUIRED ASSUMPTIONS.—

(A) Paragraph (3) of section 412(l) is amended by adding at the end the following new subparagraphs:

“(D) SPECIAL RULE FOR REQUIRED CHANGES IN ACTUARIAL ASSUMPTIONS.—

“(i) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year shall be increased by the amount necessary to amortize the amount of additional unfunded old liability under the plan in equal annual installments over a period of 12 plan years (beginning with the first plan year beginning after December 31, 1994).

“(ii) ADDITIONAL UNFUNDED OLD LIABILITY.—For purposes of clause (i), the term ‘additional unfunded old liability’ means the amount (if any) by which—

“(I) the current liability of the plan as of the beginning of the first plan year beginning after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

“(II) the current liability of the plan as of the beginning of such first plan year, valued using the same assumptions used under subclause (I) (other than the assumptions required by paragraph (7)(C)), using the prior interest rate, and using such mortality assumptions as were used to determine current liability for the first plan year beginning after December 31, 1992.

“(iii) PRIOR INTEREST RATE.—For purposes of clause (ii), the term ‘prior interest rate’ means the rate of interest that is the same

percentage of the weighted average under subsection (b)(5)(B)(ii)(I) for the first plan year beginning after December 31, 1994, as the rate of interest used by the plan to determine current liability for the first plan year beginning after December 31, 1992, is of the weighted average under subsection (b)(5)(B)(ii)(I) for such first plan year beginning after December 31, 1992.

“(E) OPTIONAL RULE FOR ADDITIONAL UNFUNDED OLD LIABILITY.—

“(1) IN GENERAL.—If an employer makes an election under clause (ii), the additional unfunded old liability for purposes of subparagraph (D) shall be the amount (if any) by which—

“(I) the unfunded current liability of the plan as of the beginning of the first plan year beginning after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

“(II) the unamortized portion of the unfunded old liability under the plan as of the beginning of the first plan year beginning after December 31, 1994.

“(i) ELECTION.—

“(I) An employer may irrevocably elect to apply the provisions of this subparagraph as of the beginning of the first plan year beginning after December 31, 1994.

“(II) If an election is made under this clause, the increase under paragraph (1) for any plan year beginning after December 31, 1994, and before January 1, 2002, to which this subsection applies (without regard to this subclause) shall not be less than the increase that would be required under paragraph (1) if the provisions of this title as in effect for the last plan year beginning before January 1, 1995, had remained in effect.”

(B) Clause (i) of section 412(l)(4)(B) is amended by inserting “, the unamortized portion of the additional unfunded old liability,” after “old liability”.

(5) APPLICABLE PERCENTAGE FOR DETERMINING UNFUNDED NEW LIABILITY AMOUNT.—Subparagraph (C) of section 412(l)(4) is amended—

(A) by striking “.25” and inserting “.40”, and

(B) by striking “.35” and inserting “.60”.

(6) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

(A) Subparagraph (A) of section 412(l)(5) is amended—

(i) by striking “greater of” and inserting “greatest of” before clause (i);

(ii) by striking “or” at the end of clause (i);

(iii) by striking the period at the end of clause (ii) and inserting “, or”; and

(iv) by adding after clause (ii) the following new clause:

“(iii) the additional amount that would be determined under paragraph (4)(A) if the unpredictable contingent event benefit liabilities were included in unfunded new liability notwithstanding paragraph (4)(B)(ii).”

(B) Paragraph (5) of section 412(l) is amended by adding at the end the following new subparagraph:

“(E) LIMITATION.—The present value of the amounts described in subparagraph (A) with respect to any one event shall not exceed the unpredictable contingent event benefit liabilities attributable to that event.”

(C) Clause (ii) of section 412(m)(4)(D) is amended—

(i) by striking “greater of” and inserting “greatest of” before subclause (I);

(ii) by striking “or” at the end of subclause (I);

(iii) by striking the period at the end of subclause (II) and inserting “, or”; and

(iv) by adding after subclause (II) the following new clause:

“(III) 25 percent of the amount determined under subsection (1)(5)(A)(iii) for the plan year.”

(7) REQUIRED INTEREST RATE AND MORTALITY ASSUMPTIONS FOR DETERMINING CURRENT LIABILITY.—

(A) IN GENERAL.—Subparagraph (C) of section 412(l)(7) is amended to read as follows:

“(C) INTEREST RATE AND MORTALITY ASSUMPTIONS USED.—Effective for plan years beginning after December 31, 1994—

“(i) INTEREST RATE.—

“(I) IN GENERAL.—The rate of interest used to determine current liability under this subsection shall be the rate of interest used under subsection (b)(5), except that the highest rate in the permissible range under subparagraph (B)(ii) thereof shall not exceed the specified percentage under subclause (II) of the weighted average referred to in such subparagraph.

“(II) SPECIFIED PERCENTAGE.—For purposes of subclause (I), the specified percentage shall be determined as follows:

In the case of plan years beginning in calendar year:	The specified percentage is:
1995	109
1996	108
1997	107
1998	106
1999 and thereafter	105.

“(ii) MORTALITY TABLES.—

(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this subsection shall be the table prescribed by the Secretary which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on January 1, 1993.

(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

(III) PERIODIC REVIEW.—The Secretary shall periodically (at least every 5 years) review any tables in effect under this subsection and shall, to the extent the Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

(iii) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (ii)—

(I) IN GENERAL.—In the case of plan years beginning after December 31, 1995, the Secretary shall establish mortality tables which may be used (in lieu of the tables under clause (ii)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after De-

ember 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

(III) PLAN YEARS BEGINNING IN 1995.—In the case of any plan year beginning in 1995, a plan may use its own mortality assumptions for individuals who are entitled to benefits under the plan on account of disability.”

(B) AMORTIZATION OF UNFUNDED MORTALITY INCREASE AMOUNT.—

(i) IN GENERAL.—Paragraph (2) of section 412(l), as amended by paragraph (3), is amended by striking “plus” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following new subparagraph:

“(D) the aggregate of the unfunded mortality increase amounts.”

(ii) UNFUNDED MORTALITY INCREASE AMOUNT.—Section 412(l), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

“(10) UNFUNDED MORTALITY INCREASE AMOUNT.—

“(A) IN GENERAL.—The unfunded mortality increase amount with respect to each unfunded mortality increase is the amount necessary to amortize such increase in equal annual installments over a period of 10 plan years (beginning with the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(i)(II) or (III)).

“(B) UNFUNDED MORTALITY INCREASE.—For purposes of subparagraph (A), the term ‘unfunded mortality increase’ means an amount equal to the excess of—

“(i) the current liability of the plan for the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(i)(II) or (III), over

“(ii) the current liability of the plan for such plan year which would have been determined if the mortality table in effect for the preceding plan year had been used.”

(ii) CONFORMING AMENDMENT.—Clause (1) of section 412(l)(4)(B), as amended by paragraph (4)(B), is amended by inserting “the unamortized portion of each unfunded mortality increase,” after “additional unfunded old liability.”

(8) TRANSITION RULE.—Section 412(l), as amended by paragraph (7), is amended by adding at the end the following new paragraph:

“(11) PHASE-IN OF INCREASES IN FUNDING REQUIRED BY RETIREMENT PROTECTION ACT OF 1994.—

“(A) IN GENERAL.—For any applicable plan year, at the election of the employer, the increase under paragraph (1) shall not exceed the greater of—

“(i) the increase that would be required under paragraph (1) if the provisions of this title as in effect for plan years beginning before January 1, 1995, had remained in effect, or

“(ii) the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) for the applicable plan year to a percentage equal to the sum of the initial funded current liability percentage of the plan plus the applicable number of percentage points for such applicable plan year.

“(B) APPLICABLE NUMBER OF PERCENTAGE POINTS.—

“(i) INITIAL FUNDED CURRENT LIABILITY PERCENTAGE OF 75 PERCENT OR LESS.—Except as provided in clause (ii), for plans with an initial funded current liability percentage of 75 percent or less, the applicable number of percentage points for the applicable plan year is:

In the case of applicable plan years beginning in:	The applicable number of percentage points is:
1995	3
1996	6
1997	9
1998	12
1999	15
2000	19
2001	24.

“(ii) OTHER CASES.—In the case of a plan to which this clause applies, the applicable number of percentage points for any such applicable plan year is the sum of—

“(I) 2 percentage points;

“(II) the applicable number of percentage points (if any) under this clause for the preceding applicable plan year;

“(III) the product of .10 multiplied by the excess (if any) of (a) 85 percentage points over (b) the sum of the initial funded current liability percentage and the number determined under subclause (II);

“(IV) for applicable plan years beginning in 2000, 1 percentage point; and

“(V) for applicable plan years beginning in 2001, 2 percentage points.

“(iii) PLANS TO WHICH CLAUSE (i) APPLIES.—

(I) IN GENERAL.—Clause (i) shall apply to a plan for an applicable plan year if the initial funded current liability percentage of such plan is more than 75 percent.

(II) PLANS INITIALLY UNDER CLAUSE (i).—In the case of a plan which (but for this subclause) has an initial funded current liability percentage of 75 percent or less, clause (i) (and not clause (i)) shall apply to such plan with respect to applicable plan years beginning after the first applicable plan year for which the sum of the initial funded current liability percentage and the applicable number of percentage points (determined under clause (i)) exceeds 75 percent. For purposes of applying clause (i) to such a plan, the initial funded current liability percentage of such plan shall be treated as being the sum referred to in the preceding sentence.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) The term ‘applicable plan year’ means a plan year beginning after December 31, 1994, and before January 1, 2002.

(ii) The term ‘initial funded current liability percentage’ means the funded current liability percentage as of the first day of the first plan year beginning after December 31, 1994.”

(9) LIQUIDITY REQUIREMENT.—

(A) IN GENERAL.—Section 412(m) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) LIQUIDITY REQUIREMENT.—

“(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

“(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a defined benefit plan (other than a multiemployer plan or a plan described in subsection (l)(6)(A)) which—

"(i) is required to pay installments under this subsection for a plan year, and

"(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(1) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of the base amount with respect to such quarter over the value (as of such last day) of the plan's liquid assets.

"(ii) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under clause (i) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funded current liability percentage (as defined in subsection (1)(8)) for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary shall provide in regulations.

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities and such other assets as specified by the Secretary in regulations.

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

"(F) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out this paragraph."

(B) EXCISE TAX ON UNPAID LIQUIDITY SHORTFALL.—

(1) Subsection (e) of section 4971 is amended by striking "(a) or (b)" wherever it appears and inserting "(a), (b), or (f)".

(ii) Section 4971 is amended by redesignating subsection (f) as subsection (g) and adding a new subsection (f) to read as follows:

"(f) FAILURE TO PAY LIQUIDITY SHORTFALL.—

"(1) IN GENERAL.—In the case of a plan to which section 412(m)(5) applies, there is hereby imposed a tax of 10 percent of the excess (if any) of—

"(A) the amount of the liquidity shortfall for any quarter, over

"(B) the amount of such shortfall which is paid by the required installment under section 412(m) for such quarter (but only if such installment is paid on or before the due date for such installment).

"(2) ADDITIONAL TAX.—If the plan has a liquidity shortfall as of the close of any quarter and as of the close of each of the following 4 quarters, there is hereby imposed a tax equal to 100 percent of the amount on which tax was imposed by paragraph (1) for such first quarter.

"(3) DEFINITIONS AND SPECIAL RULE.—

"(A) LIQUIDITY SHORTFALL; QUARTER.—For purposes of this subsection, the terms 'liquidity shortfall' and 'quarter' have the respective meanings given such terms by section 412(m)(5).

"(B) SPECIAL RULE.—If the tax imposed by paragraph (2) is paid with respect to any liquidity shortfall for any quarter, no further tax shall be imposed by this subsection on such shortfall for such quarter."

(C) TREATMENT OF FAILURE TO MAKE CERTAIN PAYMENTS IF PLAN HAS LIQUIDITY SHORTFALL.—Section 401(a) is amended by adding at the end the following new paragraph:

"(32) TREATMENT OF FAILURE TO MAKE CERTAIN PAYMENTS IF PLAN HAS LIQUIDITY SHORTFALL.—

"(A) IN GENERAL.—A trust forming part of a pension plan to which section 412(m)(5) applies shall not be treated as failing to constitute a qualified trust under this section merely because such plan ceases to make any payment described in subparagraph (B) during any period that such plan has a liquidity shortfall (as defined in section 412(m)(5)).

"(B) PAYMENTS DESCRIBED.—A payment is described in this subparagraph if such payment is—

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(a)(9)), to a participant or beneficiary whose annuity starting date (as defined in section 417(f)(2)) occurs during the period referred to in subparagraph (A),

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(iii) any other payment specified by the Secretary by regulations.

"(C) PERIOD OF SHORTFALL.—For purposes of this paragraph, a plan has a liquidity shortfall during the period that there is an underpayment of an installment under section 412(m) by reason of paragraph (5)(A) thereof."

(10) AMENDMENT TO DEFINITION OF FULL-FUNDING LIMITATION.—

(A) Subparagraph (A) of section 412(c)(7) is amended by inserting "(including the expected increase in current liability due to benefits accruing during the plan year)" after "current liability" in clause (1).

(B) Section 412(c)(7) is amended by adding at the end the following new subparagraph:

"(E) MINIMUM AMOUNT.—

"(1) IN GENERAL.—In no event shall the full-funding limitation determined under sub-

paragraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

"(ii) CURRENT LIABILITY; ASSETS.—For purposes of clause (1)—

"(I) the term 'current liability' has the meaning given such term by subsection (1)(7) (without regard to subparagraph (D) thereof), and

"(II) assets shall not be reduced by any credit balance in the funding standard account."

(C) Subparagraph (B) of section 412(c)(7) is amended to read as follows:

"(B) CURRENT LIABILITY.—For purposes of subparagraph (D) and subclause (I) of subparagraph (A)(i), the term 'current liability' has the meaning given such term by subsection (1)(7) (without regard to subparagraphs (C) and (D) thereof) and using the rate of interest used under subsection (b)(5)(B)."

(11) REFERENCE TO ACT.—Section 404(g)(4) is amended by striking "the Single-Employer Pension Plan Amendments Act of 1986" and inserting "the Retirement Protection Act of 1994".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 1994.

(2) REFERENCE.—The amendment made by subsection (a)(11) shall take effect on the date of the enactment of this Act.

SEC. 752. LIMITATION ON CHANGES IN CURRENT LIABILITY ASSUMPTIONS.

(a) IN GENERAL.—Paragraph (5) of section 412(c) is amended—

(1) by striking "If the funding method" and inserting the following:

"(A) IN GENERAL.—If the funding method", and

(2) by adding at the end the following new subparagraph:

"(B) APPROVAL REQUIRED FOR CERTAIN CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE-EMPLOYER PLANS SUBJECT TO ADDITIONAL FUNDING REQUIREMENT.—

"(1) IN GENERAL.—No actuarial assumption (other than the assumptions described in subsection (1)(7)(C)) used to determine the current liability for a plan to which this subparagraph applies may be changed without the approval of the Secretary.

"(i) PLANS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a plan only if—

"(I) the plan is a defined benefit plan (other than a multiemployer plan) to which title IV of the Employee Retirement Income Security Act of 1974 applies;

"(II) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13) of such Act) and members of such sponsors' controlled groups (as defined in section 4001(a)(14) of such Act) which are covered by title IV of such Act (disregarding plans with no unfunded vested benefits) exceed \$50,000,000; and

"(III) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the unfunded current liability of the plan for the current plan year that

exceeds \$50,000,000, or that exceeds \$5,000,000 and that is 5 percent or more of the current liability of the plan before such change."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to changes in assumptions for plan years beginning after October 28, 1993.

(2) CERTAIN CHANGES CEASE TO BE EFFECTIVE.—In the case of changes in assumptions for plan years beginning after December 31, 1992, and on or before October 28, 1993, such changes shall cease to be effective for plan years beginning after December 31, 1994, if—

(A) such change would have required the approval of the Secretary of the Treasury had such amendment applied to such change, and

(B) such change is not so approved.

SEC. 753. ANTICIPATION OF BARGAINED BENEFIT INCREASES.

(a) IN GENERAL.—Section 412(c) is amended by adding at the end the following new paragraph:

"(12) ANTICIPATION OF BENEFIT INCREASES EFFECTIVE IN THE FUTURE.—In determining projected benefits, the funding method of a collectively bargained plan described in section 413(a) (other than a multiemployer plan) shall anticipate benefit increases scheduled to take effect during the term of the collective bargaining agreement applicable to the plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1994, with respect to collective bargaining agreements in effect on or after January 1, 1995.

SEC. 754. MODIFICATION OF QUARTERLY CONTRIBUTION REQUIREMENT.

(a) IN GENERAL.—Paragraph (1) of section 412(m) is amended—

(1) by inserting "which has a funded current liability percentage (as defined in subsection (1)(8)) for the preceding plan year of less than 100 percent" before "fails", and

(2) by striking "any plan year" and inserting "the plan year".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after the date of enactment of this Act.

SEC. 755. EXCEPTIONS TO EXCISE TAX ON NON-DEDUCTIBLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 4972(c) is amended by adding at the end the following new paragraph:

"(6) EXCEPTIONS.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account—

"(A) contributions that would be deductible under section 404(a)(1)(D) if the plan had more than 100 participants if—

"(i) the plan is covered under section 4021 of the Employee Retirement Income Security Act of 1974, and

"(ii) the plan is terminated under section 4041(b) of such Act on or before the last day of the taxable year, and

"(B) contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7), but only to the extent such contributions do not exceed 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans.

If 1 or more defined benefit plans were taken into account in determining the amount allowable as a deduction under section 404 for contributions to any defined contribution plan, subparagraph (B) shall apply only if

such defined benefit plans are described in section 404(a)(1)(D). For purposes of subparagraph (B), the deductible limits under section 404(a)(7) shall first be applied to amounts contributed to a defined benefit plan and then to amounts described in subparagraph (B)."

(b) EFFECTIVE DATE.—

(1) SECTION 4972(C)(6)(A).—Section 4972(c)(6)(A) of the Internal Revenue Code of 1986 (as added by this section) shall apply to taxable years ending on or after the date of enactment of this Act.

(2) SECTION 4972(C)(6)(B).—Section 4972(c)(6)(B) of such Code (as added by this section) shall apply to taxable years ending on or after December 31, 1992.

Subpart B—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 761. MINIMUM FUNDING REQUIREMENTS.

(a) AMENDMENTS TO ADDITIONAL FUNDING REQUIREMENTS FOR SINGLE-EMPLOYER PLANS.—

(1) LIMITATIONS ON ADDITIONAL FUNDING REQUIREMENT FOR CERTAIN PLANS.—

(A) IN GENERAL.—Paragraph (1) of section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by striking "which has an unfunded current liability" and inserting "to which this subsection applies under paragraph (9)".

(B) PLANS TO WHICH REQUIREMENT APPLIES.—Section 302(d) of such Act is amended by adding at the end the following new paragraph:

"(9) APPLICABILITY OF SUBSECTION.—

"(A) IN GENERAL.—Except as provided in paragraph (6)(A), this subsection shall apply to a plan for any plan year if its funded current liability percentage for such year is less than 90 percent.

"(B) EXCEPTION FOR CERTAIN PLANS AT LEAST 80 PERCENT FUNDED.—Subparagraph (A) shall not apply to a plan for a plan year if—

"(i) the funded current liability percentage for the plan year is at least 80 percent, and

"(ii) such percentage for each of the 2 immediately preceding plan years (or each of the 2d and 3d immediately preceding plan years) is at least 90 percent.

"(C) FUNDED CURRENT LIABILITY PERCENTAGE.—For purposes of subparagraphs (A) and (B), the term 'funded current liability percentage' has the meaning given such term by paragraph (8)(B), except that such percentage shall be determined for any plan year—

"(i) without regard to paragraph (8)(E), and

"(ii) by using the rate of interest which is the highest rate allowable for the plan year under paragraph (7)(C).

"(D) TRANSITION RULES.—For purposes of this paragraph—

"(i) FUNDED PERCENTAGE FOR YEARS BEFORE 1995.—The funded current liability percentage for any plan year beginning before January 1, 1995, shall be treated as not less than 90 percent only if for such plan year the plan met one of the following requirements (as in effect for such year):

"(I) The full-funding limitation under subsection (c)(7) for the plan was zero.

"(II) The plan had no additional funding requirement under this subsection (or would have had no such requirement if its funded current liability percentage had been determined under subparagraph (C)).

"(III) The plan's additional funding requirement under this subsection did not exceed the lesser of 0.5 percent of current liability or \$5,000,000.

"(ii) SPECIAL RULE FOR 1995 AND 1996.—For purposes of determining whether subparagraph (B) applies to any plan year beginning in 1995 or 1996, a plan shall be treated as

meeting the requirements of subparagraph (B)(ii) if the plan met the requirements of clause (i) of this subparagraph for any two of the plan years beginning in 1992, 1993, and 1994 (whether or not consecutive)."

(2) RELATIONSHIP OF ADDITIONAL FUNDING REQUIREMENT TO FUNDING STANDARD ACCOUNT CHARGES AND CREDITS.—

(A) Clause (ii) of section 302(d)(1)(A) of such Act is amended to read as follows:

"(ii) the sum of the charges for such plan year under subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B) of subsection (b)(3), plus".

(B) The last sentence in section 302(d)(1) of such Act is amended to read as follows:

"Such increase shall not exceed the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent."

(3) AMENDMENT TO DEFICIT REDUCTION CONTRIBUTION.—Paragraph (2) of section 302(d) of such Act is amended—

(A) by striking "plus" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", plus"; and

(C) by adding at the end the following new subparagraph:

"(C) the expected increase in current liability due to benefits accruing during the plan year."

(4) INCREASE IN CURRENT LIABILITY DUE TO CHANGE IN REQUIRED ASSUMPTIONS.—

(A) Paragraph (3) of section 302(d) of such Act is amended by adding at the end the following new subparagraphs:

"(D) SPECIAL RULE FOR REQUIRED CHANGES IN ACTUARIAL ASSUMPTIONS.—

"(i) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year shall be increased by the amount necessary to amortize the amount of additional unfunded old liability under the plan in equal annual installments over a period of 12 plan years (beginning with the first plan year beginning after December 31, 1994).

"(ii) ADDITIONAL UNFUNDED OLD LIABILITY.—For purposes of clause (i), the term 'additional unfunded old liability' means the amount (if any) by which—

"(I) the current liability of the plan as of the beginning of the first plan year beginning after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

"(II) the current liability of the plan as of the beginning of such first plan year, valued using the same assumptions used under subclause (I) (other than the assumptions required by paragraph (7)(C)), using the prior interest rate, and using such mortality assumptions as were used to determine current liability for the first plan year beginning after December 31, 1992.

"(iii) PRIOR INTEREST RATE.—For purposes of clause (ii), the term 'prior interest rate' means the rate of interest that is the same percentage of the weighted average under subsection (b)(5)(B)(ii)(I) for the first plan year beginning after December 31, 1994, as the rate of interest used by the plan to determine current liability for the first plan year beginning after December 31, 1992, is of the weighted average under subsection (b)(5)(B)(ii)(I) for such first plan year beginning after December 31, 1992.

“(E) OPTIONAL RULE FOR ADDITIONAL UNFUNDED OLD LIABILITY.—

“(I) IN GENERAL.—If an employer makes an election under clause (ii), the additional unfunded old liability for purposes of subparagraph (D) shall be the amount (if any) by which—

“(i) the unfunded current liability of the plan as of the beginning of the first plan year beginning after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

“(ii) the unamortized portion of the unfunded old liability under the plan as of the beginning of the first plan year beginning after December 31, 1994.

“(II) ELECTION.—

“(i) An employer may irrevocably elect to apply the provisions of this subparagraph as of the beginning of the first plan year beginning after December 31, 1994.

“(ii) If an election is made under this clause, the increase under paragraph (1) for any plan year beginning after December 31, 1994, and before January 1, 2002, to which this subsection applies (without regard to this subclause) shall not be less than the increase that would be required under paragraph (1) if the provisions of this title as in effect for the last plan year beginning before January 1, 1995, had remained in effect.”

(B) Clause (1) of section 302(d)(4)(B) of such Act is amended by inserting “, the unamortized portion of the additional unfunded old liability,” after “old liability”.

(5) APPLICABLE PERCENTAGE FOR DETERMINING UNFUNDED NEW LIABILITY AMOUNT.—Subparagraph (C) of section 302(d)(4) of such Act is amended—

(A) by striking “.25” and inserting “.40”, and

(B) by striking “.35” and inserting “.60”.

(6) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

(A) Subparagraph (A) of section 302(d)(5) of such Act is amended—

(i) by striking “greater of” and inserting “greatest of” before clause (i);

(ii) by striking “or” at the end of clause (i);

(iii) by striking the period at the end of clause (ii) and inserting “, or”; and

(iv) by adding after clause (ii) the following new clause:

“(iii) the additional amount that would be determined under paragraph (4)(A) if the unpredictable contingent event benefit liabilities were included in unfunded new liability notwithstanding paragraph (4)(B)(ii).”

(B) Paragraph (5) of section 302(d) of such Act is amended by adding at the end the following new subparagraph:

“(E) LIMITATION.—The present value of the amounts described in subparagraph (A) with respect to any one event shall not exceed the unpredictable contingent event benefit liabilities attributable to that event.”

(C) Clause (ii) of section 302(e)(4)(D) of such Act is amended—

(i) by striking “greater of” and inserting “greatest of” before subclause (i);

(ii) by striking “or” at the end of subclause (i);

(iii) by striking the period at the end of subclause (ii) and inserting “, or”; and

(iv) by adding after subclause (ii) the following new clause:

“(iii) 25 percent of the amount determined under subsection (d)(5)(A)(iii) for the plan year.”

(7) REQUIRED INTEREST RATE AND MORTALITY ASSUMPTIONS FOR DETERMINING CURRENT LIABILITY.—

(A) IN GENERAL.—Subparagraph (C) of section 302(d)(7) of such Act is amended to read as follows:

“(C) INTEREST RATE AND MORTALITY ASSUMPTIONS USED.—Effective for plan years beginning after December 31, 1994—

“(i) INTEREST RATE.—

“(I) IN GENERAL.—The rate of interest used to determine current liability under this subsection shall be the rate of interest used under subsection (b)(5), except that the highest rate in the permissible range under subparagraph (B)(ii) thereof shall not exceed the specified percentage under subclause (II) of the weighted average referred to in such subparagraph.

“(II) SPECIFIED PERCENTAGE.—For purposes of subclause (I), the specified percentage shall be determined as follows:

“In the case of plan years beginning in calendar year:

	Percentage
1995	109
1996	108
1997	107
1998	106
1999 and thereafter	105.

“(ii) MORTALITY TABLES.—

“(I) COMMISSIONERS’ STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this subsection shall be the table prescribed by the Secretary of the Treasury which is based on the prevailing commissioners’ standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on January 1, 1993.

“(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary of the Treasury shall take into account results of available independent studies of mortality of individuals covered by pension plans.

“(III) PERIODIC REVIEW.—The Secretary of the Treasury shall periodically (at least every 5 years) review any tables in effect under this subsection and shall, to the extent the Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

“(iii) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (ii)—

“(I) IN GENERAL.—In the case of plan years beginning after December 31, 1995, the Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under clause (ii)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. Such Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

“(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the

Social Security Act and the regulations thereunder.

“(III) PLAN YEARS BEGINNING IN 1995.—In the case of any plan year beginning in 1995, a plan may use its own mortality assumptions for individuals who are entitled to benefits under the plan on account of disability.”

(B) AMORTIZATION OF UNFUNDED MORTALITY INCREASE AMOUNT.—

(i) IN GENERAL.—Paragraph (2) of section 302(d) of such Act, as amended by paragraph (3), is amended by striking “plus” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following new subparagraph:

“(D) the aggregate of the unfunded mortality increase amounts.”

(ii) UNFUNDED MORTALITY INCREASE AMOUNT.—Section 302(d) of such Act, as amended by paragraph (1), is amended by adding at the end the following new paragraph:

“(10) UNFUNDED MORTALITY INCREASE AMOUNT.—

“(A) IN GENERAL.—The unfunded mortality increase amount with respect to each unfunded mortality increase is the amount necessary to amortize such increase in equal annual installments over a period of 10 plan years (beginning with the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(ii)(II) or (III)).

“(B) UNFUNDED MORTALITY INCREASE.—For purposes of subparagraph (A), the term ‘unfunded mortality increase’ means an amount equal to the excess of—

“(i) the current liability of the plan for the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(ii)(II) or (III), over

“(ii) the current liability of the plan for such plan year which would have been determined if the mortality table in effect for the preceding plan year had been used.”

(iii) CONFORMING AMENDMENT.—Clause (1) of section 302(d)(4)(B) of such Act, as amended by paragraph (4)(B), is amended by inserting “the unamortized portion of each unfunded mortality increase,” after “additional unfunded old liability.”

(8) TRANSITION RULE.—Section 302(d) of such Act, as amended by paragraph (7), is amended by adding at the end the following new paragraph:

“(11) PHASE-IN OF INCREASES IN FUNDING REQUIRED BY RETIREMENT PROTECTION ACT OF 1994.—

“(A) IN GENERAL.—For any applicable plan year, at the election of the employer, the increase under paragraph (1) shall not exceed the greater of—

“(i) the increase that would be required under paragraph (1) if the provisions of this title as in effect for plan years beginning before January 1, 1995, had remained in effect, or

“(ii) the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) for the applicable plan year to a percentage equal to the sum of the initial funded current liability percentage of the plan plus the applicable number of percentage points for such applicable plan year.

“(B) APPLICABLE NUMBER OF PERCENTAGE POINTS.—

“(i) INITIAL FUNDED CURRENT LIABILITY PERCENTAGE OF 75 PERCENT OR LESS.—Except as provided in clause (ii), for plans with an initial funded current liability percentage of 75

percent or less, the applicable number of percentage points for the applicable plan year is:

"In the case of applicable plan years beginning in:	The applicable number of percentage points is:
1995	3
1996	6
1997	9
1998	12
1999	15
2000	19
2001	24.

"(II) OTHER CASES.—In the case of a plan to which this clause applies, the applicable number of percentage points for any such applicable plan year is the sum of—

- "(I) 2 percentage points;
- "(II) the applicable number of percentage points (if any) under this clause for the preceding applicable plan year;
- "(III) the product of .10 multiplied by the excess (if any) of (a) 85 percentage points over (b) the sum of the initial funded current liability percentage and the number determined under subclause (II);
- "(IV) for applicable plan years beginning in 2000, 1 percentage point; and
- "(V) for applicable plan years beginning in 2001, 2 percentage points.

"(III) PLANS TO WHICH CLAUSE (I) APPLIES.—
 "(I) IN GENERAL.—Clause (i) shall apply to a plan for an applicable plan year if the initial funded current liability percentage of such plan is more than 75 percent.

"(II) PLANS INITIALLY UNDER CLAUSE (I).—In the case of a plan which (but for this subclause) has an initial funded current liability percentage of 75 percent or less, clause (i) (and not clause (I)) shall apply to such plan with respect to applicable plan years beginning after the first applicable plan year for which the sum of the initial funded current liability percentage and the applicable number of percentage points (determined under clause (I)) exceeds 75 percent. For purposes of applying clause (i) to such a plan, the initial funded current liability percentage of such plan shall be treated as being the sum referred to in the preceding sentence.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) The term 'applicable plan year' means a plan year beginning after December 31, 1994, and before January 1, 2002.

"(ii) The term 'initial funded current liability percentage' means the funded current liability percentage as of the first day of the first plan year beginning after December 31, 1994."

(9) LIQUIDITY REQUIREMENT.—

(A) IN GENERAL.—Section 302(e) of such Act is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) LIQUIDITY REQUIREMENT.—

"(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a defined benefit plan (other than a multiemployer plan or a plan described in subsection (d)(6)(A)) which—

- "(i) is required to pay installments under this subsection for a plan year, and
- "(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(I) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of the base amount with respect to such quarter over the value (as of such last day) of the plan's liquid assets.

"(II) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under clause (i) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary of the Treasury that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(III) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(IV) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funded current liability percentage (as defined in subsection (d)(8)) for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary of the Treasury shall provide in regulations.

"(V) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities and such other assets as specified by the Secretary of the Treasury in regulations.

"(VI) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

"(F) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as are necessary to carry out this paragraph."

(B) LIMITATION ON DISTRIBUTIONS OTHER THAN LIFE ANNUITIES PAID BY THE PLAN.—

(i) Section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by adding at the end the following new subsection:

"(e) LIMITATION ON DISTRIBUTIONS OTHER THAN LIFE ANNUITIES PAID BY THE PLAN.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, the fiduciary of

a pension plan that is subject to the additional funding requirements of section 302(d) shall not permit a prohibited payment to be made from a plan during a period in which such plan has a liquidity shortfall (as defined in section 302(e)(5)).

"(2) PROHIBITED PAYMENT.—For purposes of paragraph (1), the term 'prohibited payment' means—

"(A) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)), to a participant or beneficiary whose annuity starting date (as defined in section 205(h)(2)), that occurs during the period referred to in paragraph (1).

"(B) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(C) any other payment specified by the Secretary of the Treasury by regulations.

"(3) PERIOD OF SHORTFALL.—For purposes of this subsection, a plan has a liquidity shortfall during the period that there is an underpayment of an installment under section 302(e) by reason of paragraph (5)(A) thereof.

"(4) COORDINATION WITH OTHER PROVISIONS.—Compliance with this subsection shall not constitute a violation of any other provision of this Act."

(i) Section 502 of such Act is amended by adding at the end a new subsection (m) to read as follows:

"(m) In the case of a distribution to a pension plan participant or beneficiary in violation of section 206(e) by a plan fiduciary, the Secretary shall assess a penalty against such fiduciary in an amount equal to the value of the distribution. Such penalty shall not exceed \$10,000 for each such distribution."

(10) AMENDMENT TO DEFINITION OF FULL-FUNDING LIMITATION.—

(A) Subparagraph (A) of section 302(c)(7) of such Act is amended by inserting "(including the expected increase in current liability due to benefits accruing during the plan year)" after "current liability" in clause (1).

(B) Section 302(c)(7) of such Act is amended by adding at the end the following new subparagraph:

"(E) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

"(ii) CURRENT LIABILITY; ASSETS.—For purposes of clause (i)—

"(I) the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraph (D) thereof), and

"(II) assets shall not be reduced by any credit balance in the funding standard account."

(C) Subparagraph (B) of section 302(c)(7) of such Act is amended to read as follows:

"(B) CURRENT LIABILITY.—For purposes of subparagraph (D) and subclause (I) of subparagraph (A)(i), the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraphs (C) and (D) thereof) and using the rate of interest used under subsection (b)(5)(B)."

(11) DEFINITION OF CONTRIBUTING SPONSOR.— Paragraph (13) of section 4001(a) of such Act

(29 U.S.C. 1301(a)(13)) is amended by striking "means a person—" and all that follows and inserting "means a person described in section 302(c)(11)(A) of this Act (without regard to section 302(c)(11)(B) of this Act) or section 412(c)(11)(A) of the Internal Revenue Code of 1986 (without regard to section 412(c)(11)(B) of such Code)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 1994.

(2) CONTRIBUTING SPONSOR.—The amendment made by subsection (a)(11) shall be effective as if included in the Pension Protection Act.

SEC. 762. LIMITATION ON CHANGES IN CURRENT LIABILITY ASSUMPTIONS.

(a) IN GENERAL.—Paragraph (5) of section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(5)) is amended—

(1) by striking "If the funding method" and inserting the following:

"(A) IN GENERAL.—If the funding method", and

(2) by adding at the end the following new subparagraph:

"(B) APPROVAL REQUIRED FOR CERTAIN CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE-EMPLOYER PLANS SUBJECT TO ADDITIONAL FUNDING REQUIREMENT.—

"(I) IN GENERAL.—No actuarial assumption (other than the assumptions described in subsection (d)(7)(C)) used to determine the current liability for a plan to which this subparagraph applies may be changed without the approval of the Secretary of the Treasury.

"(ii) PLANS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a plan only if—

"(I) the plan is a defined benefit plan (other than a multiemployer plan) to which title IV applies;

"(II) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13)) and members of such sponsors' controlled groups (as defined in section 4001(a)(14)) which are covered by title IV (disregarding plans with no unfunded vested benefits) exceed \$50,000,000; and

"(III) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the unfunded current liability of the plan for the current plan year that exceeds \$50,000,000, or that exceeds \$5,000,000 and that is 5 percent or more of the current liability of the plan before such change."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to changes in assumptions for plan years beginning after October 28, 1993.

(2) CERTAIN CHANGES CEASE TO BE EFFECTIVE.—In the case of changes in assumptions for plan years beginning after December 31, 1992, and on or before October 28, 1993, such changes shall cease to be effective for plan years beginning after December 31, 1994, if—

(A) such change would have required the approval of the Secretary of the Treasury had such amendment applied to such change, and

(B) such change is not so approved.

SEC. 763. ANTICIPATION OF BARGAINED BENEFIT INCREASES.

(a) IN GENERAL.—Section 302(c) of the Employee Retirement Income Security Act of

1974 (29 U.S.C. 1082(c)) is amended by adding at the end the following new paragraph:

"(12) ANTICIPATION OF BENEFIT INCREASES EFFECTIVE IN THE FUTURE.—In determining projected benefits, the funding method of a collectively bargained plan described in section 413(a) of the Internal Revenue Code of 1986 (other than a multiemployer plan) shall anticipate benefit increases scheduled to take effect during the term of the collective bargaining agreement applicable to the plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1994 with respect to collective bargaining agreements in effect on or after January 1, 1995.

SEC. 764. MODIFICATION OF QUARTERLY CONTRIBUTION REQUIREMENT.

(a) IN GENERAL.—Paragraph (1) of section 302(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(e)) is amended—

(1) by inserting "which has a funded current liability percentage (as defined in subsection (d)(8)) for the preceding plan year of less than 100 percent" before "fails", and

(2) by striking "any plan year" and inserting "the plan year".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after the date of enactment of this Act.

Subpart C—Other Funding Provisions

SEC. 766. PROHIBITION ON BENEFIT INCREASES WHERE PLAN SPONSOR IS IN BANKRUPTCY.

(a) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended by redesignating subsection (i) as (j) and inserting after subsection (h) the following new subsection:

"(i)(1) In the case of a plan described in paragraph (3) which is maintained by an employer that is a debtor in a case under title 11, United States Code, or similar Federal or State law, no amendment of the plan which increases the liabilities of the plan by reason of—

"(A) any increase in benefits,

"(B) any change in the accrual of benefits, or

"(C) any change in the rate at which benefits become nonforfeitable under the plan, with respect to employees of the debtor, shall be effective prior to the effective date of such employer's plan of reorganization.

"(2) Paragraph (1) shall not apply to any plan amendment that—

"(A) the Secretary of the Treasury determines to be reasonable and that provides for only de minimis increases in the liabilities of the plan with respect to employees of the debtor,

"(B) only repeals an amendment described in section 302(c)(8),

"(C) is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986, or

"(D) was adopted prior to, or pursuant to a collective bargaining agreement entered into prior to, the date on which the employer became a debtor in a case under title 11, United States Code, or similar Federal or State law.

"(3) This subsection shall apply only to plans (other than multiemployer plans) covered under section 4021 of this Act for which the funded current liability percentage (within the meaning of section 302(d)(8) of this Act) is less than 100 percent after taking into account the effect of the amendment.

"(4) For purposes of this subsection, the term 'employer' has the meaning set forth in

section 302(c)(11)(A), without regard to section 302(c)(11)(B)."

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 401(a), as amended by section 751 of this Act, is further amended by adding at the end the following new paragraph:

"(33) PROHIBITION ON BENEFIT INCREASES WHILE SPONSOR IS IN BANKRUPTCY.—

"(A) IN GENERAL.—A trust which is part of a plan to which this paragraph applies shall not constitute a qualified trust under this section if an amendment to such plan is adopted while the employer is a debtor in a case under title 11, United States Code, or similar Federal or State law, if such amendment increases liabilities of the plan by reason of—

"(i) any increase in benefits,

"(ii) any change in the accrual of benefits, or

"(iii) any change in the rate at which benefits become nonforfeitable under the plan, with respect to employees of the debtor, and such amendment is effective prior to the effective date of such employer's plan of reorganization.

"(B) EXCEPTIONS.—This paragraph shall not apply to any plan amendment if—

"(i) the plan, were such amendment to take effect, would have a funded current liability percentage (as defined in section 412(l)(8)) of 100 percent or more,

"(ii) the Secretary determines that such amendment is reasonable and provides for only de minimis increases in the liabilities of the plan with respect to employees of the debtor,

"(iii) such amendment only repeals an amendment described in subsection 412(c)(8), or

"(iv) such amendment is required as a condition of qualification under this part.

"(C) PLANS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply only to plans (other than multiemployer plans) covered under section 4021 of the Employee Retirement Income Security Act of 1974.

"(D) EMPLOYER.—For purposes of this paragraph, the term 'employer' means the employer referred to in section 412(c)(11) (without regard to subparagraph (B) thereof)."

(c) EFFECTIVE DATE OF PLAN AMENDMENT.—Section 4022 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322) is amended by inserting at the end the following new subsection:

"(f) For purposes of this section, the effective date of a plan amendment described in section 204(i)(1) shall be the effective date of the plan of reorganization of the employer described in section 204(i)(1) or, if later, the effective date stated in such amendment."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan amendments adopted on or after the date of enactment of this Act.

SEC. 767. SINGLE SUM DISTRIBUTIONS.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986 RELATING TO MINIMUM BENEFITS.—

(1) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON MANDATORY DISTRIBUTIONS.—Subparagraph (B) of section 411(a)(11) is amended to read as follows:

"(B) DETERMINATION OF PRESENT VALUE.—For purposes of subparagraph (A), the present value shall be calculated in accordance with section 417(e)(3)."

(2) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON CASH-OUTS.—Paragraph (3) of section 417(e) is amended to read as follows:

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—

"(I) PRESENT VALUE.—Except as provided in subparagraph (B), for purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(II) DEFINITIONS.—For purposes of clause (1)—

"(I) APPLICABLE MORTALITY TABLE.—The term 'applicable mortality table' means the table prescribed by the Secretary. Such table shall be based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other subparagraph of section 807(d)(5)).

"(II) APPLICABLE INTEREST RATE.—The term 'applicable interest rate' means the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe.

"(B) EXCEPTION.—In the case of a distribution from a plan that was adopted and in effect before the date of the enactment of the Retirement Protection Act of 1994, the present value of any distribution made before the earlier of—

"(i) the later of the date a plan amendment applying subparagraph (A) is adopted or made effective, or

"(ii) the first day of the first plan year beginning after December 31, 1999,

shall be calculated, for purposes of paragraphs (1) and (2), using the interest rate determined under the regulations of the Pension Benefit Guaranty Corporation for determining the present value of a lump sum distribution on plan termination that were in effect on September 1, 1993, and using the provisions of the plan as in effect on the day before such date of enactment; but only if such provisions of the plan met the requirements of section 417(e)(3) as in effect on the day before such date of enactment."

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986 RELATING TO MAXIMUM BENEFITS.—Subparagraph (E) of section 415(b)(2) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively,

(2) by striking clause (i) and inserting the following new clauses:

"(i) Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the plan.

"(ii) For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3), the applicable interest rate (as defined in section 417(e)(3)) shall be substituted for '5 percent' in clause (i).", and

(3) by adding at the end the following new clause:

"(v) For purposes of adjusting any benefit or limitation under subparagraph (B), (C), or (D), the mortality table used shall be the table prescribed by the Secretary. Such table shall be based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date the adjustment is being made (without regard to any other subparagraph of section 807(d)(5))."

(c) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON MANDATORY

DISTRIBUTIONS.—Section 203(e)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(e)(2)) is amended to read as follows:

"(2) For purposes of paragraph (1), the present value shall be calculated in accordance with section 205(g)(3)."

(2) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON CASH-OUTS.—Section 205(g)(3) of such Act (29 U.S.C. 1055(g)(3)) is amended to read as follows:

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—

"(i) PRESENT VALUE.—Except as provided in subparagraph (B), for purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(ii) DEFINITIONS.—For purposes of clause (1)—

"(I) APPLICABLE MORTALITY TABLE.—The term 'applicable mortality table' means the table prescribed by the Secretary of the Treasury. Such table shall be based on the prevailing commissioners' standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other subparagraph of section 807(d)(5) of such Code).

"(II) APPLICABLE INTEREST RATE.—The term 'applicable interest rate' means the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary of the Treasury may by regulations prescribe.

"(B) EXCEPTION.—In the case of a distribution from a plan that was adopted and in effect prior to the date of the enactment of the Retirement Protection Act of 1994, the present value of any distribution made before the earlier of—

"(i) the later of when a plan amendment applying subparagraph (A) is adopted or made effective, or

"(ii) the first day of the first plan year beginning after December 31, 1999,

shall be calculated, for purposes of paragraphs (1) and (2), using the interest rate determined under the regulations of the Pension Benefit Guaranty Corporation for determining the present value of a lump sum distribution on plan termination that were in effect on September 1, 1993, and using the provisions of the plan as in effect on the day before such date of enactment; but only if such provisions of the plan met the requirements of section 205(g)(3) as in effect on the day before such date of enactment."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years and limitation years beginning after December 31, 1994; except that an employer may elect to treat the amendments made by this section as being effective on or after the date of the enactment of this Act.

(2) NO REDUCTION IN ACCRUED BENEFITS.—A participant's accrued benefit shall not be considered to be reduced in violation of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 merely because (A) the benefit is determined in accordance with section 417(e)(3)(A) of such Code, as amended by this Act, or section 205(g)(3) of the Employee Retirement Income Security Act of 1974, as amended by this Act, or (B) the plan applies section 415(b)(2)(E) of such Code, as amended by this Act.

(3) SECTION 415.—

(A) NO REDUCTION REQUIRED.—An accrued benefit shall not be required to be reduced below the accrued benefit as of the last day of the last plan year beginning before January 1, 1995, merely because of the amendments made by subsection (b).

(B) TIMING OF PLAN AMENDMENT.—A plan that operates in accordance with the amendments made by subsection (b) shall not be treated as failing to satisfy section 401(a) of the Internal Revenue Code of 1986 or as not being operated in accordance with the provisions of the plan until such date as the Secretary of the Treasury provides merely because the plan has not been amended to include the amendments made by subsection (b).

SEC. 768. ADJUSTMENTS TO LIEN FOR MISSED MINIMUM FUNDING CONTRIBUTIONS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) CLARIFICATION OF APPLICABILITY OF PROVISION.—Paragraph (2) of section 412(n) is amended by adding at the end the following new sentence: "This subsection shall not apply to any plan to which section 4021 of the Employee Retirement Income Security Act of 1974 does not apply (as such section is in effect on the date of the enactment of the Retirement Protection Act of 1994)."

(2) REPEAL OF \$1,000,000 OFFSET.—Paragraph (3) of section 412(n) is amended to read as follows:

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(A) for plan years beginning after 1987, and

"(B) for which payment has not been made before the due date."

(3) REPEAL OF 60-DAY DELAY.—Section 412(n)(4)(B) is amended by striking "60th day following the".

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) CLARIFICATION OF APPLICABILITY OF PROVISION.—Section 302(f)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(f)(1)) is amended by striking "to which this section applies" and inserting "covered under section 4021 of this Act".

(2) REPEAL OF \$1,000,000 OFFSET.—Paragraph (3) of section 302(f) of such Act is amended to read as follows:

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(A) for plan years beginning after 1987, and

"(B) for which payment has not been made before the due date."

(3) REPEAL OF 60-DAY DELAY.—Section 302(f)(4)(B) of such Act is amended by striking "60th day following the".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for installments and other payments required under section 412 of the Internal Revenue Code of 1986 or under part 3 of subtitle B of the Employee Retirement Income Security Act of 1974 that become due on or after the date of enactment.

SEC. 769. SPECIAL FUNDING RULES FOR CERTAIN PLANS.

(a) FUNDING RULES NOT TO APPLY TO CERTAIN PLANS.—Any changes made by this Act

to section 412 of the Internal Revenue Code of 1986 or to part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 shall not apply to—

(1) a plan which is, on the date of enactment of this Act, subject to a restoration payment schedule order issued by the Pension Benefit Guaranty Corporation that meets the requirements of section 1.412(c)(1)-3 of the Treasury Regulations, or

(2) a plan established by an affected air carrier (as defined under section 4001(a)(14)(C)(i)(I) of such Act) and assumed by a new plan sponsor pursuant to the terms of a written agreement with the Pension Benefit Guaranty Corporation dated January 5, 1993, and approved by the United States Bankruptcy Court for the District of Delaware on December 30, 1992.

(b) CHANGE IN ACTUARIAL METHOD.—Any amortization installments for bases established under section 412(b) of the Internal Revenue Code of 1986 and section 302(b) of the Employee Retirement Income Security Act of 1974 for plan years beginning after December 31, 1987, and before January 1, 1993, by reason of nonelective changes under the frozen entry age actuarial cost method shall not be included in the calculation of offsets under section 412(l)(1)(A)(ii) of such Code and section 302(d)(1)(A)(ii) of such Act for the 1st 5 plan years beginning after December 31, 1994.

PART II—AMENDMENTS RELATED TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 771. REPORTABLE EVENTS.

(a) RESPONSIBILITY FOR REPORTABLE EVENTS REPORTING.—Section 4043(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1343(a)) is amended—

(1) in the first sentence, by inserting "or the contributing sponsor" before "knows or has reason to know";

(2) in the first sentence, by inserting ", unless a notice otherwise required under this subsection has already been provided with respect to such event" before the period at the end; and

(3) by striking the last sentence.

(b) NOTIFICATION THAT EVENT IS ABOUT TO OCCUR.—Section 4043 of such Act is amended by redesignating subsections (b), (c), and (d) as (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) The requirements of this subsection shall be applicable to a contributing sponsor if, as of the close of the preceding plan year—

"(A) the aggregate unfunded vested benefits (as determined under section 4006(a)(3)(E)(iii)) of plans subject to this title which are maintained by such sponsor and members of such sponsor's controlled groups (disregarding plans with no unfunded vested benefits) exceed \$50,000,000, and

"(B) the funded vested benefit percentage for such plans is less than 90 percent.

For purposes of subparagraph (B), the funded vested benefit percentage means the percentage which the aggregate value of the assets of such plans bears to the aggregate vested benefits of such plans (determined in accordance with section 4006(a)(3)(E)(iii)).

"(2) This subsection shall not apply to an event if the contributing sponsor, or the member of the contributing sponsor's controlled group to which the event relates, is—

"(A) a person subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, or

"(B) a subsidiary (as defined for purposes of such Act) of a person subject to such reporting requirements.

"(3) No later than 30 days prior to the effective date of an event described in paragraph (9), (10), (11), (12), or (13) of subsection (c), a contributing sponsor to which the requirements of this subsection apply shall notify the corporation that the event is about to occur.

"(4) The corporation may waive the requirement of this subsection with respect to any or all reportable events with respect to any contributing sponsor."

(c) NEW REPORTABLE EVENTS.—Subsection (c) of section 4043 of such Act (as redesignated by subsection (b)) is amended—

(1) by striking the "or" at the end of paragraph (8);

(2) by striking paragraph (9); and

(3) by inserting after paragraph (8) the following new paragraphs:

"(9) when, as a result of an event, a person ceases to be a member of the controlled group;

"(10) when a contributing sponsor or a member of a contributing sponsor's controlled group liquidates in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision of a State;

"(11) when a contributing sponsor or a member of a contributing sponsor's controlled group declares an extraordinary dividend (as defined in section 1059(c) of the Internal Revenue Code of 1986) or redeems, in any 12-month period, an aggregate of 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or an aggregate of 10 percent of more of the total value of shares of all classes of stock, of a contributing sponsor and all members of its controlled group;

"(12) when, in any 12-month period, an aggregate of 3 percent or more of the benefit liabilities of a plan covered by this title and maintained by a contributing sponsor or a member of its controlled group are transferred to a person that is not a member of the controlled group or to a plan or plans maintained by a person or persons that are not such a contributing sponsor or a member of its controlled group; or

"(13) when any other event occurs that may be indicative of a need to terminate the plan and that is prescribed by the corporation in regulations."

(d) DISCLOSURE EXEMPTION.—Section 4043 of such Act is amended by adding at the end the following new subsection:

"(f) Any information or documentary material submitted to the corporation pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress."

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 4043 of such Act, and subsections (d) and (e) of such section 4043 (as redesignated by subsection (b)), are each amended by striking "subsection (b)" each place it appears and inserting "subsection (c)".

(2) Section 4042(a)(3) of such Act is amended by striking "4043(b)(7)" and inserting "4043(c)(7)".

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective for events occurring 60 days or more after the date of enactment of this Act.

SEC. 772. CERTAIN INFORMATION REQUIRED TO BE FURNISHED TO PBGC.

(a) GENERAL RULE.—Subtitle A of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"SEC. 4010. AUTHORITY TO REQUIRE CERTAIN INFORMATION.

"(a) INFORMATION REQUIRED.—Each person described in subsection (b) shall provide the corporation annually, on or before a date specified by the corporation in regulations, with—

"(1) such records, documents, or other information that the corporation specifies in regulations as necessary to determine the liabilities and assets of plans covered by this title; and

"(2) copies of such person's audited (or, if unavailable, unaudited) financial statements, and such other financial information as the corporation may prescribe in regulations.

(b) PERSONS REQUIRED TO PROVIDE INFORMATION.—The persons covered by subsection (a) are each contributing sponsor, and each member of a contributing sponsor's controlled group, of a single-employer plan covered by this title, if—

"(1) the aggregate unfunded vested benefits at the end of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of plans maintained by the contributing sponsor and the members of its controlled group exceed \$50,000,000 (disregarding plans with no unfunded vested benefits);

"(2) the conditions for imposition of a lien described in section 302(f)(1)(A) and (B) of this Act or section 412(n)(1)(A) and (B) of the Internal Revenue Code of 1986 have been met with respect to any plan maintained by the contributing sponsor or any member of its controlled group; or

"(3) minimum funding waivers in excess of \$1,000,000 have been granted with respect to any plan maintained by the contributing sponsor or any member of its controlled group, and any portion thereof is still outstanding.

(c) INFORMATION EXEMPT FROM DISCLOSURE REQUIREMENTS.—Any information or documentary material submitted to the corporation pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress."

(b) CLERICAL AMENDMENT.—The table of contents contained in section 1 of such Act is amended by inserting after the item relating to section 4009 the following new item:

"Sec. 4010. Authority to require certain information."

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 773. ENFORCEMENT OF MINIMUM FUNDING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 4003(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(1)) is amended—

(1) by inserting "(A)" after "enforce"; and

(2) by striking the period after "title" and inserting ", and (B) in the case of a plan which is covered under this title (other than a multiemployer plan) and for which the conditions for imposition of a lien described in

section 302(f)(1)(A) and (B) of this Act or section 412(n)(1)(A) and (B) of the Internal Revenue Code of 1986 have been met, section 302 of this Act and section 412 of such Code."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall be effective for installments and other payments required under section 302 of the Employee Retirement Income Security Act of 1974 or section 412 of the Internal Revenue Code of 1986 that become due on or after the date of the enactment of this Act.

SEC. 774. COMPUTATION OF ADDITIONAL PBGC PREMIUM.

(a) **PHASE-OUT OF VARIABLE RATE PREMIUM CAP.**—

(1) **IN GENERAL.**—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking clause (iv), and by redesignating clause (v) as clause (iv).

(2) **EFFECTIVE DATE.**—

(A) **IN GENERAL.**—The amendments made by this subsection shall be effective for plan years beginning on or after July 1, 1994.

(B) **TRANSITION RULE.**—In the case of plan years beginning on or after July 1, 1994, and before July 1, 1996, the additional premium payable with respect to any participant by reason of the amendments made by this section shall not exceed the sum of—

(i) \$53, and
(ii) the product derived by multiplying—
(I) the excess (if any) of the amount determined under clause (i) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974, over \$53, by
(II) the applicable percentage.

For purposes of this subparagraph, the applicable percentage shall be the percentage specified in the following table:

For the plan year beginning:		The applicable percentage is:
on or after	but before	
July 1, 1994	July 1, 1995	20 percent
July 1, 1995	July 1, 1996	60 percent

(b) **INTEREST RATE AND ASSET VALUATION.**—
(1) **INTEREST RATE.**—Subclause (II) of section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974 is amended—

(A) by striking "80 percent" and inserting "the applicable percentage", and

(B) by adding at the end the following new sentence: "For purposes of this subclause, the applicable percentage is 80 percent for plan years beginning before July 1, 1997, 85 percent for plan years beginning after June 30, 1997, and before the 1st plan year to which the first tables prescribed under section 302(d)(7)(C)(i)(II) apply, and 100 percent for such 1st plan year and subsequent plan years."

(2) **ASSET VALUATION.**—Clause (iii) of section 4006(a)(3)(E) of such Act is amended—

(A) by inserting "or (III)" after "subclause (II)" in subclause (I), and

(B) by adding at the end the following new subclause:

"(III) In the case of any plan year for which the applicable percentage under subclause (II) is 100 percent, the value of the plan's assets used in determining unfunded current liability under subclause (I) shall be their fair market value."

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to plan years beginning after the date of the enactment of this Act.

(c) **TRANSITION RULE FOR CERTAIN REGULATED PUBLIC UTILITIES.**—In the case of a

regulated public utility described in section 7701(a)(33)(A)(i) of the Internal Revenue Code of 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(1) January 1, 1998, or

(2) the date the regulated public utility begins to collect from utility customers rates that reflect the costs incurred or projected to be incurred for additional premiums under section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 pursuant to final and nonappealable determinations by all public utility commissions (or other authorities having jurisdiction over the rates and terms of service by the regulated public utility) that the costs are just and reasonable and recoverable from customers of the regulated public utility.

SEC. 775. DISCLOSURE TO PARTICIPANTS.

(a) **PARTICIPANT NOTICE REQUIREMENT.**—Subtitle A of title IV of the Employee Retirement Income Security Act of 1974 (as amended by section 772 of this Act) is further amended by adding at the end the following new section:

"SEC. 4011. NOTICE TO PARTICIPANTS.

"(a) **IN GENERAL.**—The plan administrator of a plan subject to the additional premium under section 4006(a)(3)(E) shall provide, in a form and manner and at such time as prescribed in regulations of the corporation, notice to plan participants and beneficiaries of the plan's funding status and the limits on the corporation's guaranty should the plan terminate while underfunded. Such notice shall be written in a manner so as to be understood by the average plan participant.

"(b) **EXCEPTION.**—Subsection (a) shall not apply to any plan to which section 302(d) does not apply for the plan year by reason of paragraph (9) thereof."

(b) **CLERICAL AMENDMENT.**—The table of contents contained in section 1 of such Act is amended by inserting after the item relating to section 4010 (as added by section 772 of this Act) the following new item:

"Sec. 4011. Notice to participants."

(c) **EFFECTIVE DATE.**—The amendment made by this section shall be effective for plan years beginning after the date of enactment of this Act.

SEC. 776. MISSING PARTICIPANTS.

(a) **IN GENERAL.**—Subtitle C of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341 et seq.) is amended by adding at the end the following new section:

"SEC. 4050. MISSING PARTICIPANTS.

"(a) **GENERAL RULE.**—

"(1) **PAYMENT TO THE CORPORATION.**—A plan administrator satisfies section 4041(b)(3)(A) in the case of a missing participant only if the plan administrator—

"(A) transfers the participant's designated benefit to the corporation or purchases an irrevocable commitment from an insurer in accordance with clause (i) of section 4041(b)(3)(A), and

"(B) provides the corporation such information and certifications with respect to such designated benefits or irrevocable commitments as the corporation shall specify.

"(2) **TREATMENT OF TRANSFERRED ASSETS.**—A transfer to the corporation under this section shall be treated as a transfer of assets from a terminated plan to the corporation as trustee, and shall be held with assets of terminated plans for which the corporation is trustee under section 4042, subject to the rules set forth in that section.

"(3) **PAYMENT BY THE CORPORATION.**—After a missing participant whose designated bene-

fit was transferred to the corporation is located—

"(A) in any case in which the plan could have distributed the benefit of the missing participant in a single sum without participant or spousal consent under section 205(g), the corporation shall pay the participant or beneficiary a single sum benefit equal to the designated benefit paid the corporation plus interest as specified by the corporation, and

"(B) in any other case, the corporation shall pay a benefit based on the designated benefit and the assumptions prescribed by the corporation at the time that the corporation received the designated benefit.

The corporation shall make payments under subparagraph (B) available in the same forms and at the same times as a guaranteed benefit under section 4022 would be available to be paid, except that the corporation may make a benefit available in the form of a single sum if the plan provided a single sum benefit (other than a single sum described in subsection (b)(2)(A)).

"(b) **DEFINITIONS.**—For purposes of this section—

"(1) **MISSING PARTICIPANT.**—The term 'missing participant' means a participant or beneficiary under a terminating plan whom the plan administrator cannot locate after a diligent search.

"(2) **DESIGNATED BENEFIT.**—The term 'designated benefit' means the single sum benefit the participant would receive—

"(A) under the plan's assumptions, in the case of a distribution that can be made without participant or spousal consent under section 205(g);

"(B) under the assumptions of the corporation in effect on the date that the designated benefit is transferred to the corporation, in the case of a plan that does not pay any single sums other than those described in subparagraph (A); or

"(C) under the assumptions of the corporation or of the plan, whichever provides the higher single sum, in the case of a plan that pays a single sum other than those described in subparagraph (A).

"(c) **REGULATORY AUTHORITY.**—The corporation shall prescribe such regulations as are necessary to carry out the purposes of this section, including rules relating to what will be considered a diligent search, the amount payable to the corporation, and the amount to be paid by the corporation."

(b) **CONFORMING TITLE IV AMENDMENTS.**—

(1) **AMENDMENT TO SECTION 4003.**—Section 4003(a) of such Act (29 U.S.C. 1303(a)) is amended in the second sentence by inserting before the period the following: "and whether section 4050(a) has been satisfied".

(2) **AMENDMENT TO SECTION 4005.**—Section 4005(b)(2)(A) of such Act (29 U.S.C. 1305(b)(2)(A)) is amended by inserting "or benefits payable under section 4050" after "section 4022A".

(3) **AMENDMENT TO SECTION 4041.**—Section 4041(b)(3)(A)(ii) of such Act (29 U.S.C. 1341(b)(3)(A)(ii)) is amended by adding at the end the following new sentence: "A transfer of assets to the corporation in accordance with section 4050 on behalf of a missing participant shall satisfy this subparagraph with respect to such participant."

(c) **CONFORMING ERISA AMENDMENTS.**—

(1) The table of contents contained in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item related to section 4049 the following new item:

"Sec. 4050. Missing participants."

(2) Section 206 of such Act (29 U.S.C. 1056) is amended by adding at the end the following new subsection:

“(f) MISSING PARTICIPANTS IN TERMINATED PLANS.—In the case of a plan covered by title IV, the plan shall provide that, upon termination of the plan, benefits of missing participants shall be treated in accordance with section 4050.”

(d) CONFORMING INTERNAL REVENUE CODE AMENDMENTS.—Section 401(a), as amended by section 766 of this Act, is further amended by inserting after paragraph (33) the following new paragraph:

“(34) BENEFITS OF MISSING PARTICIPANTS ON PLAN TERMINATION.—In the case of a plan covered by title IV of the Employee Retirement Income Security Act of 1974, a trust forming part of such plan shall not be treated as failing to constitute a qualified trust under this section merely because the pension plan of which such trust is a part, upon its termination, transfers benefits of missing participants to the Pension Benefit Guaranty Corporation in accordance with section 4050 of such Act.”

(e) EFFECTIVE DATE.—The provisions of this section shall be effective with respect to distributions that occur in plan years commencing after final regulations implementing these provisions are prescribed by the Pension Benefit Guaranty Corporation.

SEC. 777. MODIFICATION OF MAXIMUM GUARANTEE FOR DISABILITY BENEFITS.

(a) IN GENERAL.—Section 4022(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(3)) is amended by adding at the end the following new sentences: “The maximum guaranteed monthly benefit shall not be reduced solely on account of the age of a participant in the case of a benefit payable by reason of disability that occurred on or before the termination date, if the participant demonstrates to the satisfaction of the corporation that the Social Security Administration has determined that the participant satisfies the definition of disability under title II or XVI of the Social Security Act, and the regulations thereunder. If a benefit payable by reason of disability is converted to an early or normal retirement benefit for reasons other than a change in the health of the participant, such early or normal retirement benefit shall be treated as a continuation of the benefit payable by reason of disability and this subparagraph shall continue to apply.”

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for plan terminations under section 401(c) of the Employee Retirement Income Security Act of 1974 with respect to which notices of intent to terminate are provided under section 401(a)(2) of such Act, or under section 4042 of such Act with respect to which proceedings are instituted by the corporation, on or after the date of enactment of this Act.

SEC. 778. PROCEDURES TO FACILITATE DISTRIBUTION OF TERMINATION BENEFITS.

(a) REMEDIES FOR NONCOMPLIANCE WITH REQUIREMENTS FOR STANDARD TERMINATION.—

(1) NOTICE OF NONCOMPLIANCE.—Section 4041(b)(2)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(b)(2)(C)(i)) is amended—

(A) by striking subclause (I) and inserting the following new subclause:

“(I) it determines, based on the notice sent under paragraph (2)(A) of subsection (b), that there is reason to believe that the plan is not sufficient for benefit liabilities;”

(B) by striking the period at the end of subclause (II) and inserting “, or”; and

(C) by adding at the end the following new subclause:

“(III) it determines that any other requirement of subparagraph (A) or (B) of this paragraph or of subsection (a)(2) has not been met, unless it further determines that the issuance of such notice would be inconsistent with the interests of participants and beneficiaries.”

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any plan termination under section 4041(b) of the Employee Retirement Income Security Act of 1974 with respect to which the Pension Benefit Guaranty Corporation has not, as of the date of enactment of this Act, issued a notice of noncompliance that has become final, or otherwise issued a final determination that the plan termination is nullified.

(b) DISTRESS TERMINATION CRITERIA FOR BANKING INSTITUTIONS.—

(1) CLARIFICATION OF DISTRESS CRITERION.—Subclause (I) of section 4041(c)(2)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)(i)) is amended by inserting after “under any similar” the following: “Federal law or”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective as if included in the Single-Employer Pension Plan Amendments Act of 1986.

PART III—EFFECTIVE DATES

SEC. 781. EFFECTIVE DATES.

Except as otherwise provided in this subtitle, the amendments made by this subtitle shall be effective on the date of enactment of this Act.

TITLE VIII—PIONEER PREFERENCES

SEC. 801. PIONEER PREFERENCES.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

“(13) RECOVERY OF VALUE OF PUBLIC SPECTRUM IN CONNECTION WITH PIONEER PREFERENCES.—

“(A) IN GENERAL.—Notwithstanding paragraph (6)(G), the Commission shall not award licenses pursuant to a preferential treatment accorded by the Commission to persons who make significant contributions to the development of a new telecommunications service or technology, except in accordance with the requirements of this paragraph.

“(B) RECOVERY OF VALUE.—The Commission shall recover for the public a portion of the value of the public spectrum resource made available to such person by requiring such person, as a condition for receipt of the license, to agree to pay a sum determined by—

“(i) identifying the winning bids for the licenses that the Commission determines are most reasonably comparable in terms of bandwidth, scope of service area, usage restrictions, and other technical characteristics to the license awarded to such person, and excluding licenses that the Commission determines are subject to bidding anomalies due to the award of preferential treatment;

“(ii) dividing each such winning bid by the population of its service area (hereinafter referred to as the per capita bid amount);

“(iii) computing the average of the per capita bid amounts for the licenses identified under clause (i);

“(iv) reducing such average amount by 15 percent; and

“(v) multiplying the amount determined under clause (iv) by the population of the service area of the license obtained by such person.

“(C) INSTALLMENTS PERMITTED.—The Commission shall require such person to pay the

sum required by subparagraph (B) in a lump sum or in guaranteed installment payments, with or without royalty payments, over a period of not more than 5 years.

“(D) RULEMAKING ON PIONEER PREFERENCES.—Except with respect to pending applications described in clause (iv) of this subparagraph, the Commission shall prescribe regulations specifying the procedures and criteria by which the Commission will evaluate applications for preferential treatment in its licensing processes (by precluding the filing of mutually exclusive applications) for persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service. Such regulations shall—

“(i) specify the procedures and criteria by which the significance of such contributions will be determined, after an opportunity for review and verification by experts in the radio sciences drawn from among persons who are not employees of the Commission or by any applicant for such preferential treatment;

“(ii) include such other procedures as may be necessary to prevent unjust enrichment by ensuring that the value of any such contribution justifies any reduction in the amounts paid for comparable licenses under this subsection;

“(iii) be prescribed not later than 6 months after the date of enactment of this paragraph;

“(iv) not apply to applications that have been accepted for filing on or before September 1, 1994; and

“(v) cease to be effective on the date of the expiration of the Commission's authority under subparagraph (F).

“(E) IMPLEMENTATION WITH RESPECT TO PENDING APPLICATIONS.—In applying this paragraph to any broadband licenses in the personal communications service awarded pursuant to the preferential treatment accorded by the Federal Communications Commission in the Third Report and Order in General Docket 90-314 (FCC 93-550, released February 3, 1994)—

“(i) the Commission shall not reconsider the award of preferences in such Third Report and Order, and the Commission shall not delay the grant of licenses based on such awards more than 15 days following the date of enactment of this paragraph, and the award of such preferences and licenses shall not be subject to administrative or judicial review;

“(ii) the Commission shall not alter the bandwidth or service areas designated for such licenses in such Third Report and Order;

“(iii) except as provided in clause (v), the Commission shall use, as the most reasonably comparable licenses for purposes of subparagraph (B)(i), the broadband licenses in the personal communications service for blocks A and B for the 20 largest markets (ranked by population) in which no applicant has obtained preferential treatment;

“(iv) for purposes of subparagraph (C), the Commission shall permit guaranteed installment payments over a period of 5 years, subject to—

“(I) the payment only of interest on unpaid balances during the first 2 years, commencing not later than 30 days after the award of the license (including any preferential treatment used in making such award) is final and no longer subject to administrative or judicial review, except that no such payment shall be required prior to the date of completion of the auction of the comparable licenses described in clause (iii); and

"(II) payment of the unpaid balance and interest thereon after the end of such 2 years in accordance with the regulations prescribed by the Commission; and

"(v) the Commission shall recover with respect to broadband licenses in the personal communications service an amount under this paragraph that is equal to not less than \$400,000,000, and if such amount is less than \$400,000,000, the Commission shall recover an amount equal to \$400,000,000 by allocating such amount among the holders of such licenses based on the population of the license areas held by each licensee.

The Commission shall not include in any amounts required to be collected under clause (v) the interest on unpaid balances required to be collected under clause (iv).

"(F) EXPIRATION.—The authority of the Commission to provide preferential treatment in licensing procedures (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service shall expire on September 30, 1998.

"(G) EFFECTIVE DATE.—This paragraph shall be effective on the date of its enactment and apply to any licenses issued on or after August 1, 1994, by the Federal Communications Commission pursuant to any licensing procedure that provides preferential treatment (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service."

By Mr. FORD:

S. 2469. A bill to amend title XI of the Energy Policy Act of 1992 to provide for the economic and environmentally acceptable disposal of low-level radioactive waste and mixed waste resulting from the operation of gaseous diffusion plants at Paducah, KY, and Piketon, OH and for other purposes; to the Committee on Energy and Natural Resources.

DISPOSAL OF WASTE FROM GASEOUS DIFFUSION PLANTS

Mr. FORD. Mr. President, I am introducing a bill to provide for the economic and environmentally acceptable disposal of low-level and mixed radioactive wastes resulting from the operations of the gaseous diffusion plants at Paducah, KY, and Piketon, OH. If enacted, the measure will help the States of Illinois and Kentucky to fulfill their respective responsibilities under the Central Midwest Interstate Low-Level Radioactive Waste Compact in an orderly and productive manner. This will be accomplished by clarifying the intent of Congress in amendments to the Atomic Energy Act of 1954 as contained in the Energy Policy Act of 1992.

I should also point out that the bill will have the same affect on the efforts of Ohio, Indiana, Iowa, Minnesota, Missouri and Wisconsin who are members of the Midwest interstate compact.

The need for the clarification and the concern on the part of the affected compact States stems from a recent in-

terpretation by Department of Energy officials that disposal of low-level radioactive wastes resulting from operations of the Paducah, KY, and Piketon, OH, gaseous diffusion plants, which are owned by the Department of Energy and leased to the U.S. Enrichment Corporation, is the responsibility of the compact States.

As my colleagues will recall, Congress created the U.S. Enrichment Corporation in the Energy Policy Act of 1992. Under the act, the Corporation is charged with operating the gaseous diffusion plants, which enrich uranium for use as fuel in civilian nuclear power plants, as a business enterprise on a profitable and efficient basis. However, the act may not be clear as to the disposition of low-level radioactive wastes and mixed wastes from the two gaseous diffusion plants while being operated by the Corporation. Hence, the interpretation by the Department of Energy that the States must accept the waste.

This interpretation could be devastating to compact States' efforts to address low-level and mixed waste problems, as it was never anticipated that wastes from the diffusion plants would be the responsibility of the compact regions. This amendment clarifies that low-level and mixed wastes resulting from the operation of the two plants would be eligible for disposal by the Department of Energy. I would stress at this point that DOE disposal would be an option on the part of the U.S. Enrichment Corporation which, under the bill, has the authority to select the least expensive environmentally acceptable method of disposal.

In a related matter, the Energy Policy Act is clear that the Department of Energy is responsible for the eventual costs of decontaminating and decommissioning the facilities leased from the Department of Energy and operated by the Corporation; but the act is not clear regarding the costs for disposing of low-level radioactive and mixed wastes generated by the Corporation as a result of the Corporation's operation of the facilities. This bill makes it unequivocal that the costs for the disposal of wastes generated by the Corporation are to be solely the responsibility of the Corporation.

Mr. President, this bill is important to the compact States. It provides a degree of responsible flexibility for the disposal of wastes at the two gaseous diffusion plants, it also identifies who pays for the disposal, and finally, it gives good direction to the Department of Energy in interpreting the Energy Policy Act of 1992.

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. 2469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title XI of the Energy Policy Act of 1992, is amended by adding after section 1103 the following new section:

SEC. 1104. LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.

Title II of the Atomic Energy Act of 1954, as added by title IX of this Act, is further amended as follows:

(a) in section 1201 by inserting the following new paragraphs and renumbering existing paragraphs accordingly:

"(10) The term "low-level radioactive waste" has the meaning given such term in Section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

(11) The term "mixed waste" has the meaning given such term in Section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41))." and (b) in section 1403 by adding at the end thereof the following new subsection:

"(h) DOE RESPONSIBILITY TO ACCEPT LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—At the request of the Corporation, the Department shall accept for treatment and disposal the low-level radioactive waste and mixed waste generated as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a). The increase in costs of treatment and disposal actually incurred by the Department which are solely attributable to and result from the treatment and disposal of such wastes received from the Corporation shall be reimbursed to the Department by the Corporation. At its sole discretion, the Corporation may, but is not required to, arrange for the treatment or disposal of such wastes or any portion thereof at any other facility otherwise authorized by applicable laws and regulations to treat or dispose of such wastes. The costs of treatment and disposal of such wastes at any other facility shall be borne solely by the Corporation."

By Mr. LAUTENBERG:

S.J. Res. 222. A joint resolution to designate October 19, 1994, as "Mercy Otis Warren Day," and for other purposes; to the Committee on the Judiciary.

MERCY OTIS WARREN DAY

● Mr. LAUTENBERG. Mr. President, today I rise to introduce a resolution designating October 19, 1994 as "Mercy Otis Warren Day."

Born in Barnstable, MA on September 14, 1728, Mercy Otis Warren lived an active political life until her death on October 19, 1814. Although unknown to the majority of Americans, Mercy Otis Warren played an important role in American history.

Recognized as a poet, patriot, and historian of the American Revolution, Mercy Otis Warren's writings are credited with providing insightful views on the leading political figures of the American Revolution and the political viewpoints of the day. One of her major literary works, "The History of the Rise, Progress and Termination of the American Revolution" is respected primarily for its spirited personal observation about the people and events she had know firsthand.

Over time, Mercy Otis Warren became a prominent political commentator who was well respected by her contemporaries for her understanding of political issues. Her advice and opinions were sought by such notables as John and Samuel Adams and Thomas Jefferson. Mrs. Warren wrote 19-page pamphlet published in 1788 entitled, "Observations On The New Constitution," which may not be her best known work, but was perhaps her most significant. Mrs. Warren's vigorous defense of personal liberties contributed to the political movement which culminated in the adoption of the Bill of Rights.

What is most remarkable about Mercy Otis Warren is that she received no formal education because of the social norms in the early 1700's which placed women in domestic roles. As a young woman, Mercy Otis satisfied her thirst for knowledge by sitting in on her brothers tutoring sessions. As the daughter of a county judge who was also a colonel in the militia, Mercy Otis listened to frequent political discussions in her home and developed an ardent interest in politics and public affairs. A forerunner of the modern feminist movement, Mrs. Warren was very interested in the role of women in society and was determined that women should not be restricted to domestic interests.

The life of Mercy Otis Warren is one that should be told to all Americans. Recognition is long overdue. I hope my colleagues will join me in honoring this great American for her courage, her wisdom and her contribution to early American political thought which gave birth to the democratic values we all cherish.

I ask unanimous consent that a copy of the joint resolution be printed in the RECORD. I urge my colleagues to support this joint resolution which designates October 19, 1994 as "Mercy Otis Warren Day."

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

S.J. RES. 222

Whereas Mercy Otis Warren was born on September 14, 1728, in Barnstable, Massachusetts, was 1 of 13 children, and was without a formal education, yet her thirst for knowledge and ardent interest in politics transformed her into one of the prominent political thinkers and commentators of her day;

Whereas Mercy Otis Warren maintained throughout her life an aggressive concern for public affairs and the role of women in society, and was determined that women should not be restricted to domestic interests;

Whereas Mercy Otis Warren wrote numerous published works providing commentary on the leading political figures of the American Revolution and on the political viewpoints of her day, including a major literary work, the 3-volume "History of the Rise, Progress, and Termination of the American Revolution", completed in 1805;

Whereas Mercy Otis Warren was so well respected by her contemporaries for her under-

standing of political issues that her advice was sought by such notables as John Adams, Samuel Adams, and Thomas Jefferson;

Whereas Mercy Otis Warren wrote a 19-page pamphlet, published in 1788, entitled "Observations on the New Constitution", that contributed to the political movement that provided a foundation for the Bill of Rights; and

Whereas Mercy Otis Warren is recognized by American historians as a poet, a patriot, and a historian of the American Revolution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 19, 1994, is designated as "Mercy Otis Warren Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this day with appropriate ceremonies and activities.●

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. SIMON, Mr. MACK, Mr. BAUCUS, Mr. LEAHY, Mr. D'AMATO, Mr. COCHRAN, Mr. DECONCINI, Mr. BRADLEY, Mr. MOYNIHAN, Mr. GLENN, Mr. WOFFORD, Mr. BIDEN, Mr. CHAFEE, Mr. DODD, Mr. LAUTENBERG, Mr. INOUE, Mr. KERRY, Mr. ROTH, Mr. THURMOND, Mr. PELL, Mr. WARNER, Mr. DURENBERGER, Mrs. BOXER, Mr. SARBANES, Mr. JOHNSTON, Mr. DORGAN, Mr. JEFFORDS, Mr. METZENBAUM, Mr. RIEGLE, Mr. HEFLIN, Mr. MITCHELL, Mr. PACKWOOD, Mr. GRASSLEY, Mr. SPECTER, Mr. DOLE, Mr. LOTT, Mr. MURKOWSKI, Mr. COHEN, Mr. BENNETT, Mr. BOND, Mr. STEVENS, Mr. HELMS, Mr. MCCAIN, Mr. SASSER, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. LEVIN, Mr. AKAKA, Mr. FORD, and Mr. WELLSTONE):

S.J. Res. 223. A joint resolution to designate March 1995 and March 1996 as "Irish-American Heritage Month"; to the Committee on the Judiciary.

IRISH-AMERICAN HERITAGE MONTH

Mr. KENNEDY. Mr. President, on behalf of myself and 51 of my colleagues, I am proud to introduce a Senate joint resolution designating March 1995 and March 1996 as "Irish American Heritage Month." An identical resolution has been introduced by Representative THOMAS J. MANTON in the House.

This joint resolution pays tribute to the numerous contributions the Irish have made to America.

The year 1995 will be particularly significant for Irish-Americans, because it marks the 150th anniversary of the beginning of the Great Famine in Ireland. Between then and 1910, more than 3 million Irish immigrants came to our shores, and their contributions to the development of our country are immense.

Today, more than 44 million Americans are of Irish descent and it is a privilege to introduce this joint resolution recognizing their contributions and the contributions of their ances-

tors. I ask unanimous consent that the text of the joint resolution may be printed in the RECORD.

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

S.J. RES. 223

Whereas 150 years ago, the blight that struck Ireland's potato crop ("the single root that changed the history of the world"), known as the Great Famine, caused 2,000,000 of Ireland's population to emigrate, mostly to America's shores;

Whereas in 1847 alone, 25,000 Irish immigrants arrived in Boston;

Whereas by 1851, the end of the famine exodus, 1,712 emigrant ships had sailed up the Narrows into New York harbor;

Whereas during the "Great Hunger" (1845-1851) more people left Ireland than had emigrated in the previous 250 years;

Whereas within a few years of arriving in the United States, the Irish immigrants took jobs as laborers, built railroads, canals, and schools, dedicated themselves to help build this nation, and this same legacy today remains a part of American mainstream;

Whereas James Smith, George Taylor, Matthew Thornton, and Charles Thomson, 4 of the individuals who signed the Declaration of Independence, were Irish born and 9 other signers were of Irish ancestry;

Whereas Irish-born James Hoban designed and supervised the building of the White House and its restoration after it was burned in 1814;

Whereas more than 200 Irish-Americans have been awarded the Congressional Medal of Honor;

Whereas 19 Presidents of the United States proudly claim Irish heritage, included among them, the first President, George Washington;

Whereas John W. O'Beirne, Founder of the American Foundation for Irish Heritage, first requested in 1990 that Congress designate March as "Irish-American Heritage Month"; and

Whereas the 44,000,000 Americans of Irish ancestry, like their forebears, continue to enrich all aspects of life in the United States, in science, education, art, agriculture, business, industry, literature, music, athletics, military, and governmental service: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the months of March 1995 and March 1996 are designated as "Irish-American Heritage Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe each month with appropriate ceremonies and activities.

By Mr. SIMON (for himself, Mr. SARBANES, Mr. PELL, Mr. REID, Mr. WOFFORD, Mr. MATHEWS, Mr. BINGAMAN, and Mr. KENNEDY):

S.J. Res. 224. A joint resolution designating November 1, 1994, as "National Family Literacy Day"; to the Committee on the Judiciary.

NATIONAL FAMILY LITERACY DAY

● Mr. SIMON. Mr. President, I am pleased to introduce a joint resolution to designate November 1, 1994, as "National Family Literacy Day." Senators KENNEDY, PELL, SARBANES, REID, WOFFORD, MATHEWS, and BINGAMAN are

original cosponsors of this joint resolution.

Millions of American families are trapped in a cycle of poverty, dependency, and undereducation. One of the most promising methods for breaking this cycle is the family literacy approach, where parents and their children attend school together. As parents identify their strengths and develop their literacy skills, essential messages about the importance of education are successfully passed on to their children.

Research shows that the most important factor in determining the life chances of a child is the level of educational attainment of her or his parents. Adults participating in family literacy programs are more likely to remain in the program than participants in adult-focused programs and 90 percent of the children who have participated in family literacy programs are successful in school. In addition, family literacy programs lead to more educationally supportive home environments.

Family literacy is a ladder that extends down into hopelessness and empowers families to work together in reaching new levels of achievement, self-sufficiency, self-esteem, and strength as a family. National Family Literacy Day will send a message about the importance of family education throughout the land. •

ADDITIONAL COSPONSORS

S. 1288

At the request of Mr. AKAKA, the names of the Senator from Virginia [Mr. WARNER] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1329

At the request of Mr. D'AMATO, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Kentucky [Mr. FORD] were added as cosponsors 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. 2051

At the request of Mr. WARNER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2051, a bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad

workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes.

S. 2257

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 2257, a bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes.

S. 2283

At the request of Mr. SHELBY, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 2283, a bill to amend title XVIII of the Social Security Act to provide for coverage of prostate cancer screening and certain drug treatment services under part B of the Medicare Program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such screening and services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer.

S. 2285

At the request of Mrs. BOXER, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2285, a bill to provide for the sound management and protection of redwood forest areas in Humboldt County, California, by adding certain lands and waters to the Six Rivers National Forest and by including a portion of such lands in the National Wilderness Preservation System, and for other purposes.

S. 2286

At the request of Mr. LUGAR, the name of the Senator from Oklahoma [Mr. NICKLES] 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. 2305

At the request of Mr. AKAKA, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2305, a bill to provide that members of the Board of Veterans' Appeals be referred to as veterans law judges, to provide for the pay of such members, and for other purposes.

S. 2312

At the request of Mr. DASCHLE, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 2312, a bill to maintain the ability of United States agriculture to remain viable and competitive in domestic and international markets, to meet the food and fiber needs of United States and international consumers, and for other purposes.

S. 2411

At the request of Mr. DOLE, the names of the Senator from Utah [Mr.

HATCH] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 2411, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 2445

At the request of Mr. DANFORTH, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2445, a bill to amend the Internal Revenue Code of 1986 to limit the applicability of the generation-skipping transfer tax.

S. 2457

At the request of Mr. DANFORTH, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2457, a bill for the relief of Benchmark Rail Group, Inc.

SENATE JOINT RESOLUTION 90

At the request of Mr. ROBB, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

SENATE JOINT RESOLUTION 177

At the request of Mr. SIMON, the names of the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Ohio [Mr. GLENN], the Senator from Missouri [Mr. DANFORTH], the Senator from Michigan [Mr. RIEGLE], the Senator from Oregon [Mr. PACKWOOD], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUE], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Rhode Island [Mr. PELL], the Senator from Maine [Mr. COHEN], the Senator from Tennessee [Mr. SASSER], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Senate Joint Resolution 177, a joint resolution to designate the period of October 2, 1994, through October 8, 1994, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 181

At the request of Mr. SIMON, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 181, a joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week."

SENATE JOINT RESOLUTION 186

At the request of Mr. PACKWOOD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 186, a joint resolution to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day."

SENATE JOINT RESOLUTION 208

At the request of Mr. WOFFORD, the names of the Senator from California [Mrs. BOXER] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 208, a joint resolution designating the week of November 6, 1994, through November 12, 1994, "National Health Information Management Week."

SENATE RESOLUTION 269—RELATIVE TO THE JACOB K. JAVITS SENATE FELLOWSHIP PROGRAM

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 269

Resolved, That Senate Resolution 75 (103d Congress, 1st Session), agreed to March 3, 1993, is amended—

(1) in section 2, by adding at the end thereof the following:

"(c) The Jacob K. Javits Foundation, Incorporated shall—

"(1) broadly publicize the availability of the fellowship program;

"(2) develop and administer an application process for Senate fellowships;

"(3) conduct a screening of applicants for the fellowship program; and

"(4) select participants without regard to race, color, religion, sex, National origin, age, or disability.";

(2) in section 3, by amending subsection (c) to read as follows:

"(c) The Secretary, after consultation with the Majority Leader and the Minority Leader of the Senate, shall assist with the placement of eligible participants in positions in the Senate that are, within practical considerations, supportive of the fellowship participants' academic programs. Fellows shall be considered as employees of the office or committee in which they are placed."; and

(3) in section 5, by inserting "the Minority Leader of" before "the Senate".

AMENDMENTS SUBMITTED

COAST GUARD AUTHORIZATION ACT OF 1994

GORTON AMENDMENT NO. 2590

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (H.R. 4422) to authorize appropriations for fiscal year 1995 for the Coast Guard, and for other purposes; as follows:

At the appropriate place in the bill, insert the following new title:

TITLE—U.S. CRUISE VESSEL DEVELOPMENT

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Cruise Vessel Development Act".

SEC. 2. PURPOSE.

The purpose of this Act is to promote construction and operation of United States flag cruise vessels in the United States.

SEC. 3. COASTWISE TRANSPORTATION OF PASSENGERS.

Section 8 of the Act entitled "An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes", approved of June 19, 1886 (46 App. U.S.C. 289), is amended to read as follows:

"SEC. 8. COASTWISE TRANSPORTATION OF PASSENGERS.

"(a) IN GENERAL.—Except as otherwise provided by law, a vessel may transport passengers in coastwise trade only if—

"(1) the vessel is owned by a person that is—

"(A) an individual who is a citizen of the United States; or

"(B) a corporation, partnership, or association that is a citizen of the United States under section 2(a) of the Shipping Act, 1916;

"(2) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920; and

"(3) for a vessel that is at least 5 net tons, the vessel is issued a certificate of documentation under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) EXCEPTION FOR VESSEL UNDER DEMISE CHARTER.—

"(1) IN GENERAL.—Subsection (a)(1) does not apply to a cruise vessel operating under a demise charter that—

"(A) has a term of at least 18 months; and

"(B) is to a person described in subsection (a)(1).

"(2) EXTENSION OF PERIOD FOR OPERATION.—A cruise vessel authorized to operate in coastwise trade under paragraph (1) based on a demise charter described in paragraph (1) may operate in that coastwise trade during a period following the termination of the charter of not more than 6 months, if the operation—

"(A) is approved by the Secretary; and

"(B) in accordance with such terms as may be prescribed by the Secretary for that approval.

"(c) EXCEPTION FOR VESSEL TO BE REFLAGGED.—

"(1) EXCEPTION.—Subsection (a)(2) and section 12106(a)(2)(A) of title 46, United States Code, do not apply to a cruise vessel if—

"(A) the vessel—

"(i) is not documented under chapter 121 of title 46, United States Code, on the date of enactment of the United States Cruise Vessel Development Act; and

"(ii) is not less than 5 years old and not more than 15 years old on the first date that the vessel is documented under that chapter after that date of enactment; and

"(B) the owner or charterer of the vessel has entered into a contract for the construction in the United States of another cruise vessel that has a total berth or stateroom capacity that is at least 80 percent of the capacity of the cruise vessel.

"(2) TERMINATION OF AUTHORITY TO OPERATE.—Paragraph (1) does not apply to a vessel after the date that is 18 months after the date on which a certificate of documentation with a coastwise endorsement is first issued for the vessel after the date of enactment of the United States Cruise Vessel Development Act if, before the end of that 18-month period, the keel of another vessel has not been laid, or another vessel is not at a similar stage of construction, under a contract required for the vessel under paragraph (1)(B).

"(3) EXTENSION OF PERIOD BEFORE TERMINATION.—The Secretary of Transportation may extend the period under paragraph (2)

for not more than 6 months for good cause shown.

"(d) LIMITATION ON OPERATIONS.—A person (including a related person with respect to that person) that owns or charters a cruise vessel operating in coastwise trade under subsection (b) or (c) under a coastwise endorsement may not operate any vessel between—

"(1) any 2 ports served by another cruise vessel that transports passengers in coastwise trade under subsection (a) on the date the Secretary issues the coastwise endorsement; or

"(2) the island of Hawaii.

"(e) PENALTIES.—

"(1) CIVIL PENALTY.—A person operating a vessel in violation of this section is liable to the United States Government for a civil penalty of \$1,000 for each passenger transported in violation of this section.

"(2) FORFEITURE.—A vessel operated in knowing violation of this section, and its equipment, are liable to seizure by and forfeiture to the United States Government.

"(3) DISQUALIFICATION FROM COASTWISE TRADE.—A person that is required to enter into a construction contract under subsection (c)(1)(B) with respect to a cruise vessel (including any related person with respect to that person) may not own or operate any vessel in coastwise trade after the period applicable under subsection (c)(2) with respect to the cruise vessel, if before the end of that period a keel is not laid and a similar stage of construction is not reached under such a contract.

"(f) DEFINITIONS.—In this section—

"(1) the term 'coastwise trade' includes transportation of a passenger between points in the United States, either directly or by way of a foreign port;

"(2) the term 'cruise vessel' means a vessel that—

"(A) is at least 10,000 gross tons (as measured under chapter 143 of title 46, United States Code);

"(B) has berth or stateroom accommodations for at least 200 passengers; and

"(C) is not a ferry;

"(3) the term 'related person' means, with respect to a person—

"(A) a holding company, subsidiary, affiliate, or association of the person; and

"(B) an officer, director, or agent of the person or of an entity referred to in subparagraph (A)."

SEC. 4. CONSTRUCTION STANDARDS.

Section 3309 of title 46, United States Code, is amended by adding at the end the following:

"(d)(1) A vessel described in paragraph (3) is deemed to comply with parts B and C of this subtitle.

"(2) The Secretary shall issue a certificate of inspection under subsection (a) to a vessel described in paragraph (3).

"(8) A vessel is described in this paragraph if—

"(A) it meets the standards and conditions for the issuance of a control verification certificate to a foreign vessel embarking passengers in the United States;

"(B) a coastwise endorsement is issued for the vessel under section 12106 of this title after the date of enactment of the United States Cruise Vessel Development Act; and

"(C) the vessel is authorized to engage in coastwise trade by reason of section 8(c) of the Act entitled "An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes", approved of June 19, 1886."

SEC. 5. CITIZENSHIP FOR PURPOSES OF DOCUMENTATION.

Section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), is amended—

(1) in subsection (a) by inserting "other than primarily in the transport of passengers," after "the coastwise trade"; and

(2) by adding at the end the following:

"(e) For purposes of determining citizenship under subsection (a) with respect to operation of a vessel primarily in the transport of passengers in coastwise trade, the controlling interest in a partnership or association that owns the vessel shall not be deemed to be owned by citizens of the United States unless a majority interest in the partnership or association is owned by citizens of the United States free from any trust or fiduciary obligation in favor of any person that is not a citizen of the United States."

SEC. 6. AMENDMENT TO TITLE XI OF THE MERCHANT MARINE ACT, 1936.

Section 1101(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(b)), is amended by striking "passenger cargo" and inserting "passenger, cargo."

SEC. 7. PERMITS FOR VESSELS ENTERING UNITS OF NATIONAL PARK SYSTEM.

(a) **PRIORITY.**—Notwithstanding any other provision of law, the Secretary of the Interior may not permit a person to operate a vessel in any unit of the National Park System except in accordance with the following priority:

(1) First, any person that—

(A) will operate a vessel that is documented under the laws of, and the home port of which is located in, the United States; or
(B) holds rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(a)).

(2) Second, any person that will operate a vessel that—

(A) is documented under the laws of a foreign country, and
(B) on the date of the enactment of this Act is permitted to be operated by the person in the unit.

(3) Third, any person that will operate a vessel other than a vessel described in paragraph (1) or (2).

(b) **REVOCACTION OF PERMITS FOR FOREIGN DOCUMENTED VESSELS.**—The Secretary of the Interior shall revoke or refuse to renew permission granted by the Secretary for the operation of a vessel documented under the laws of a foreign country in a unit of the National Park System, if—

(1) a person requests permission to operate a vessel documented under the laws of the United States in that unit; and

(2) the permission may not be granted because of a limit on the number of permits that may be issued for that operation.

(c) **RESTRICTIONS ON REVOCACTION OF PERMITS.**—The Secretary of the Interior may not revoke or refuse to renew permission under subsection (b) for any person holding rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(a)).

(d) **RETURN OF PERMITS.**—Any person whose permission to provide visitor services in a unit of the National Park System has been revoked or not renewed under subsection (b) shall have the right of first refusal to a permit to provide visitor services in that unit of the National Park System that becomes available when the conditions described in subsection (b) no longer apply. Such right shall be limited to the number of permits which are revoked or not renewed.

GORTON AMENDMENT NO. 2591

(Ordered to lie on the table.)

79-059 O—97 Vol. 140 (Pt. 18) 47

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (S. 2373) to authorize appropriations for fiscal year 1995 for the U.S. Coast Guard, and for other purposes; as follows:

At the appropriate place in the bill, insert the following new title:

TITLE—U.S. CRUISE VESSEL DEVELOPMENT**SECTION 1. SHORT TITLE.**

This Act may be cited as the "United States Cruise Vessel Development Act".

SEC. 2. PURPOSE.

The purpose of this Act is to promote construction and operation of United States flag cruise vessels in the United States.

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"(2) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920; and

"(3) for a vessel that is at least 5 net tons, the vessel is issued a certificate of documentation under chapter 121 of title 46, United States Code, with a coastwise endorsement.

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"(1) **IN GENERAL.**—Subsection (a)(1) does not apply to a cruise vessel operating under a demise charter that—

"(A) has a term of at least 18 months; and

"(B) is to a person described in subsection (a)(1).

"(2) **EXTENSION OF PERIOD FOR OPERATION.**—A cruise vessel authorized to operate in coastwise trade under paragraph (1) based on a demise charter described in paragraph (1) may operate in that coastwise trade during a period following the termination of the charter of not more than 6 months, if the operation—

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"(B) in accordance with such terms as may be prescribed by the Secretary for that approval.

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"(1) **EXCEPTION.**—Subsection (a)(2) and section 12106(a)(2)(A) of title 46, United States Code, do not apply to a cruise vessel if—

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tion in the United States of another cruise vessel that has a total berth or stateroom capacity that is at least 80 percent of the capacity of the cruise vessel.

"(2) **TERMINATION OF AUTHORITY TO OPERATE.**—Paragraph (1) does not apply to a vessel after the date that is 18 months after the date on which a certificate of documentation with a coastwise endorsement is first issued for the vessel after the date of enactment of the United States Cruise Vessel Development Act if, before the end of that 18-month period, the keel of another vessel has not been laid, or another vessel is not at a similar stage of construction, under a contract required for the vessel under paragraph (1)(B).

"(3) **EXTENSION OF PERIOD BEFORE TERMINATION.**—The Secretary of Transportation may extend the period under paragraph (2) for not more than 6 months for good cause shown.

"(d) **LIMITATION ON OPERATIONS.**—A person (including a related person with respect to that person) that owns or charters a cruise vessel operating in coastwise trade under subsection (b) or (c) under a coastwise endorsement may not operate any vessel between—

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"(2) the island of Hawaii.

"(e) **PENALTIES.**—

"(1) **CIVIL PENALTY.**—A person operating a vessel in violation of this section is liable to the United States Government for a civil penalty of \$1,000 for each passenger transported in violation of this section.

"(2) **FORFEITURE.**—A vessel operated in knowing violation of this section, and its equipment, are liable to seizure by and forfeiture to the United States Government.

"(3) **DISQUALIFICATION FROM COASTWISE TRADE.**—A person that is required to enter into a construction contract under subsection (c)(1)(B) with respect to a cruise vessel (including any related person with respect to that person) may not own or operate any vessel in coastwise trade after the period applicable under subsection (c)(2) with respect to the cruise vessel, if before the end of that period a keel is not laid and a similar stage of construction is not reached under such a contract.

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"(8) A vessel is described in this paragraph if—

"(A) it meets the standards and conditions for the issuance of a control verification certificate to a foreign vessel embarking passengers in the United States;

"(B) a coastwise endorsement is issued for the vessel under section 12106 of this title after the date of enactment of the United States Cruise Vessel Development Act; and

"(C) the vessel is authorized to engage in coastwise trade by reason of section 8(c) of the Act entitled 'An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes', approved of June 19, 1886."

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(A) will operate a vessel that is documented under the laws of, and the home port of which is located in, the United States; or

(B) holds rights to provide visitors services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(A)).

(2) Second, any person that will operate a vessel that—

(A) is documented under the laws of a foreign country, and

(B) on the date of the enactment of this Act is permitted to be operated by the person in the unit.

(3) Third, any person that will operate a vessel other than a vessel described in paragraph (1) or (2).

(b) REVOCATION OF PERMITS FOR FOREIGN DOCUMENTED VESSELS.—The Secretary of the Interior shall revoke or refuse to renew permission granted by the Secretary for the operation of a vessel documented under the laws of a foreign country in a unit of the National Park System, if—

(1) a person requests permission to operate a vessel documented under the laws of the United States in that unit; and

(2) the permission may not be granted because of a limit on the number of permits that may be issued for that operation.

(c) RESTRICTIONS ON REVOCATION OF PERMITS.—The Secretary of the Interior may not

revoke or refuse to renew permission under subsection (b) for any person holding rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(a)).

(d) RETURN OF PERMITS.—Any person whose permission to provide visitors services in a unit of the National Park System has been revoked or not renewed under subsection (b) shall have the right of first refusal to a permit to provide visitors services in that unit of the National Park System that becomes available when the conditions described in subsection (b) no longer apply. Such right shall be limited to the number of permits which are revoked or not renewed.

COMPREHENSIVE ONE-CALL NOTIFICATION ACT OF 1994

GORTON AMENDMENT NO. 2592

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (S. 2101) to provide for the establishment of mandatory state-operated comprehensive one-call systems to protect all underground facilities from being damaged by any excavations, and for other purposes; as follows:

At the appropriate place in the bill insert the following new section:

SEC. RESIDENTIAL CURBSIDE RECYCLING.

Section 11501(h)(2) of title 49, United States Code, is amended as follows:

(1) Insert a semi-colon, and the word "and" at the end of the subparagraph (B).

(2) Insert the following new subparagraph after subparagraph (b):

"(C) does not apply to the transportation for collection of recyclable materials that are a part of a residential curbside recycling program."

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES APPROPRIATIONS ACT, FISCAL YEAR 1995

COHEN AMENDMENT NO. 2593

Mr. COHEN proposed an amendment to the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes; as follows:

At the appropriate place, insert the following new subtitle:

Subtitle —Enhanced Penalties for Health Care Fraud

PART 1—ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM

SEC. —01. ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1995, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary"), acting through the Office of the Inspector General of the Department of

Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States.

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States.

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse, and

(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section —03.

(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(3) REGULATIONS.—

(A) IN GENERAL.—The Secretary and the Attorney General shall by regulation establish standards to carry out the program under paragraph (1).

(B) INFORMATION STANDARDS.—

(1) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

(ii) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section, in the same manner as such section applies to information provided to organizations with a contract under subtitle B of title V of this Act, with respect to the performance of such a contract.

(C) DISCLOSURE OF OWNERSHIP INFORMATION.—

(1) IN GENERAL.—Such standards shall include standards relating to the disclosure of ownership information described in clause (ii) by any entity providing health care services and items.

(ii) OWNERSHIP INFORMATION DESCRIBED.—The ownership information described in this clause includes—

(I) a description of such items and services provided by such entity;

(II) the names and unique physician identification numbers of all physicians with a financial relationship (as defined in section 1877(a)(2) of the Social Security Act) with such entity;

(III) the names of all other individuals with such an ownership or investment interest in such entity; and

(IV) any other ownership and related information required to be disclosed by such entity under section 1124 or section 1124A of the Social Security Act, except that the Secretary shall establish procedures under which the information required to be submitted under this subclause will be reduced with

respect to health care provider entities that the Secretary determines will be unduly burdened if such entities are required to comply fully with this subclause.

(4) AUTHORIZATION OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary and the Attorney General for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts as may be necessary to enable the Secretary and the Attorney General to conduct investigations and audits of allegations of health care fraud and abuse and otherwise carry out the program established under paragraph (1) in a fiscal year.

(5) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise the authority described in paragraphs (4) and (5) of section 6 of the Inspector General Act of 1978 (relating to subpoenas and administration of oaths) with respect to the activities under the all-payer fraud and abuse control program established under this subsection to the same extent as such Inspector General may exercise such authorities to perform the functions assigned by such Act.

(6) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978.

(7) HEALTH PLAN DEFINED.—For the purposes of this subsection, the term "health plan" shall have the meaning given such term in section 1128(i) of the Social Security Act.

(b) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established an account to be known as the "Health Care Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account"). The Anti-Fraud Account shall consist of—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Anti-Fraud Account as provided in subsection (a)(4), sections 41(b) and 42(b), and title XI of the Social Security Act; and

(iii) such amounts as are transferred to the Anti-Fraud Account under subparagraph (C).

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(C) TRANSFER OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(I) Criminal fines imposed in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

(ii) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act (except as otherwise provided by law).

(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(iv) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services

(other than funds awarded to a relator or for restitution).

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended as determined jointly by the Secretary and the Attorney General of the United States in carrying out the health care fraud and abuse control program established under subsection (a) (including the administration of the program), and may be used to cover costs incurred in operating the program, including costs (including equipment, salaries and benefits, and travel and training) of—

(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(ii) investigations;

(iii) financial and performance audits of health care programs and operations;

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the provisions of this subtitle.

(B) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(3) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(4) USE OF FUNDS BY INSPECTOR GENERAL.—

(A) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(B) CREDITING.—Funds received by the Inspector General as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of their deposit.

SEC. 02. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH PLAN.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII," and

(ii) by adding at the end the following: "or a health plan (as defined in section 1128(i))."

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each

place it appears and inserting "title XVIII, a State health care program, or a health plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health plan," and

(ii) by striking "State plan," and inserting "State plan or the health plan."

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(f) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials."

(b) HEALTH PLAN DEFINED.—Section 1128 of the Social Security Act (42 U.S.C. 1320a-7) is amended by redesignating subsection (1) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health plan' means a public or private program for the delivery of or payment for health care items or services."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. 03. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1995, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a-7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a-7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL STATE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services

(hereafter in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (1) and (1) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) **CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.**—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Government health care programs.

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(1) whether to order a health care item or service; or

(1) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Government health care programs.

(b) **INTERPRETIVE RULINGS.**—

(1) **IN GENERAL.**—

(A) **REQUEST FOR INTERPRETIVE RULING.**—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (hereafter in this section referred to as an "interpretive ruling").

(B) **ISSUANCE AND EFFECT OF INTERPRETIVE RULING.**—

(1) **IN GENERAL.**—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling in response to a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this provision shall be published in the Federal Register or otherwise made available for public inspection.

(1) **REASONS FOR DENIAL.**—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision and shall identify the reasons for such decision.

(2) **CRITERIA FOR INTERPRETIVE RULINGS.**—

(A) **IN GENERAL.**—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(1) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(1) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling not authorized under this subsection.

(B) **NO RULINGS ON FACTUAL ISSUES.**—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) **SPECIAL FRAUD ALERTS.**—

(1) **IN GENERAL.**—

(A) **REQUEST FOR SPECIAL FRAUD ALERTS.**—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) (hereafter in this subsection referred to as a "special fraud alert").

(B) **ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.**—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall in consultation with the Attorney General, issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) **CRITERIA FOR SPECIAL FRAUD ALERTS.**—

In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. 4. REPORTING OF FRAUDULENT ACTIONS UNDER MEDICARE.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a program through which individuals entitled to benefits under the medicare program may report to the Secretary on a confidential basis (at the individual's request) instances of suspected fraudulent actions arising under the program by providers of items and services under the program.

PART 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 11. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) **INDIVIDUAL CONVICTED OF FELONY RELATING TO FRAUD.**—

(1) **IN GENERAL.**—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) **FELONY CONVICTION RELATING TO FRAUD.**—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or

local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct."

(2) **CONFORMING AMENDMENT.**—Section 1128(b)(1) of such Act (42 U.S.C. 1320a-7(b)(1)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) **INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.**—

(1) **IN GENERAL.**—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) **FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.**—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance."

(2) **CONFORMING AMENDMENT.**—Section 1128(b)(3) of such Act (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 12. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year."

SEC. 13. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

"(15) **INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.**—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(B) against which a civil monetary penalty has been assessed under section 1128A; or

"(C) that has been excluded from participation under a program under title XVIII or under a State health care program."

SEC. 14. ACTIONS SUBJECT TO CRIMINAL PENALTIES.

(a) **RESTRICTION ON APPLICATION OF EXCEPTION FOR AMOUNTS PAID TO EMPLOYEES.**—Section 1128B(b)(3)(B) of the Social Security Act (42 U.S.C. 1320a-7b(b)(3)(B)) is amended by striking "services;" and inserting the following: "services, but only if the amount of remuneration under the arrangement is (i) consistent with fair market value; (ii) not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals of patients directly contacted by the employee to the employer for the furnishing (or arranging for the furnishing) of such items or services; and (iii) provided pursuant to an arrangement that would be commercially reasonable even if no such referrals were made;"

(b) **NEW EXCEPTION FOR CAPITATED PAYMENTS.**—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under any of the following:

"(i) A health plan which is furnishing items or services under a risk-sharing contract under section 1876 or section 1903(m).

"(ii) A health plan receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972;

"(G) any amounts paid to a provider for an item or service furnished to an individual or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under a health plan under which the provider furnishing the item or service is paid by the health plan for furnishing the item or service only on a capitated basis pursuant to a written arrangement between the plan and the provider in which the provider assumes financial risk for furnishing the item or service;

"(H) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; and

"(I) remuneration given to individuals to promote the delivery of preventive care in compliance with regulations promulgated by the Secretary."

SEC. 15. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) **MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.**—

(1) **IN GENERAL.**—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) **CONFORMING AMENDMENT.**—Section 1156(b)(2) of such Act (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) **REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.**—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations;" and

(2) by striking the third sentence.

SEC. 16. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) **APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.**—

(1) **IN GENERAL.**—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f)."

(2) **OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.**—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than \$25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than \$10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur."

(3) **PROCEDURES FOR IMPOSING SANCTIONS.**—Section 1876(i) of such Act (42 U.S.C.

1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract."

(4) **CONFORMING AMENDMENTS.**—Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) **AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.**—

(1) **REQUIREMENT FOR WRITTEN AGREEMENT.**—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) **DEVELOPMENT OF MODEL AGREEMENT.**—Not later than July 1, 1995, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A) of such Act.

(3) **REPORT BY GAO.**—

(A) **STUDY.**—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of such Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(B) **REPORT TO CONGRESS.**—Not later than July 1, 1997, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subparagraph (A).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. 17. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1995.

PART 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 21. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) **GENERAL PURPOSE.**—Not later than January 1, 1995, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) **REPORTING OF INFORMATION.**—

(1) **IN GENERAL.**—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) **INFORMATION TO BE REPORTED.**—The information to be reported under paragraph (1) includes:

(A) The name of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) **CONFIDENTIALITY.**—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) **TIMING AND FORM OF REPORTING.**—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) **TO WHOM REPORTED.**—The information required to be reported under this subsection shall be reported to the Secretary.

(c) **DISCLOSURE AND CORRECTION OF INFORMATION.**—

(1) **DISCLOSURE.**—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) **CORRECTIONS.**—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) **ACCESS TO REPORTED INFORMATION.**—

(1) **AVAILABILITY.**—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

(2) **FEES FOR DISCLOSURE.**—The Secretary may establish or approve reasonable fees for

the disclosure of information in this database. The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) **PROTECTION FROM LIABILITY FOR REPORTING.**—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section:

(1) The term "final adverse action" includes:

(A) Civil judgments against a health care provider in Federal or State court related to the delivery of a health care item or service.

(B) Federal or State criminal convictions related to the delivery of a health care item or service.

(C) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(i) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(ii) any other loss of license of the provider, supplier, or practitioner, by operation of law, or

(iii) any other negative action or finding by such Federal or State agency that is publicly available information.

(D) Exclusion from participation in Federal or State health care programs.

(E) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act, and any entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act.

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State Medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" has the meaning given to such term by section 1128(i) of the Social Security Act.

(7) For purposes of paragraph (2), the existence of a conviction shall be determined under paragraph (4) of section 1128(j) of the Social Security Act.

(g) **CONFORMING AMENDMENT.**—Section 1921(d) of the Social Security Act is amended by inserting "and section 21 of subtitle ___ of the Labor, HHS, and Education Act of 1985" after "section 422 of the Health Care Quality Improvement Act of 1986".

PART 4—CIVIL MONETARY PENALTIES

SEC. 31. CIVIL MONETARY PENALTIES.

(a) **GENERAL CIVIL MONETARY PENALTIES.**—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended as follows:

(1) In subsection (a)(1), by inserting "or of any health plan (as defined in section 1128(i))," after "subsection (i)(1)".

(2) In subsection (b)(1)(A), by inserting "or under a health plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraphs:

"(3) With respect to amounts recovered arising out of a claim under a health plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by Subtitle ___ of the Labor, HHS, and Education Act of 1985 (as estimated by the Secretary) shall be deposited into the Health Care Fraud and Abuse Control Account established under section ___01(b) of such Act."

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health plan" after "or XX".

(b) **PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.**—

(1) **OFFER OF REMUNERATION.**—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking " or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting " or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;"

(2) **REMUNERATION DEFINED.**—Section 1128A(i) of such Act (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations."

(c) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is further amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;"

(d) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by subsections (b) and (c), is amended in the matter following paragraph (6)—

(1) by striking "\$2,000" and inserting "\$10,000";

(2) by inserting "; in cases under paragraph (4), \$10,000 for each such offer or transfer; in cases under paragraph (5), \$10,000 for each day the prohibited relationship occurs; in cases under paragraph (6) or (7), \$10,000 per violation" after "false or misleading information was given";

(3) by striking "twice the amount" and inserting "3 times the amount"; and

(4) by inserting "(or, in cases under paragraph (4), 3 times the amount of the illegal remuneration)" after "for each such item or service".

(e) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting the following: "claimed, including any person who repeatedly presents or causes to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or

should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting "; or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person repeatedly knows or should know is not medically necessary; or"

(f) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(b)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than \$10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b)."

(g) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "up to \$10,000 for each instance".

(h) PROCEDURAL PROVISIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a)."

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

PART 5—AMENDMENTS TO CRIMINAL LAW

SEC. 41. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person shall be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128(i) of the Social Security Act."

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud."

(b) CRIMINAL FINES DEPOSITED IN THE HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section 982(a)(1)(b) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 42. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that—

"(i) is used in the commission of the offense if the offense results in a financial loss or gain of \$50,000 or more; or

"(ii) constitutes or is derived from proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act;

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

"(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud."

(b) PROPERTY FORFEITED DEPOSITED IN HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section 982(a)(1)(b) an amount equal to amounts resulting from forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

SEC. 43. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);"

PART 6—PAYMENTS FOR STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 51. ESTABLISHMENT OF STATE FRAUD UNITS.

(a) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL UNIT.—The Governor of each State shall, consistent with State law, establish and maintain in accordance with subsection (b) a State agency to act as a Health Care Fraud and Abuse Control Unit for purposes of this part.

(b) DEFINITION.—In this section, a "State Fraud Unit" means a Health Care Fraud and Abuse Control Unit designated under subsection (a) that the Secretary certifies meets the requirements of this part.

SEC. 52. REQUIREMENTS FOR STATE FRAUD UNITS.

(a) **IN GENERAL.**—The State Fraud Unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from any State agency with principal responsibility for the administration of any Federally-funded or mandated health care program;

(3) meet the other requirements of this section.

(b) **SPECIFIC REQUIREMENTS DESCRIBED.**—The State Fraud Unit shall—

(1) be a Unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

(2) if it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, (A) assure its referral of suspected criminal violations to the appropriate authority or authorities in the State for prosecution, and (B) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

(3) have a formal working relationship with the office of the State Attorney General or the appropriate authority or authorities for prosecution and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the Fraud Unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to any Federally-funded or mandated health care programs.

(c) **STAFFING REQUIREMENTS.**—The State Fraud Unit shall—

(1) employ attorneys, auditors, investigators and other necessary personnel; and

(2) be organized in such a manner and provide sufficient resources as is necessary to promote the effective and efficient conduct of State Fraud Unit activities.

(d) **COOPERATIVE AGREEMENTS; MEMORANDA OF UNDERSTANDING.**—The State Fraud Unit shall have cooperative agreements with—

(1) Federally-funded or mandated health care programs;

(2) similar Fraud Units in other States, as exemplified through membership and participation in the National Association of Medicaid Fraud Control Units or its successor; and

(3) the Secretary.

(e) **REPORTS.**—The State Fraud Unit shall submit to the Secretary an application and an annual report containing such information as the Secretary determines to be necessary to determine whether the State Fraud Unit meets the requirements of this section.

(f) **FUNDING SOURCE; PARTICIPATION IN ALL-PAYER PROGRAM.**—In addition to those sums expended by a State under section 54(a) for purposes of determining the amount of the Secretary's payments, a State Fraud Unit may receive funding for its activities from other sources, the identity of which shall be reported to the Secretary in its application or annual report. The State Fraud Unit shall participate in the all-payer fraud and abuse control program established under section 01.

SEC. 53. SCOPE AND PURPOSE.

The State Fraud Unit shall carry out the following activities:

(1) The State Fraud Unit shall conduct a statewide program for the investigation and prosecution (or referring for prosecution) of violations of all applicable state laws regard-

ing any and all aspects of fraud in connection with any aspect of the administration and provision of health care services and activities of providers of such services under any Federally-funded or mandated health care programs;

(2) The State Fraud Unit shall have procedures for reviewing complaints of the abuse or neglect of patients of facilities (including patients in residential facilities and home health care programs) that receive payments under any Federally-funded or mandated health care programs, and, where appropriate, to investigate and prosecute such complaints under the criminal laws of the State or for referring the complaints to other State agencies for action.

(3) The State Fraud Unit shall provide for the collection, or referral for collection to the appropriate agency, of overpayments that are made under any Federally-funded or mandated health care program and that are discovered by the State Fraud Unit in carrying out its activities.

SEC. 54. PAYMENTS TO STATES.

(a) **MATCHING PAYMENTS TO STATES.**—Subject to subsection (c), for each year for which a State has a State Fraud Unit approved under section 52(b) in operation the Secretary shall provide for a payment to the State for each quarter in a fiscal year in an amount equal to the applicable percentage of the sums expended during the quarter by the State Fraud Unit.

(b) **APPLICABLE PERCENTAGE DEFINED.**—

(1) **IN GENERAL.**—In subsection (a), the "applicable percentage" with respect to a State for a fiscal year is—

(A) 90 percent, for quarters occurring during the first 3 years for which the State Fraud Unit is in operation; or

(B) 75 percent, for any other quarters.

(2) **TREATMENT OF STATES WITH MEDICAID FRAUD CONTROL UNITS.**—In the case of a State with a State medicaid fraud control in operation prior to or as of the date of the enactment of this Act, in determining the number of years for which the State Fraud Unit under this part has been in operation, there shall be included the number of years for which such State medicaid fraud control unit was in operation.

(c) **LIMIT ON PAYMENT.**—Notwithstanding subsection (a), the total amount of payments made to a State under this section for a fiscal year may not exceed the amounts as authorized pursuant to section 1903(b)(3) * * *

AUTHORITY FOR COMMITTEES TO MEET**COMMITTEE ON ARMED SERVICES**

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Tuesday, September 27, 1994, in executive session, to consider certain pending military nominations.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, September 27, 1994, beginning at 9:30 a.m., to conduct a business meeting to consider various agenda items.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, September 27, 1994, beginning at 10 a.m., to hear:

Frederic J. Hansen, to be nominated by the President to be Deputy Administrator of the Environmental Protection Agency;

Kenneth Burton, David Michael Rappoport, and Anne J. Udall, Nominated by the President to be members of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation;

Paul L. Hill, nominated by the President to be Chairperson and Member of the Chemical Safety and Hazard Investigation Board; and

Devra Lee Davis and Gerald V. Poje, nominated by the President to be Members of the Chemical Safety and Hazard Investigation Board

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

COMMITTEE ON FOREIGN RELATIONS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, September 27, 1994, at 9:30 a.m. to hold nomination hearings on the following Ambassadorial appointments:

Mr. Robert E. Service, of California, to be Ambassador to the Republic of Paraguay.

Mr. Peter Jon de Vos, of Florida, to be Ambassador to the Republic of Costa Rica.

Mr. Jerome G. Cooper, of Alabama, to be Ambassador to Jamaica.

Mr. Gabriel Guerra-Mondragon, of the District of Columbia, to be Ambassador to the Republic of Chile.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, September 27, at 10 a.m. to hold a hearing on the convention on the elimination of all forms of discrimination against women—EX. R. 96-2.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. METZENBAUM. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, September 27, at 9:30 a.m. for a nomination hearing on Alice Rivlin to be Director, Office of Management and Budget.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, September 27, 1994, at 3 p.m. to hold a hearing on review of United States policy toward Taiwan.

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

ADDITIONAL STATEMENTS

NATIONAL HEAD INJURY FOUNDATION

• Mr. HARKIN. Mr. President, on June 24, 1994, my friend Tony Coelho, the Chair of the President's Committee on Employment of People With Disabilities, gave a powerful speech before the National Head Injury Foundation.

With respect to health care reform, Tony stated that six simple words sum up what is needed to achieve real health care reform: "no exceptions, no cancellations, and no conditions." I agree.

I also agree with Tony's position about the implementation of the Americans With Disabilities Act: "no excuses. Compliance is not optional. It is the law of the land and its observance is required."

I ask that Tony Coelho's speech be printed in the RECORD.

The statement follows:

SPEECH OF TONY COELHO, CHAIRMAN, PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

Thanks for your generous introduction.

Like most speakers, I try before giving a talk to size up the audience and target my remarks to its interests. But sometimes it's hard to tell if you've succeeded.

After addressing one group recently, for example, a woman congratulated me by saying that my remarks were "truly superfluous."

She then urged me to have them published. "Posthumously?" I asked. "The sooner the better!" She exclaimed with enthusiasm.

While I am no longer a Member of Congress I have not lost my enthusiasm for advocating on behalf of people with disabilities, and I am proud to be here as the new chairman of the President's Committee on Employment of People With Disabilities.

When the White House asked me how I could best serve the President and the administration I didn't have to give it a second thought.

I immediately responded that it would be as chairman of the President's committee—a position that would allow me to continue to fight for independence and equality for people with disabilities.

As a person with epilepsy—the result of a head injury—I have felt the sting of discrimination, I know what it is like to be patronized and ostracized. I didn't like it when it happened to me, and I don't want it to happen to anyone else, not ever again!

That's why this is more than just a job to me—it is the continuation of a calling that has become my personal ministry.

I didn't take the job to be a figurehead. I mean to get results and the President's committee offered the best vehicle for achieving what I want to see happen.

Thanks to Justin Dart, the committee has achieved a high level of visibility and respectability in the disability community. We are now ready to move to another level of accomplishment.

We are reviewing our programs, and reassessing our activities to assure that we produce measurable results and make real progress in halting discrimination against people with disabilities wherever it occurs.

In business we have a bottom line, and I intend as chairman to make the President's committee more accountable and more results oriented.

My agenda as chairman is based on the priorities identified by you and other disability leaders during "Operation People First"—the series of 60 statewide teleconferences conducted by the President's committee last year.

This dialog, as you know, resulted in a report to the President and Congress calling for a comprehensive national disability policy.

The issues of primary importance noted in the report are: Health care reform; ADA implementation; parity for mental health; employment; and long term care.

Before touching on some of these issues I want to say something about the power of advocacy from the perspective of someone who served 10 years in Congress and knows how the system works.

Advocacy is, above all, a personal matter, not something to be left to surrogates.

The most effective advocates are those who can "walk the walk and talk the talk." They have credibility and access and get attention and empathy for their cause because they tell it like it is. They've been there. They've lived it.

Their cause is not an abstraction, it is a passion.

Their personal experiences do more to help members visualize the problem than a bushel of statistics.

Not that statistics aren't needed to help size the scope of the problem. But numbers alone never tell the real story. National statistics are simply the accumulation of thousands of personal stories.

But people don't die and suffer by the thousands. They die and suffer one by one.

Personal anecdotes that touch the heart or prick the conscience are the ones that get the most action.

You can't buy the kind of commitment and dedication you get free from advocates.

Professional lobbyists can't provide it because they haven't walked in your shoes.

No lobbyist I've ever met—and I've known a few good ones—can make the case for insurance reform with the same dramatic impact of a distraught mother whose child has been refused coverage because the only treatment available is "experimental."

No lobbyist can express the rage and frustration of someone who has recovered from months in a coma only to find he cannot get the therapy he needs.

That's why it's so important that advocacy efforts be consumer driven and consumer directed, and that people with disabilities learn to speak for themselves.

There's an old Portuguese sailor's proverb that says: "In a storm, pray to God, but row to shore."

The message is clear: God helps those who help themselves. We can't rely on others to row the boat for us.

And we shouldn't ask others to represent us.

For the same reason that blacks run organizations representing African Americans and women run organizations dealing with women's issues, people with disabilities should run their own organizations.

We don't have to look outside ourselves for the talent and ability we need.

Forgive me for belaboring the point, but I think it's an important one and I feel the need to express it strong. The focus of your conference is not surprisingly, the issue of health care reform. I say not surprisingly because it clearly ranks as the most important priority of the disability community, and rightly so.

In terms of quality we have the world's best health care system. In terms of access, it may be the world's worst for people with disabilities, especially for people with head injuries who are so often denied coverage for the medical care and treatment needed to restore their skills, maximize their strengths, and compensate for weaknesses.

As you all know from news reports, President Clinton's health care reform plan is coming under heavy fire from special interests, and there is more and more talk in the air about "compromise". This is all the more reason to turn up our advocacy efforts another notch, to row as hard as we can, and, please, don't think you as an individual can't make a difference. You can!

Members of Congress pay close attention to what their constituents have to say. It doesn't take 700 letters or even 70 to get your representative's attention. Just seven healthfelt, handwritten letters on a subject from the folks back home is enough to get a Member to assign someone on staff to look into it and give him a report.

Health care reform is too complicated for me to deal with in much detail here, but what we want is not complicated at all. The message we need to deliver can be stated simply and directly without getting bogged down in details.

Six simple words sum up what is needed to achieve real reform: No exceptions; no cancellations; no conditions.

By definition, universal health care coverage must include everyone, and that includes parity for people with psychiatric problems. No legislation that leaves out 40 million Americans deserves to be called universal. We can't cut out nearly one sixth of the population and pretend to call it universal.

We can't ignore these 40 million Americans and we won't abandon them. If we allow them to be forgotten in the fight for health reform, we will have bought benefits for ourselves at the price of our pride and the sacrifice of our principles. We can't do that and we won't.

ADA implementation is our other top priority. Our position on this is even easier to summarize. It is: "No excuses." Compliance is not optional. It is the law of the land and it's observance is required.

I said "required," not requested." We won't back down and we won't debate. We rejected excuses in other civil rights struggles and we reject them now. Civil rights are not negotiable.

President Clinton is fully behind strict enforcement of ADA. He gave me his personal assurance of this when he asked me to chair the President's committee.

His support counts for a great deal in our fight for equality because our struggle has moved from the legislative arena to a new battleground—one where we hold the moral high ground.

Discrimination is an evil that has no place in America. It is morally unacceptable and personally reprehensible to most Americans. As chairman of the President's Committee on Employment of People with Disabilities, eliminating job discrimination is of special concern to me.

Millions of Americans with disabilities don't have a job and dim prospects for gainful employment. Although we represent nearly 20 percent of the population, we account for only 4.3 percent of the national workforce.

The overall unemployment rate for people with disabilities is nearly 24 percent, close to four times the national average. And it's worse, much worse, for people with severe disabilities. Nearly three-fourths are without jobs and unable to support themselves. We've got to fix that.

I personally believe that we can look forward to a big improvement in employment figures if we capitalize on the technological revolution.

I don't think we yet fully appreciate or understand the enormous influence the information superhighway will have on our everyday lives and what a great liberating factor it can be for all people with disabilities.

If we are ready to take advantage of new technology and put it to work for us, it will open doors and avenues to progress never before dreamed of by people with disabilities. If we don't, we'll be stuck on the road to nowhere and will have missed one of the greatest opportunities ever for increased independence.

One final thought I want to leave with you is this: Congress can pass laws till the cows come home, but what brings about real change is change in the mind and hearts of people. Legislation that captures the spirit of the times creates a tailwind that can bring about desired change faster than would otherwise be possible. It defines public policy, but it does not assure public acceptance.

We now have the law on our side. But to gain full compliance with ADA we

need to get the public on our side and build broad-based support for the underlying principles of ADA. Not just because the law says so, but because it is the right thing to do.

Not just because you can be fined or sued for noncompliance, but because discrimination is not decent and it is un-American.

In its largest sense, our fight against discrimination is a plebiscite about who we are and what kind of a country we want to be.

It is more than a fight for the rights of people with disabilities. It is a struggle for the soul of America and the rights of all Americans. To energize America and remain true to our principles, we need to employ to the fullest the ability of all our citizens.

Finding work for those who want it, and providing care for those who need it, is a large agenda. But like our forefathers, we have a profound responsibility to turn a vision of equality and independence into reality for present and future generations of people with disabilities—a responsibility to make good on the American claim of liberty and justice for all.●

REPUBLIC OF CHINA

● Mr. KEMPTHORNE. Mr. President, on the eve of the Republic of China's National Day, I want to offer President Lee Teng-hui, Vice President Li Yuan-zu, Foreign Minister Frederick Chien, and the people of Taiwan, my congratulations and best wishes for the future. In addition, I want to wish the leaders of the Republic of China all of the best in their campaign to reenter the United Nations.

The exclusion of the Republic of China from the United Nations represents one of the anomalies of today's world. Although the Republic of China was a founding member of the United Nations, today it is denied membership in that world body. Throughout the 1950's and 1960's, the Republic of China on Taiwan adhered to all of the U.N. obligations and duties. Unfortunately, in 1971 the Republic of Taiwan was forced to withdraw from the United Nations and Communist China took the ROC's seat.

As a result of the United Nations' policy, the people of Taiwan are not represented at the United Nations. This is a clear violation of the United Nations principle of universal representation. It is a shame to keep the Republic of China out of the United Nations. The 21 million people of Taiwan are well educated, hard working, and prosperous. The Republic of China is ready to play an active and positive role at the United Nations but that help and support is rejected by the United Nations. That is a mistake and it is wrong.

Over the last 23 years, Mainland China has never had any jurisdiction

over Taiwan. Indeed, Mainland China has never represented the 21 million people in the Republic of China on Taiwan.

Mr. President, I want to ask my colleagues to urge the administration to support the Republic of Taiwan's effort to reenter the United Nations and other international organizations. I know the people of Taiwan can contribute to these organizations and there is no justifiable reason to deny the Republic of Taiwan membership in these bodies.

And finally, I want to wish a fond farewell to the Republic of Taiwan's former representative to the United States, Ambassador Mou-Shih Ding. Ambassador Ding has just returned to Taipei to assume the new post of Secretary General of the ROC's National Security Council and I am sure he will do a fine job in his new position. In addition, I look forward to working with Ambassador Ding's replacement, Ambassador Benjamin Lu. I know Ambassador Lu will make a significant contribution to ties between Washington and Taipei and I very much look forward to working with him in support of this important relationship.●

VEGETABLE SOY INK PRINTING ACT OF 1994

● Mr. SIMON. Mr. President, I am an original cosponsor of S. 716, the Vegetable Ink Printing Act of 1994, introduced by Senator PAUL WELLSTONE here in the Senate. This bill is sound, practical policy, and is budget neutral. The Senate passed it earlier in the 103d Congress. The House made a few changes to the bill to provide Federal agencies administrative flexibility in complying with the law, but it is basically the same. I am hopeful that the Senate will do the right thing and pass S. 716 in the next few days.

I have long promoted the benefits of soy-based inks, and I was gratified to have been able to pioneer the use of soy-based ink in our Senate print shop. Soybean oil by now has proven itself a viable alternative to petroleum in the manufacture of printing inks. Soybean oil-based printing inks were developed by the American Newspaper Publishers Association after a second shortage of imported oil threatened many industries dependent on petroleum-based chemicals and refined oil products. Scientists at the National Center for Agricultural Utilization Research in Peoria, IL, have been working on new technologies in offset inks for now. Their effort has yielded a product that appeals to a larger share of the Nation's newspaper publishers.

Since 1987, soy ink has been successfully used by newspapers for both black and color printing. At the end of the first marketing year for soy ink, six newspapers were using it. One thousand newspapers had used it at the end

of its second year. On its third anniversary, soy ink was being used by one-third of the Nation's 9,100 newspapers, including one-half of the 1,700 U.S. daily newspapers. Usage has expanded because of the advantages soy ink has for agriculture, the environment, and for our economy.

This legislation follows the lead that several States have taken to promote the early growth of the market for soy inks. Along with Illinois, six States—Iowa, Minnesota, Missouri, Ohio, South Dakota, and Wisconsin—have legislation passed or pending that require use of soy ink on all printing jobs contracted by the State.

Soy ink is environmentally more benevolent because it is biodegradable. Soy ink also minimizes production of volatile organic compounds, which are being regulated in the workplace by the EPA and others. Petroleum ink violates these limits. This is one reason officials of the American Newspaper Publishers Association suggest that soy inks may be the solution to current and future environmental, health, and safety problems, associated with petroleum-based inks.

I commend my colleague from Minnesota for his leadership on this bill. And, I am hopeful that our colleagues in the Senate will support this measure.●

THE RETIREMENT OF CAROLE A. DILODOVICO

● Mr. SARBANES. Mr. President, on September 30, Ms. Carole A. DiLodovico, an outstanding public servant will retire from the Federal Aviation Administration where she has served our Nation and State with distinction in all areas of the Office of Airports, headquarters, region, and Airports District Office. Currently, she is the supervisor of the Maryland and DC, section of the Washington Airports District Office.

Since becoming supervisor, Ms. DiLodovico has given tirelessly of herself and established a reputation as an expert in the application of the myriad of regulations, rules, procedures and guidance which govern and impact, or are impacted by airport aid legislation. Her expertise is often sought by people in the airline industry to help them troubleshoot or solve problems.

This expertise extends to dealing with people outside the aviation community. Carole has been successful in providing advice and counsel to airport neighbors, community groups and the general public on the goals and objectives of the airports.

Carole's success in dealing with her colleagues at the FAA and the community may partly be attributed to her belief in hands-on supervision. She has visited Maryland's publicly owned airports, as well as the privately owned ones in order to better relate to the needs of the aviation community.

Because of her exceptional talent and hard work, Carole has received many honors during the last several years. She was awarded the special achievement award from the FAA, Eastern Region, Airports Division and was recognized by the Virginia Department of Aviation for her contributions toward development of aviation in the State. Carole was also the first employee in the Eastern Region Airports Division to be selected to attend the Seminar for Prospective Women Managers.

Mr. President, I have had the opportunity to work with Carole on several occasions and I know, firsthand of her commitment to modernize and improve the airports of the region. I am pleased to have this opportunity to express my appreciation for her outstanding work at the FAA over the last 30 years and to wish her the very best in the years to come.●

TRIBUTE TO SAMUEL SNELLER

● Mr. DECONCINI. Mr. President, almost 50 years ago Theodore Roosevelt defined the word "success." "Real success," he said, "consists in doing one's duty well in the path where one's life is led." Sam Sneller lived Teddy Roosevelt's definition of success.

When he died last week at the age of 75, Sam had earned the reputation of a successful businessman. The small drapery company which he opened in my hometown of Tucson would grow from 1 to 32 employees under Sam's guidance and would spawn stores in five other cities. He also excelled as a developer, constructing retail centers and homes for over 450 Tucson families. His business acumen was legendary—and so was his honesty. His business partner for over 17 years put it best:

A handshake or his word was his bond. Once that was established, people who knew him, knew that what Sam Sneller said was what Sam Sneller was going to do.

But it was Sam's commitment to politics, and his genius in this avocation, for which he will be most remembered. Early in his life Sam made a decision which would impact the lives of countless others: A child of the Great Depression, Sam decided to become a Democrat. As he stated in a 1974 article, he believed it was the Government's role "to make sure everyone has a full belly and a place to sleep at night."

Sam was a master campaigner. Over three decades he raised millions of dollars for the Democratic Party and was a major player in electing Democrats to office in a State dominated by Republicans. Mr. President, I can attest to Sam's genius, because I was one of those Democrats. Sam was my fundraiser in my very first election as Pima County attorney. When I was first running for the U.S. Senate, back in 1977,

no one else believed in me—except Sam and my family. He was a major player in my campaign and a major reason for my victory, unexpected by many.

Sam Sneller was generous, giving, with a keen sense of humor. He defined success by what he did and by the way he lived his life. He was a very close friend who will be sorely missed, not only by me but by all those whose lives he touched.●

ILLINOIS CONGRESSIONAL LEADERS

● Mr. SIMON. Mr. President, recently I had the chance to read an article on some former Illinois political leaders. The article was written by Philip Grant, Jr. It is a concise portrayal of eight members of the Illinois congressional delegation from 1945-1984.

The article highlights eight exceptional leaders. These men not only represented their districts and their State well, they were also well respected national leaders. They led the country through three major global conflicts, difficult domestic and foreign economic times and the civil rights movement. These Senators and Representatives helped to shape policies and programs during some very uncertain years. Each represented a large and diverse constituency and set new precedents through the policies and programs they authored. For this, their legacies will live on long after their terms expired. I urge my colleagues to read the article, "Illinois Congressional Leaders, 1945-1984," and I ask that it be printed in the RECORD.

The article follows:

[From the Illinois History, Apr. 1994]

ILLINOIS CONGRESSIONAL LEADERS, 1945-1984

(By Philip A. Grant, Jr.)

On January 3, 1945, the first session of the Seventy-Ninth Congress was called to order. Between the opening ceremonies on that date and the formal adjournment of the Ninety-Eighth Congress on October 12, 1984, the nation was destined to experience a substantial number and wide variety of serious domestic and international problems. It would be the responsibility of the House of Representatives and the United States Senate to propose solutions to many of the awesome challenges facing the United States during the eventful four decades from 1945 to 1984.

Among the hundreds of congressmen serving between 1945 and 1984 were the members of the Illinois delegation. Representing a populous and diverse state near the geographic center of the country, these ladies and gentlemen, like their colleagues from other parts of the nation, would address themselves to the disposition of numerous important bills, resolutions, and treaties.

Four veteran members of the House of Representatives from Illinois wielded considerable influence on Capitol Hill between 1945 and 1984. These individuals, spending an aggregate total of 145 years in Congress, were Republican Leo E. Allen of Galena and Democrats Adolph J. Sabath of Chicago, William L. Dawson of Chicago, and Melvin Price of East St. Louis.

Allen, representing a predominantly rural district wedged in the northwestern corner of Illinois, was elected by his constituents to fourteen consecutive terms in the House. A conservative Republican in every respect, Allen was a staunch isolationist on foreign policy questions and a vocal critic of the domestic initiatives of Democratic Presidents Franklin D. Roosevelt and Harry S. Truman. Allen served as chairman of the powerful House Committee on Rules between 1947 and 1949, and again between 1953 and 1955. While presiding over the Rules Committee, Allen advocated legislation purposely designed to reverse or drastically curtail the New Deal and Fair Deal economic and social reforms of Roosevelt and Truman.

In sharp contrast to Allen, Sabath was the spokesman of one of the nation's most densely populated urban districts and compiled a well-documented record as an uncompromising liberal on every issue of consequence. Sabath's forty-six-year congressional career paralleled the administrations of eight presidents of the United States. Sabath strongly sympathized with the plight of immigrants, consistently championed the priorities of organized labor, and repeatedly urged passage of bills to promote racial equality and social justice. During twelve of his final fourteen years in the House, Sabath occupied the chairmanship of the Rules Committee. At the time of his death in 1952 Sabath had the distinction of being the senior member of Congress.

When he entered the house in 1943 Dawson was the only black member of Congress. Re-elected by overwhelming margins to thirteen additional terms, Dawson steadfastly supported the policies of Democratic Presidents Roosevelt, Truman, John F. Kennedy, and Lyndon B. Johnson. From 1949 to 1953 and from 1955 to 1970, Dawson was chairman of the Committee on Government Operations, a panel having the explicit responsibility of overseeing the executive branch of the government. While heading the Government Operations Committee, Dawson was instrumental in the approval of the Reorganization Act of 1949, the establishment of a cabinet-level Department of Housing and Urban Development (HUD), and the creation of a mayor-council form of municipal government for the District of Columbia.

First elected to Congress while serving in the United States Army in 1944, Price altogether remained in the House for forty-four years. Price, as Chairman of the Committee on Standards of Official Conduct (Ethics) from 1967 to 1974, had the unpleasant task of conducting investigations into allegedly improper behavior of certain members of the House. Between 1975 and 1984 Price chaired the Committee on Armed Services, a unit having overall jurisdiction over the Pentagon. In the latter capacity Price guided to passage legislation terminating the American military presence in Vietnam and determining the extent of research and development of such weapons as the B-1 Bomber, the M-X Missile, and the Trident Submarine.

Also attaining genuine prominence in national affairs between 1945 and 1984 were four

members of the United States from Illinois. They were Democrats Scott W. Lucas of Havana and Paul Douglas of Chicago and Republicans Charles H. Percy of Kenilworth and Everett M. Dirksen of Pekin.

Lucas, after completing two years as chairman of the Illinois Tax Commission, had initially been elected to the House of Representatives in 1934. Promoted to the Senate in 1938, Lucas was conspicuously involved in the legislative process during World War II and the early postwar period. Lucas was Assistant Majority Leader (Whip) from 1947 to 1949, and Majority Leader from 1949 to 1951. As floor leader, he assumed primary responsibility for the Democratic Party's legislative agenda, including bills affecting housing, social security, federal aid to education, and minimum wage; the authorization of a Fair Employment Practices Commission (FEPC); and the ratification of the North Atlantic Treaty (NATO).

Prior to his election to the first of three Senate terms in 1948, Douglas for more than a quarter of a century had been a professor of economics at the University of Chicago. Douglas was an issue-oriented liberal Democrat. As a longstanding member of the Committee on Banking and Currency, Douglas was closely identified with such key measures as the Housing Acts of 1961 and 1965, the Area Redevelopment (Depressed Areas) Act, and the Truth-in-Lending Bill. And, as chairman of the Joint Economic Committee, from 1955 to 1957, 1959 to 1961, and 1963 to 1965, Douglas engaged in sustained attempts to devise programs to stimulate economic growth.

Percy, who defeated Douglas in the 1966 Senate election, was regarded as a moderate Republican. While generally in accord with the positions of his party, Percy argued against the continuation of the Vietnam War, supported enactment of open housing legislation, and opposed the confirmations of two of Republican President Richard M. Nixon's Supreme Court nominees. Between 1981 and 1984 Percy was chairman of the prestigious Committee on Foreign Relations. During his tenure on the Foreign Relations Committee, Percy dealt with such major issues as the Panama Canal Treaty, the strategic arms limitation agreements (SALT), the nuclear freeze resolutions, and the role of the United States in resolving the complex difficulties plaguing the Middle East and Central America.

A member of the House of Representatives from 1933 to 1949, and the United States Senate from 1951 to 1969, Dirksen polled more popular votes than any other congressman in the history of the State of Illinois. Noted for his pragmatism and flexibility, Dirksen was an outstanding orator and a skilled legislative strategist. As Senate Republican Leader between 1959 and 1969, he loyally and effectively supported the policies of G.O.P. Presidents Dwight D. Eisenhower and Nixon. Furthermore, Dirksen, while serving on the Committee on the Judiciary, helped to shape three amendments to the Constitution, contributed to passage of five meaningful civil rights bills, and reviewed the qualifications

of eleven appointees to the United States Supreme Court.

Both Democrats and Republicans were included within the ranks of the eight aforementioned congressman from Illinois. Obviously retaining the confidence of their constituents, these gentlemen emerged victorious in 104 of 107 races for seats in the House and Senate. Designated to hold positions of leadership in their respective political parties and chairing such organs as the Senate Foreign Relations Committee; the House Rules, Government Operations, and Armed Services Committees; and the Joint Economic Committee, the eight Illinois congressmen individually and collectively reflected great credit on their state and nation between 1945 and 1984.●

ORDERS FOR TOMORROW

Mr. METZENBAUM. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its businesses today, it stand in recess until 10 a.m., Wednesday, September 28, that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter the Senate proceed to the consideration of the conference report accompanying H.R. 4602, Department of Interior appropriations bill.

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

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. METZENBAUM. Mr. President, if there is no further business to come before the Senate, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:21 p.m., recessed until Wednesday, September 28, 1994, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 27, 1994:

AMTRAK

THOMAS R. CARPER, OF DELAWARE, TO BE A MEMBER OF THE AMTRAK BOARD OF DIRECTORS FOR A TERM OF 4 YEARS.

CELESTE PINTO MCLAIN, OF CALIFORNIA, TO BE A MEMBER OF THE AMTRAK BOARD OF DIRECTORS FOR THE REMAINDER OF THE TERM EXPIRING MARCH 20, 1995.

CELESTE PINTO MCLAIN, OF CALIFORNIA, TO BE A MEMBER OF THE AMTRAK BOARD OF DIRECTORS FOR A TERM OF 4 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.